

PUBLIC LAWS OF THE SEVENTY-SECOND CONGRESS

OF THE

UNITED STATES OF AMERICA

Passed at the second session, which was begun and held at the city of Washington, in the District of Columbia, on Monday, the fifth day of December, 1932, and was adjourned without day on Saturday, the fourth day of March, 1933.

HERBERT HOOVER, President; CHARLES CURTIS, Vice President; GEORGE H. MOSES, President of the Senate *pro tempore*; SIMEON D. FESS, Acting President of the Senate *pro tempore*, February 28, 1933; JOHN N. GARNER, Speaker of the House of Representatives.

[CHAPTER 1.]

JOINT RESOLUTION

Authorizing the payment of salaries of the officers and employees of Congress for December, 1932, on the 20th day of that month.

December 13, 1932.
[H. J. Res. 503.]
[Pub. Res., No. 44.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Senate and the Clerk of the House of Representatives are authorized and directed to pay to the officers and employees of the Senate and House of Representatives, including the Capitol police, the office of legislative counsel, and employees paid on vouchers under authority of resolutions, their respective salaries for the month of December, 1932, on the 20th day of that month.

Congressional employees, etc., salaries for December, 1932.

Approved, December 13, 1932.

[CHAPTER 4.]

AN ACT

To authorize the Commissioners of the District of Columbia to readjust and close streets, roads, highways, or alleys in the District of Columbia rendered useless or unnecessary, and for other purposes.

December 15, 1932.
[S. 3532.]
[Public, No. 307.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioners of the District of Columbia be, and they are hereby, authorized to close any street, road, highway, or alley, or any part of any street, road, highway, or alley, in the District of Columbia when, in the judgment of said commissioners, such street, road, highway, or alley, or such part of a street, road, highway, or alley, has been rendered useless or unnecessary, the title to the land embraced within the public space so closed to revert to the owners of the abutting property subject to such compensation therefor in money, land, or structures as the Commissioners of the District of Columbia, in their judgment, may find just and equitable, in view of all the circumstances of the case affecting near-by property of abutters and/or nonabutters: *Provided,* That if the title to such land be in the United States the property shall not revert to the owners of the abutting property but may be disposed of by the said commissioners to the best advantage of the locality and the properties therein and thereby affected, which properties thenceforth shall become assessable on the books of the tax assessor of the District of

District of Columbia Street Readjustment Act.

Commissioners authorized to close unnecessary streets, etc.

Title to abutting owners on payment.

Provided, Disposal, if United States property.

Subject to assessment.

Vol. 33, p. 733.

Expediency, etc.

Reference to Plan-
ning Commission.

Hearings.

Notice.

Map of proposed
closing.

Plats to be prepared.

proviso.
Conditional approv-
al, etc., to be included.

Columbia in all respects as other private property in the District; or also said property be sold as provided in section 1608-a of the Code of Law for the District of Columbia, unless the use of such land is requested by some other department, bureau, or commission of the Government of the United States for purposes not otherwise inconsistent with the proper development of the District of Columbia: *Provided further*, That the said closing by said commissioners is made expedient or advisable by reason of change in the highway plan or by reason of provision for access or better access to the abutting or near-by property and the convenience of the public by other street, road, highway, or alley facilities, or by reason of the acquisition by the District of Columbia or by the United States of America for school, park, playground, or other public purposes, of all the property abutting on the street, road, highway, or alley, or part of a street, road, highway, or alley, proposed to be closed or for other public reasons: *And provided further*, That the proposed closing of any street, road, highway, or alley, or any parts thereof, as provided for in this Act, shall be referred to the National Capital Park and Planning Commission for its recommendation.

SEC. 2. That whenever a street, road, highway, or alley, or a part of a street, road, highway, or alley, is proposed to be closed under the provisions of this Act, the Commissioners of the District of Columbia shall cause public notice of intention to be given by advertisement for not less than fourteen consecutive days, exclusive of Sundays and holidays, in a daily newspaper of general circulation printed and published in the District of Columbia, to the effect that a public hearing will be held at a time and place stated in the notice for the hearing of objections, if any, to such closing. The said commissioners shall, not later than fourteen days in advance of such hearing, serve notice of such hearing, in writing, by registered mail, on each owner of property abutting the street, road, highway, or alley, or part thereof, proposed to be closed, or if the owner can not be located the advertisement provided for above shall be deemed sufficient legal notice. At such hearing a map showing the proposed closing shall be exhibited, and the property owners or their representatives, and any other persons interested, shall be given an opportunity to be heard.

SEC. 3. After such public hearing the said commissioners, if they are satisfied that the proposed closing will be in the public interest, and that such closing will not be detrimental to the rights of the owners of the property abutting on the street, road, highway, or alley, or part of a street, road, highway, or alley, proposed to be closed, nor cause unreasonable inconvenience to or adverse effect upon the owner or owners of any property abutting on streets connected therewith, nor unreasonably infringe the rights of the public to use such street, road, highway, or alley, shall cause to be prepared a plat or plats showing the street, road, highway, or alley, or part thereof, proposed to be closed and the area to be apportioned to each owner of property abutting thereon: *Provided*, That if the approval of the proposed closing by the said commissioners shall be conditioned upon the dedication of any other areas for street, highway, or alley purposes, and/or the retention by the District of Columbia of specified rights of way for any public purpose, and/or any other reservations deemed expedient or advisable by said commissioners, such plat or plats shall also show the parcels of land so dedicated, and/or the reserved rights of way, and/or such additional area affected by said closing, with alternative openings occasioned thereby, and/or by certificate thereon any such reservations deemed expedient or advisable by the said Commissioners of the District of Columbia.

SEC. 4. If, after such hearing, the commissioners are of the opinion that any street, road, highway, or alley, or part thereof, should be closed, they shall prepare an order closing the same and shall cause public notice of such order to be given by advertisement for fourteen consecutive days, exclusive of Sundays and legal holidays, in at least two daily newspapers of general circulation printed and published in the District of Columbia, and shall serve a copy of such order on each property owner abutting the street, road, highway, or alley, or part thereof, proposed to be closed by such order, and copy of such order shall be served on the owners in person or by registered mail delivered at the last known residence of such owners, or if the owner can not be located the advertisement provided for above shall be deemed sufficient legal notice; or if he be a nonresident of the District of Columbia, by sending a copy thereof by registered mail to his last known place of address: *Provided*, That if no objection in writing be made to the commissioners by any party interested within thirty days after the service of such order, then the said order shall immediately become effective; and the said order and plat or plats as provided for herein shall be ordered by the Commissioners of the District of Columbia recorded in the office of the surveyor of the District of Columbia.

Closing proceedings.

Notice of order.

Service.

Proviso.
Effective if no objection received in 30 days.

SEC. 5. When any such objection shall be filed with the commissioners as provided in the foregoing section, then the Commissioners of the District of Columbia shall institute a proceeding in rem in the Supreme Court of the District of Columbia for the closing of such street, road, highway, or alley, or part thereof, and its abandonment for street, highway, or alley purposes, and for the ascertainment of damages and the assessment of benefits resulting from such closing and abandonment. Such proceeding shall be conducted in like manner as proceedings for the condemnation of land for streets, under the provisions of chapter 15, subchapter 1, of the Code of Law for the District of Columbia, and such closing and abandonment shall be effective when the damages and benefits shall have been so ascertained and the verdict confirmed.

Proceedings, if objection.

Nature of.

Vol. 34, p. 151.

SEC. 6. Any damages awarded in any proceedings under section 5 of this Act, together with the costs of the proceedings, shall be payable from the indefinite annual appropriation for opening, extending, straightening, or widening of any street, avenue, road, or highway, in accordance with the plan of the permanent system of highways of the District of Columbia. Any benefits assessed against private property in any such proceedings shall be a lien upon such property and shall be collected in like manner as provided in section 491-j of the Code of Law for the District of Columbia.

Damage awards payable from permanent appropriation.

Collection of benefit assessments.

Vol. 34, p. 153.

SEC. 7. In any proceedings under section 5 or section 6 of this Act it shall be optional with the commissioners either to abide by the verdict and proceed with the proposed closing, or within a reasonable time to be fixed by the court in its order confirming the verdict, to abandon the proposed closing without being liable for damages therefor.

Discretionary powers of commissioners.

SEC. 8. Nothing in this Act contained shall be construed to prevent the filing of petitions by abutting property owners, or other persons or groups of persons affected by said closing, praying the closing or discontinuance in the public interest of any street, road, highway, or alley, or parts or portions thereof within the District of Columbia; and all such petitions shall be definitely considered by the Commissioners of the District of Columbia, and all action taken by the said commissioners thereon shall be in conformity and compliance with the provisions of this Act.

Filing petition by property owners, etc., for closing, etc., not denied.

Applicability of present laws.

SEC. 9. Nothing in this Act shall be construed to repeal the provisions of any existing law authorizing the Commissioners of the District of Columbia to close streets, roads, highways, or alleys, not inconsistent with the provisions of this Act, but all such laws shall remain in full force and effect; and in any case to which more than one of these laws is applicable, the Commissioners of the District of Columbia may elect the one under which they will proceed.

Citation of Act.

SEC. 10. In all cases where necessary to refer to this Act, the same may be cited as "The Street Readjustment Act of the District of Columbia."

Approved, December 15, 1932.

[CHAPTER 5.]

AN ACT

To amend the District of Columbia Traffic Acts, as amended.

December 19, 1932.

[S. 4123.]

[Public, No. 308.]

District of Columbia Traffic Act, amendment.

Congressional automobile tags.

Privileges of, extended.

Vol. 46, p. 1425, amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso of paragraph (c), section 6, of the District of Columbia Traffic Acts, as amended by the Act approved February 27, 1931, be, and the same is hereby, amended to read as follows: "*Provided*, That hereafter congressional tags shall be issued by the commissioners under consecutive numbers, one to each Senator and Representative in Congress, to the elective officers and disbursing clerks of the Senate and the House of Representatives, the Parliamentarian of the House of Representatives, the attending physician of the Capitol, and the assistant secretaries (one for the majority and one for the minority of the Senate), for their official use, which, when used by them individually while on official business, shall authorize them to park their automobiles in any available curb space in the District of Columbia, except within fire plug, fire house, loading station, and loading platform limitations, and such congressional tags shall not be assigned to or used by others."

Approved, December 19, 1932.

[CHAPTER 6.]

AN ACT

Providing for the closing of barber shops one day in every seven in the District of Columbia.

December 19, 1932.

[S. 4023.]

[Public, No. 309.]

District of Columbia, barber shops. Preamble.

Whereas in the District of Columbia persons engaged in the occupation of barbering are required to work seven days a week in order to meet competition and conform to custom; and

Whereas the health of such persons is endangered and often impaired by the working conditions peculiar to their occupation; and

Whereas the protection of the health of such persons will tend to protect the health of the general public by guarding against the spread of infectious disease: Therefore

Closing of, one day in seven, required.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter in the District of Columbia it shall be unlawful for a person to maintain seven days consecutively any establishment wherein the occupation or trade of barbering or hair dressing (including the cutting or singeing of hair, shaving, shampooing, massaging, or manicuring) is

pursued. All such establishments shall be required to remain closed one day in every seven beginning at midnight or sunset. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not in excess of \$20 or by imprisonment for not more than sixty days, or both. The Commissioners of the District of Columbia are hereby authorized and empowered to make, modify, and enforce reasonable regulations to obtain compliance with the provisions of this Act, and such regulations shall have the force and effect of law within the District of Columbia.

Punishment for violation.

Enforcement.

Approved, December 19, 1932.

[CHAPTER 7.]

AN ACT

To authorize and direct the transfer of Widow's Island, Maine, by the Secretary of the Navy to the Secretary of Agriculture for administration as a migratory-bird refuge.

December 22, 1932.
[S. 1863.]
[Public, No. 310.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is hereby authorized and directed to transfer to the Secretary of Agriculture all of Widow's Island, located in latitude forty-four degrees, seven minutes and forty-six seconds north, and longitude sixty-eight degrees, forty-nine minutes and fifty-four seconds west, about two and three-fourths miles east of North Haven, Maine, in Fox Island Thoroughfare, and about one-fourth mile south of Goose Rocks Light in the State of Maine, containing twelve acres more or less, together with all improvements thereon, to be maintained and administered as a migratory-bird refuge; and the Secretary of Agriculture is authorized to remove or dispose of as surplus property any buildings thereon, which in his opinion are not necessary for said refuge uses.

Widow's Island, Me.
Transfer of, to Department of Agriculture, for bird refuge, authorized.

Disposal of surplus buildings.

Section 10 of the Act of June 27, 1926 (Public Numbered 345, Sixty-ninth Congress; 44 Stat. 700), is hereby repealed.

Quit-claim deed to Maine vacated.
Vol. 44, p. 702, repealed.

Approved, December 22, 1932.

[CHAPTER 8.]

JOINT RESOLUTION

Authorizing the Secretary of the Navy to sell obsolete and surplus clothing at nominal prices for distribution to the needy.

December 23, 1932.
[H. J. Res. 800.]
[Pub. Res., No. 45.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is hereby authorized, under such regulations as he may prescribe, to sell, at nominal prices, to recognized charitable organizations, to States and subdivisions thereof, and to municipalities, such nonregulation and excess clothing as may be available and required for distribution to the needy: *Provided*, That such clothing shall be sold only after agreement by the purchaser that it shall not be resold but shall be given absolutely free to the needy: *Provided further*, That a fair proportionate allotment of such clothing shall be set aside for distribution in each State and the District of Columbia as provided herein and shall not be sold for distribution within any other State until after the expiration of thirty days.

Navy, clothing.
Sale of obsolete, etc., authorized.

Proviso.
Resale forbidden.

Proportionate allotment, etc.

Approved, December 23, 1932.

[CHAPTER 9.]

JOINT RESOLUTION

January 3, 1933.
[H. J. Res. 527.]
[Pub. Res., No. 46.]

Extending the time for filing the report of the joint committee to investigate the operation of the laws and regulations relating to the relief of veterans.

Joint committee on operation of veterans relief laws.

Time for report by, extended.

Ante, p. 419.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the time within which the joint committee to investigate the operation of the laws and regulations relating to the relief of veterans, created by section 701 of the Legislative Appropriation Act for the fiscal year ending June 30, 1933, approved June 30, 1932, shall report to the Senate and the House of Representatives, is hereby extended to and including the 3d day of March, 1933.

Approved, January 3, 1933.

[CHAPTER 10.]

JOINT RESOLUTION

January 14, 1933.
[H. J. Res. 154.]
[Pub. Res., No. 47.]

To authorize the merger of street-railway corporations operating in the District of Columbia, and for other purposes.

District of Columbia. Merger of street railway, etc., corporations authorized.
Vol. 43, p. 1265.

Whereas pursuant to the Act entitled "An Act to permit the merger of street-railway corporations operating in the District of Columbia, and for other purposes," approved March 4, 1925, a form of agreement to carry this into effect and providing for the formation of a new corporation to be known as the Capital Transit Company to acquire properties and/or stocks or securities, and to succeed to the powers and obligations of the Capital Traction Company and to succeed to the powers and obligations of the Washington Railway and Electric Company directly connected with or relating to the operation of street railway and bus transportation, has been approved by the Public Utilities Commission of the District of Columbia as follows:

UNIFICATION AGREEMENT

Unification agreement.

Statutory authorization.

Whereas the Act entitled "An Act to permit the merger of street-railway corporations operating in the District of Columbia, and for other purposes," approved March 4, 1925, provides "that any or all of the street-railway companies operating in the District of Columbia be, and they are hereby, authorized and empowered to merge or consolidate, either by purchase or lease by one company of the properties, and/or stocks or securities of any of the others, or by the formation of a new corporation to acquire the properties and/or stocks or securities and to succeed to the powers and obligations of each or any of said companies under such terms and conditions as may be agreed upon by vote of a majority in amount of the stock of the respective corporations, and as may be approved by the Public Utilities Commission of the District of Columbia: *Provided*, That no merger of said companies shall be finally consummated until the same is approved by a joint resolution of Congress. Such new corporation shall be incorporated under the provisions of Subchapter IV, Chapter XVIII of the Code of Law of the District of Columbia as far as applicable, with issues of stock at a stated par value and/or of no par value, as may be approved by the Public Utilities Commission"; and

Agreement by stockholders.

Proviso. Approval of Congress.

Requirements.
Vol. 31, p. 1234.

Parties in interest.

Whereas the Washington Railway and Electric Company (hereinafter referred to as the "Washington Company") and the Capital Traction Company (hereinafter referred to as the

“Capital Company”), street railway companies now operating in the District of Columbia, are organized in accordance with special Acts of the Congress of the United States for the purpose of carrying on street railway and other business; and

Whereas it is deemed advisable, for the purpose of greater efficiency and economy of management and for the benefit and advantage of the public and of the stockholders of said companies, that their transit properties used in the business of street railway and bus transportation within the District of Columbia or between the District of Columbia and adjacent States, and such other property and assets, real and personal, tangible and intangible, as may be described in this agreement shall be placed under unified ownership and operation; and

Unified ownership of transit properties, etc.

Whereas the premises, covenants, agreements, grants, terms, and conditions herein have been approved by the Public Utilities Commission of the District of Columbia:

Approval by Public Utilities Commission.

Now, therefore, if and when the said premises, covenants, grants, terms, and conditions herein contained are agreed upon by a vote of a majority in amount of the stock of the respective corporations, their respective properties as hereinafter described shall be transferred to and vested in the New Company and the mode of carrying the same into effect shall be as follows:

Terms and methods.

First: The name of the New Company shall be Capital Transit Company (hereinafter referred to as the “New Company”).

Name.

Second: The New Company shall be incorporated under the provisions of Subchapter IV of Chapter XVIII of the Code of Law of the District of Columbia and pursuant to an Act of Congress entitled “An Act to permit the merger of street-railway corporations operating in the District of Columbia, and for other purposes,” approved March 4, 1925, with power subject to the approval of the Public Utilities Commission to acquire, construct, own, and operate directly transit properties within the District of Columbia and in adjacent States, including the power to acquire, own, and either directly or through subsidiaries operate the properties to be conveyed to the New Company in accordance with this agreement, and to acquire and own the stock and/or bonds of said companies and of any other company or companies engaged in the transportation of passengers by street railway or bus in the District of Columbia and adjacent States with the power to mortgage its property, rights, and franchises, and to conduct such other activities as may be useful or necessary in connection with or incident to the foregoing purposes, including the power to buy, sell, hold, own, and convey real estate within and without the District of Columbia. Said New Company when incorporated shall become and remain subject in all respects to regulation by the Public Utilities Commission of the District of Columbia or its successors to the extent of the jurisdiction now or hereafter vested in it or them by law over corporations engaged in the transportation of passengers by street railway or bus within the District of Columbia: *Provided*, That before they are recorded, the articles of incorporation and/or any amendments thereto shall be approved by the Public Utilities Commission.

Incorporation.
Vol. 31, p. 1284.

Powers.

Post, p. 819.

Proviso.
Approval of articles.

Third. The board of directors of the New Company shall consist of fifteen persons. Of the fifteen original directors, seven shall be nominated by the Washington Company, seven by the Capital Company, and one, to hold office for two years, shall be agreed upon by the fourteen nominated as above. Of the directors so to be initially nominated by the Capital Company, five shall hold office for three years and two shall hold office for two years.

Directors.

Of the directors so to be initially nominated by the Washington Company, two shall hold office for two years and five shall hold office for one year.

The directors shall be stockholders and at least nine of them bona fide residents of the District of Columbia, and shall, except as hereinbefore provided, be elected annually by the stockholders at such time and place as shall be determined by the by-laws of the company. The officers of the New Company shall be selected by the board of directors.

Rules, regulations,
and by-laws.

Fourth. The New Company shall have such rules, regulations, and by-laws as the directors shall adopt not contrary to its charter or to the laws in force in the District of Columbia. The duties and powers of the directors and the duties and powers of the officers of the company shall be such as are set forth in the by-laws.

Stock issues.
Approval of, by
Public Utilities Com-
mission.

Fifth. The authorized number and par value of the shares of stock of the New Company, the number of shares of stock to be issued originally for the purpose of the unification and in payment for the properties of the Capital Company and the Washington Company to be acquired hereunder, the bonded indebtedness of the New Company, the division of the stock issued by the New Company between the Washington Company and the Capital Company shall all be as approved by the Public Utilities Commission of the District of Columbia: *Provided*, That the original bonded indebtedness and stock liability of the New Company shall not be in excess of the total amount of the stocks, certificates of stock, bonds, or other evidences of indebtedness then outstanding against the Capital Company and the Washington Company.

Proviso.
Limit.

Additional issues.

Sixth. After the original issue of stock for the purposes of the unification, additional shares of stock and/or additional bonds or other evidences of indebtedness may, subject to the approval of the Public Utilities Commission of the District of Columbia, be issued by the Directors from time to time for cash or in payment for bonds, or property, or to reimburse the treasury for capital expenditures.

Orders of Public
Utilities Commission.

Seventh. Approval of this agreement by Joint Resolution or Act of Congress of the United States shall constitute and confer jurisdiction on the Public Utilities Commission to issue any order reasonably necessary to secure the operating and/or other economies contemplated by this merger, and to order reasonable extensions and/or reasonable abandonments of tracks and/or facilities. And said orders shall have the same legal effect and be enforceable in the same manner as other orders of said Commission.

Transactions upon
organization of New
Company.

Eighth. Upon the organization of the New Company, the following transactions shall be carried out substantially simultaneously:

Transfer and vesting
of Capital Company
assets, etc.

A. The Capital Company shall vest in the New Company all of its current assets, all moneys or securities of every form owned by it, whether held as cash, securities, choses in action, or special funds of any nature, all of its estates, lands, rights, powers, privileges, licenses, franchises and properties, real and personal, tangible and intangible, of every kind (including without limiting the generality of the foregoing, two hundred and two shares of the par value of \$50 per share of the capital stock of the Washington and Maryland Railroad Company out of a total of two hundred and two shares issued and outstanding, \$66,000 principal amount of 6 per centum bonds of said Company, due January 15, 1947, and a demand note for the principal amount of \$20,500 bearing interest at the rate of 6 per centum per annum made by said company indorsed to the Capital Company), and shall transfer to

the New Company all existing operating and other contracts and/or rights (subject to all conditions of said contracts) and shall execute all deeds, assignments, and/or other conveyances requisite for such purpose.

In consideration therefor the New Company shall—

Consideration therefor.
Issue of capital stock.

(a) Issue to the Capital Company such shares of its capital stock and/or other securities as may be agreed upon by the Capital and Washington Companies and approved by the Public Utilities Commission of the District of Columbia.

Assumption of liabilities, etc.

(b) Assume and discharge as the same mature all of the liabilities of the Capital Company, such liabilities to be not exceeding \$5,800,000 principal amount of Capital Traction first mortgage bonds bearing interest at the rate of 5 per centum per annum, due June 1, 1947 (in addition to \$200,000 principal amount thereof now in the treasury of the Capital Company which shall be canceled on or before the date of closing hereunder), and current liabilities arising in normal conduct of the business.

Liquidation and dissolution of Capital Company.

It is understood and agreed that to carry out the intent thereof the Capital Company shall and will, as soon as may be possible after the date of closing as hereinafter defined, make distribution to its stockholders, liquidate and dissolve, and that to this end approval of this agreement by joint resolution or Act of the Congress of the United States shall constitute and confer all necessary authority to the Capital Company to liquidate its assets by distributing amongst its stockholders, in proportion to their several holdings of stock in said company, the shares of stock of the New Company which it shall have received as the consideration for the sale, transfer, and conveyance of its property to the said New Company as provided herein, and thereupon to liquidate its affairs and dissolve its corporate existence: *Provided*, That the existing liabilities of the said Capital Company and the rights of its creditors shall not be affected thereby, and that such creditors shall have, as to the New Company upon the transfer of property to it as aforesaid, all rights and remedies which they may then have as to the Capital Company: *And provided further*, That no action or proceedings to which the Capital Company is a party shall abate in consequence thereof, but the same may be continued in the name of the party by or against which the same was begun, unless the court in which said action or proceedings are pending shall order the New Company to be substituted in its place and stead: *And provided further*, That the fact of such dissolution in accordance with this provision shall be published once a week for two successive weeks thereafter in at least two daily newspapers of general circulation published in the city of Washington, District of Columbia.

Provisos.
Creditors' rights.

Actions, etc., not abated.

Publication of dissolution.

Date of closing.

The date of closing is hereby defined as the date of the transfer of the properties mentioned herein to the New Company and the delivery of New Company shares to the Capital and Washington Companies in accordance herewith.

B. The Washington Company will vest, or cause to be vested in the New Company all of its physical property, real and personal, Glen Echo Amusement Park (except devices not owned by the Washington Company or Glen Echo Park Company), tracks, lands, buildings, shops, structures, machinery, rolling stock, busses, easements, franchises, rights, operating and other contracts for the use of tracks, power, exchange of facilities, or otherwise, directly connected with, or relating to, and used in the ordinary operation and business of an electric railway, motor bus, public

Transfer of Washington Company property, etc.

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|---|---|
| Rights, etc., not included. | transportation company and common carrier, situate in the District of Columbia and State of Maryland (subject to all conditions of said contracts), including without limiting the generality of the foregoing, the physical property, rights, and franchises of the Washington and Rockville Railway Company of Montgomery County, used in the operation of said transit business, with the understanding, however, that nothing herein shall be understood to include the transfer of the right of the Washington Company and the Washington and Rockville Railway Company of Montgomery County to exist as corporations or separate corporate entities, nor to include the stock of the Potomac Electric Power Company, the Braddock Light and Power Company, Incorporated, Great Falls Power Company, Potomac Electric Appliance Company, or other investments in stock, bonds, or personal property not connected with or used in the ordinary conduct of the business of said electric railways, nor any cash, bills receivable, credits, or choses in action, except as otherwise herein provided (and that approval of this agreement by joint resolution or Act of the Congress of the United States shall constitute and confer the necessary authority to the Washington Company to retain and hold the aforesaid stocks of the said companies). A general description of the property to be transferred hereunder shall be prepared and delivered to the Capital Company before the final execution of deeds, and the Washington Company shall execute all deeds, assignments, and/or other conveyances requisite for such purpose. It being understood, however, that the Washington Company will transfer to the New Company net current assets equal to the net current assets transferred to the New Company by the Capital Company, as hereinbefore provided, and no more. |
| Description of property. | The said property of the Washington Company shall be vested in the New Company, subject in so far but only in so far, as the same may by terms of such mortgages, respectively, attach to any part or parts of said property, to the following mortgages or deeds of trust: |
| Vesting of, subject to existing mortgages. | <p>(1) First Mortgage of the City and Suburban Railway of Washington, dated September 1, 1898, made to the Baltimore Trust and Guaranty Company, as trustee.</p> <p>(2) First Mortgage of the Anacostia and Potomac River Railroad Company, dated April 1, 1899, made to the Baltimore Trust and Guaranty Company, as trustee.</p> <p>(3) Consolidated Mortgage of the Washington Railway and Electric Company, dated March 1, 1902, made to United States Mortgage and Trust Company, as trustee.</p> |
| Consideration therefor. Issue of capital stock by New Company. | In consideration therefor the New Company shall issue to the Washington Company such shares of its capital stock and/or other securities as may be agreed upon by the Capital and Washington Companies and approved by the Public Utilities Commission of the District of Columbia, and shall assume such of the above-described bonds as may be approved by the Public Utilities ¹ Commission, and in addition shall assume and discharge, as the same mature, liabilities of the Washington Company incident to the transit business to be transferred as aforesaid. |
| Assumption of liabilities, etc. | Out of the total net current assets received by the New Company there shall be set aside a reserve in an amount sufficient in the opinion of the Public Utilities Commission to liquidate all claims for injuries and damages against the Washington Company and the Capital Company on account of operations prior to the date of |
| Reserve to liquidate claims. | |

¹ So in original.

closing: *Provided*, That any excess or deficit in such reserve remaining after the final liquidation of such claims for injuries and damages shall be credited or debited, respectively, to the surplus of the New Company.

Proviso.
Dispositions at final liquidation.

The New Company is authorized to acquire any or all of the outstanding stock of the Washington Rapid Transit Company (the Bus Company) at the fair value thereof and on such terms as may be accepted by the owners of said shares of stock and may be approved by the Public Utilities Commission; if and when a majority of the outstanding shares of the said Washington Rapid Transit Company is acquired by the New Company, the Washington Rapid Transit Company shall be merged or consolidated with the New Company when and if the Public Utilities Commission shall so require.

Acquisition and merger of Washington Rapid Transit Company.

Ninth. The foregoing is based on the present conditions and business of the participating companies and on the assumption that, in the interval before the consummation of the foregoing transactions, there will be no change in the transit businesses, other than as a result of normal operations or necessary to meet changed operating conditions, and that no distribution will be made to the stockholders of Capital Company, except the regular dividend payments, at not exceeding 7 per centum per annum, and that, subject to such exceptions, the assets and liabilities of the participating companies will be substantially as appears from their balance sheets, as of the 31st of December, 1931, subject to variations in the normal course of business.

Basis.

Tenth. The Washington Company shall cause the Potomac Electric Power Company to enter into a contract with the New Company, subject to the approval of the Public Utilities Commission, said power contract to become effective as of the date of consummation of this merger and run for the life of whichever of the last-mentioned companies expires first, and to provide that the Potomac Electric Power Company, or its successors, and/or assigns will at all times, on request, furnish an adequate supply of electric power for the maintenance and operation of the transit properties of the New Company, and at such reasonable rates as the Public Utilities Commission may from time to time fix. The Washington Company shall assign to the Potomac Electric Power Company all of its existing contracts for the sale of power to other railway companies.

Power contract.

Eleventh. The Washington Company shall remain subject to the jurisdiction of the Public Utilities Commission. Any sinking funds now held by it shall remain available for the discharge of securities for which it remains liable and which are secured directly or indirectly by any lien upon property turned over to the New Company.

Assignment of existing contract.

Jurisdiction of Public Utilities Commission.

Twelfth. Any and all rights with regard to valuations and/or rate bases now possessed by any of the parties to this agreement shall not be prejudiced hereby, and shall be enjoyed by the New Company until a valuation of the properties of the company shall be fixed as now or hereafter provided by law: *Provided*, That nothing contained herein shall deprive the New Company of any rights under the Constitution of the United States.

Rights to valuations and rate bases not prejudiced.

Proviso.
Rights of New Company.

Thirteenth. The New Company shall grant with each street-railway fare a free immediate transfer to any connecting portion of its street-railway lines within the District of Columbia, subject to reasonable rules and regulations to prevent abuse thereof. In addition, transfers between street cars and busses and between bus lines shall be granted under such reasonable terms

Street-railway transfers.

Proviso.
Special fares.

and conditions as the Public Utilities Commission may prescribe: *Provided*, That this shall not be interpreted so as to prevent the Public Utilities Commission from establishing special fares lower than the basic rate without transfer privileges.

Conditions of agree-
ment.

Fourteenth. This agreement is conditioned upon the New Company being relieved from the expense of policemen at street railway crossings and intersections, the laying of new pavement, the making of permanent improvements, renewals or repairs to the pavement of streets and public bridges; and the permanent improvements, renewals, or repairs to public bridges over which the street-car lines operate; except that the New Company shall bear the entire cost of paving repairs or replacements incident to track repairs, replacements or changes made at a time when the street or bridge is not being paved, and shall bear one-half the cost of other paving, repaving, or maintenance of paving between its tracks and for two feet outside of the outer rails, and shall bear the excess cost of construction and maintenance of public bridges, due to the installation or existence of its tracks on such bridges, but nothing herein shall relieve the New Company from liability for street paving as owner of real estate apart from rights of way occupied by its tracks, as set out in the so-called Borland law, approved September 1, 1916, as amended to date, and/or in an Act to provide for special assessments for the paving of roadways and, the laying of curbs and gutters, approved February 20, 1931.

Competitive lines.

Fifteenth. Legislation obtained to effectuate this agreement shall contain a provision that no competitive street-railway or bus line, that is, bus or railway line for the transportation of passengers of the character which runs over a given route on a fixed schedule, shall be established without the prior issuance of a certificate by the Public Utilities Commission of the District of Columbia to the effect that the competitive line is necessary for the convenience of the public.

Expenses of unifica-
tion.

Sixteenth. The New Company may defray any reasonable legal and other expenses of unification which may be necessarily incurred in connection therewith subject to the approval of the Public Utilities Commission; provided that these expenses shall be treated in the accounts of the New Company as ordered by the Public Utilities Commission.

Reserves, special ac-
counts, and deferred
charges.

Seventeenth. The New Company upon opening its books of account shall set up reserves, special accounts, and deferred charges equal to the combined reserves, depreciation funds, special accounts, and deferred charges of the Capital and Washington Companies in so far as they relate to depreciation of properties turned over to the New Company or to liabilities assumed by it, other than the reserve for injuries and damages as heretofore provided in paragraph eighth. Such reserves, or accounts, shall be set up in such manner that there shall be continuity of accounting between the books of the Capital and Washington Companies and the New Company: *Provided*, That the New Company shall not be required to maintain any depreciation fund if it sets up a reserve against depreciation at rates fixed therefor by the Public Utilities Commission but may use money and/or securities in any depreciation fund turned over to it in any manner approved by the Public Utilities Commission. Nothing herein provided shall be construed as changing or limiting the jurisdiction of said commission over depreciation accounts of any of said companies.

Proviso.
Depreciation fund.

Eighteenth. Approval of this agreement by the Public Utilities Commission or Congress shall not be taken as approval of the considerations mentioned herein for properties or stocks, nor as binding upon the Public Utilities Commission in any future determination of the fair value of the properties used and useful for the public convenience belonging to the Washington Company, the Capital Company, or to be acquired by the New Company, that may be made in accordance with this agreement.

Effect of approval by Congress or commission.

Nineteenth. The Public Utilities Commission shall fix the rate of fare at 3 cents for school children not over eighteen years of age, going to and from public, parochial, or like schools in the District of Columbia, and shall establish rules and regulations governing the use thereof: *Provided*, That upon the acceptance of this agreement by the parties and the completion of the unification, the provisions of the Act entitled "An Act to provide for the transportation of school children in the District of Columbia at a reduced fare," approved February 27,¹ 1931, shall become inoperative.

School children, rate of fare.

Proviso.
Existing law to become inoperative.
Vol. 46, p. 1419.

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That such unification in accordance with said agreement, and each and every one of the provisions therein, be, and the same are hereby, ratified and approved, and said Capital Transit Company, when organized under the provisions of subchapter 4, chapter 18, of the Code of Law of the District of Columbia, shall have all the powers, benefits, and obligations expressed in said unification agreement, approved as aforesaid; and the Public Utilities Commission of the District of Columbia be, and is hereby, authorized to do all such acts and things as may be necessary or appropriate on its part to carry out the provisions of said agreement and of this resolution. Nothing in this paragraph shall be construed to limit the present powers of the Public Utilities Commission.

Unification agreement approved.

Powers, etc., of Capital Transit Company.
Vol. 31, p. 1284.

SEC. 2. This agreement, hereinbefore set forth, shall be submitted to the stockholders of the Capital Traction Company and the Washington Railway and Electric Company for their action within six months after its approval by the Congress.

Action by stockholders.

SEC. 3. That all provisions of law making it incumbent upon any street railway company to bear the expense of policemen at street railway crossings and intersections, the laying of new pavement, the making of permanent improvements, renewals, or repairs to the pavement of streets and public bridges, and the permanent improvements, renewals, or repairs to public bridges over which the street-car lines operate, are hereby repealed, such repeal to be effective on the date the unification herein authorized becomes operative: *Provided*, That the Capital Transit Company herein provided for shall bear the entire cost of paving, repairs, or replacements incident to track repairs, replacements, or changes made at a time when the street or bridge is not being paved, and shall bear one-half the cost of other paving, repaving, or maintenance of paving between its track and for two feet outside the outer rails, and shall bear the excess cost of construction and maintenance of public bridges due to the existence or installation of its tracks on such bridges: *Provided further*, That nothing herein contained shall relieve said Capital Transit Company from liability for street paving as owner of real estate apart from right of way occupied by its tracks as provided by section 8 of the Act of Congress entitled "An Act making appropriations to provide for the expenses of the government of the Dis-

Provisions for bearing certain expenses repealed.

Proviso.
Paving costs.

Liability as real-estate owner.

Vol. 39, p. 716.

¹ So in original.

trict of Columbia for the fiscal year ending June 30, 1917, and for other purposes," approved September 1, 1916, as amended to date.

Restriction on establishing competitive lines.

SEC. 4. No competitive street railway or bus line, that is, bus or railway line for the transportation of passengers of the character which runs over a given route on a fixed schedule, shall be established without the prior issuance of a certificate by the Public Utilities Commission of the District of Columbia to the effect that the competitive line is necessary for the convenience of the public.

Capital Traction Company. Liquidation and distribution.

SEC. 5. That the Capital Traction Company is hereby authorized and empowered, upon the consummation of the aforesaid unification agreement, to dissolve and to liquidate its assets and make distribution among its stockholders in accordance with said agreement: *Provided*, That the existing liabilities of the said the Capital Traction Company and the rights of its creditors shall not be affected thereby, and that such creditors shall have, as to the said Capital Transit Company, upon the transfer of property to it as provided in said agreement, all rights and remedies which they may then have as to the Capital Traction Company: *Provided further*, That no action or proceedings to which the Capital Traction Company is a party, shall abate in consequence thereof, but the same may be continued in the name of the party by or against which the same was begun, unless the court in which said action or proceedings are pending shall order the Capital Transit Company to be substituted in its place and stead: *And provided further*, That the fact of such dissolution in accordance with this provision shall be published once a week for two successive weeks thereafter in at least two daily newspapers of general circulation published in the city of Washington, District of Columbia.

Provisos. Existing liabilities, etc.

Actions, etc., not abated.

Notice of dissolution to be published.

Washington Railway and Electric Company, stock, etc., holdings.

SEC. 6. That the Washington Railway and Electric Company is hereby authorized and empowered to retain and hold stocks and bonds as provided in said unification agreement, and to issue from time to time stocks, bonds, and/or other evidences of indebtedness subject to the approval of the Public Utilities Commission of the District of Columbia.

Washington Rapid Transit Company. Acquisition and merger.

SEC. 7. That in accordance with said unification agreement, the Capital Transit Company to be created as aforesaid is hereby authorized and empowered to purchase all or any part of the outstanding capital stock of the Washington Rapid Transit Company; and said company shall be merged or consolidated with the said Capital Transit Company when and if the Public Utilities Commission shall so require.

Supervision of Public Utilities Commission.

SEC. 8. That nothing contained in this resolution shall be taken as extending or limiting the powers and duties of the Public Utilities Commission except as provided in this resolution and by said unification agreement, and all powers granted by this resolution to the Capital Transit Company shall be exercised subject to the supervision of and regulation by the Public Utilities Commission as provided by law.

Effective date.

SEC. 9. The unification herein provided for shall become effective when but not until agreed upon by vote of more than a majority in amount of the stock of the respective companies and notices to that effect have been filed with the Public Utilities Commission of the District of Columbia within two years from and after the passage of this joint resolution.

Reasonable charges.

SEC. 10. Any and all charges to the Capital Transit Company made by any corporation or person holding a majority of the capital stock thereof for any services shall be proved to be fair and reasonable, and only such part of said charges as the Public Utilities Commission,

subject to the right of appeal to the courts, may decide to be fair and reasonable shall be considered in the determination of rates.

SEC. 11. It is understood and agreed that nothing herein shall be construed as creating any new rights of franchise to use the streets in the District of Columbia for transportation purposes: *Provided*, That the Capital Transit Company shall exercise and succeed to all of the property, rights, and franchises of the Capital Traction and the Washington Railway and Electric Companies, which they are required herein to vest in the Capital Transit Company, subject, however, to the right of the Public Utilities Commission to order reasonable extension or reasonable abandonment of tracks and facilities.

No new franchise rights created.

Proviso.
Succession of rights, etc.

SEC. 12. The Washington Railway and Electric Company, if the unification herein provided for shall become effective, shall remain subject to the jurisdiction of the Public Utilities Commission. Any sinking fund held by it shall remain available for the discharge of securities for which it remains liable and which are secured directly or indirectly, by any lien on property turned over to the Capital Transit Company.

Public Utilities Commission.
Jurisdiction over Washington Railway and Electric Company.

SEC. 13. That Congress reserves the right to alter, amend, or repeal this resolution, or any charter or certificate of incorporation made thereunder, and any and all rights of franchise created by this resolution shall terminate one year following its repeal.

Rights reserved.

Approved, January 14, 1933.

[CHAPTER 11.]

AN ACT

To enable the people of the Philippine Islands to adopt a constitution and form a government for the Philippine Islands, to provide for the independence of the same, and for other purposes.

January 17, 1933.
[H. R. 7233.]
[Public, No. 311.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Philippine Independence Act.

CONVENTION TO FRAME CONSTITUTION FOR PHILIPPINE ISLANDS

Constitutional convention.

SECTION 1. The Philippine Legislature is hereby authorized to provide for the election of delegates to a constitutional convention, which shall meet in the hall of the house of representatives in the capital of the Philippine Islands, at such time as the Philippine Legislature may fix, within one year after the enactment of this Act, to formulate and draft a constitution for the government of the Commonwealth of the Philippine Islands, subject to the conditions and qualifications prescribed in this Act, which shall exercise jurisdiction over all the territory ceded to the United States by the treaty of peace concluded between the United States and Spain on the 10th day of December, 1898, the boundaries of which are set forth in Article III of said treaty, together with those islands embraced in the treaty between Spain and the United States concluded at Washington on the 7th day of November, 1900. The Philippine Legislature shall provide for the necessary expenses of such convention.

Election of delegates.

Territory included.
Vol. 30, p. 1755.

Vol. 31, p. 1942.

CHARACTER OF CONSTITUTION—MANDATORY PROVISIONS

Character of constitution.

SEC. 2. The constitution formulated and drafted shall be republican in form, shall contain a bill of rights, and shall, either as a part thereof or in an ordinance appended thereto, contain provisions to

Form and contents.

- the effect that, pending the final and complete withdrawal of the sovereignty of the United States over the Philippine Islands—
- Mandatory provisions. Allegiance. (a) All citizens of the Philippine Islands shall owe allegiance to the United States.
- Oath by officers of Commonwealth. (b) Every officer of the government of the Commonwealth of the Philippine Islands shall, before entering upon the discharge of his duties, take and subscribe an oath of office, declaring, among other things, that he recognizes and accepts the supreme authority of and will maintain true faith and allegiance to the United States.
- Religious toleration. (c) Absolute toleration of religious sentiment shall be secured and no inhabitant or religious organization shall be molested in person or property on account of religious belief or mode of worship.
- Church, etc., property tax free. (d) Property owned by the United States, cemeteries, churches, and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious, charitable, or educational purposes shall be exempt from taxation.
- Trade relations with United States. *Post*, p. 764. Public debt. (e) Trade relations between the Philippine Islands and the United States shall be upon the basis prescribed in section 6.
- (f) The public debt of the Philippine Islands and its subordinate branches shall not exceed limits now or hereafter fixed by the Congress of the United States; and no loans shall be contracted in foreign countries without the approval of the President of the United States.
- Assumption of debts, etc. (g) The debts, liabilities, and obligations of the present Philippine government, its Provinces, municipalities, and instrumentalities, valid and subsisting at the time of the adoption of the constitution, shall be assumed and paid by the new government.
- Public school system. (h) Provision shall be made for the establishment and maintenance of an adequate system of public schools, primarily conducted in the English language.
- Approval of designated Acts. (i) Acts affecting currency, coinage, imports, exports, and immigration shall not become law until approved by the President of the United States.
- Foreign affairs. (j) Foreign affairs shall be under the direct supervision and control of the United States.
- Laws to be reported to United States Congress. (k) All acts passed by the legislature of the Commonwealth of the Philippine Islands shall be reported to the Congress of the United States.
- Rights of United States recognized. (l) The Philippine Islands recognizes the right of the United States to expropriate property for public uses, to maintain military and other reservations and armed forces in the Philippines, and, upon order of the President, to call into the service of such armed forces all military forces organized by the Philippine government.
- Supreme Court of the United States, jurisdiction. *Post*, p. 767. (m) The decisions of the courts of the Commonwealth of the Philippine Islands shall be subject to review by the Supreme Court of the United States as provided in paragraph (6) of section 7.
- Right of intervention. Proclamation by the President. (n) The United States may by Presidential proclamation exercise the right to intervene for the preservation of the government of the Commonwealth of the Philippine Islands and for the maintenance of the government as provided in the constitution thereof, and for the protection of life, property, and individual liberty and for the discharge of government obligations under and in accordance with the provisions of the constitution.
- United States High Commissioner. (o) The authority of the United States High Commissioner to the government of the Commonwealth of the Philippine Islands, as provided in this Act, shall be recognized.
- Civil rights. (p) Citizens and corporations of the United States shall enjoy in the Commonwealth of the Philippine Islands all the civil rights of the citizens and corporations, respectively, thereof.

SUBMISSION OF CONSTITUTION TO THE PRESIDENT OF THE UNITED STATES

SEC. 3. Upon the drafting and approval of the constitution by the constitutional convention in the Philippine Islands, the constitution shall be submitted within two years after the enactment of this Act to the President of the United States, who shall determine whether or not it conforms with the provisions of this Act. If the President finds that the proposed constitution conforms substantially with the provisions of this Act he shall so certify to the Governor General of the Philippine Islands, who shall so advise the constitutional convention. If the President finds that the constitution does not conform with the provisions of this Act he shall so advise the Governor General of the Philippine Islands, stating wherein in his judgment the constitution does not so conform and submitting provisions which will in his judgment make the constitution so conform. The Governor General shall in turn submit such message to the constitutional convention for further action by them pursuant to the same procedure hereinbefore defined, until the President and the constitutional convention are in agreement.

Submission of constitution to the President of United States.

SUBMISSION OF CONSTITUTION TO FILIPINO PEOPLE

SEC. 4. After the President of the United States has certified that the constitution conforms with the provisions of this Act, it shall be submitted to the people of the Philippine Islands for their ratification or rejection at an election to be held within four months after the date of such certification, on a date to be fixed by the Philippine Legislature, at which election the qualified voters of the Philippine Islands shall have an opportunity to vote directly for or against the proposed constitution and ordinances appended thereto. Such election shall be held in such manner as may be prescribed by the Philippine Legislature, to which the return of the election shall be made. The Philippine Legislature shall by law provide for the canvassing of the return and shall certify the result to the Governor General of the Philippine Islands, together with a statement of the votes cast, and a copy of said constitution and ordinances. If a majority of the votes cast shall be for the constitution, such vote shall be deemed an expression of the will of the people of the Philippine Islands in favor of Philippine independence, and the Governor General shall, within thirty days after receipt of the certification from the Philippine Legislature, issue a proclamation for the election of officers of the government of the Commonwealth of the Philippine Islands provided for in the constitution. The election shall take place not earlier than three months nor later than six months after the proclamation by the Governor General ordering such election. When the election of the officers provided for under the constitution has been held and the results determined, the Governor General of the Philippine Islands shall certify the results of the election to the President of the United States, who shall thereupon issue a proclamation announcing the results of the election, and upon the issuance of such proclamation by the President the existing Philippine government shall terminate and the new government shall enter upon its rights, privileges, powers, and duties, as provided under the constitution. The present government of the Philippine Islands shall provide for the orderly transfer of the functions of government.

Submission of constitution to people.

Time for election.

Canvass of returns.

Proclamation by Governor General for election of commonwealth officers.

Time of election.

New government to enter on President's proclamation.

Existing government to continue, if vote be adverse.

If a majority of the votes cast are against the constitution, the existing government of the Philippine Islands shall continue without regard to the provisions of this Act.

TRANSFER OF PROPERTY AND RIGHTS TO PHILIPPINE COMMONWEALTH

Transfer of property and rights to Philippine Commonwealth. Post, p. 768.

SEC. 5. All the property and rights which may have been acquired in the Philippine Islands by the United States under the treaties mentioned in the first section of this Act, except such land or other property as has heretofore been designated by the President of the United States for military and other reservations of the Government of the United States, and except such land or other property or rights or interests therein as may have been sold or otherwise disposed of in accordance with law, are hereby granted to the government of the Commonwealth of the Philippine Islands when constituted.

Relations with the United States pending complete independence. Exceptions to existing trade relations.

RELATIONS WITH THE UNITED STATES PENDING COMPLETE INDEPENDENCE

SEC. 6. After the date of the inauguration of the government of the Commonwealth of the Philippine Islands trade relations between the United States and the Philippine Islands shall be as now provided by law, subject to the following exceptions:

Sugars.

(a) There shall be levied, collected, and paid on all refined sugars in excess of fifty thousand long tons, and on unrefined sugars in excess of eight hundred thousand long tons, coming into the United States from the Philippine Islands in any calendar year, the same rates of duty which are required by the laws of the United States to be levied, collected, and paid upon like articles imported from foreign countries.

Coconut oil.

(b) There shall be levied, collected, and paid on all coconut oil coming into the United States from the Philippine Islands in any calendar year in excess of two hundred thousand long tons, the same rates of duty which are required by the laws of the United States to be levied, collected, and paid upon like articles imported from foreign countries.

Hard fibers, etc.

(c) There shall be levied, collected, and paid on all yarn, twine, cord, cordage, rope and cable, tarred or untarred, wholly or in chief value of manila (abaca) or other hard fibers, coming into the United States from the Philippine Islands in any calendar year in excess of a collective total of three million pounds of all such articles hereinbefore enumerated, the same rates of duty which are required by the laws of the United States to be levied, collected, and paid upon like articles imported from foreign countries.

Duty-free export limitation. Export permits may issue for excess.

(d) In the event that in any year the limit in the case of any article which may be exported to the United States free of duty shall be reached by the Philippine Islands, the amount or quantity of such articles produced or manufactured in the Philippine Islands thereafter that may be so exported to the United States free of duty shall be allocated, under export permits issued by the government of the Commonwealth of the Philippine Islands, to the producers or manufacturers of such articles proportionately on the basis of their exportation to the United States in the preceding year; except that in the case of unrefined sugar the amount thereof to be exported annually to the United States free of duty shall be allocated to the sugar-producing mills of the islands proportionately on the basis of their average annual production for the calendar years 1931, 1932, and 1933, and the amount of sugar from each mill which may be so exported shall be allocated in each year between the mill and the planters on the basis of the proportion of sugar to which the mill and the planters are respectively entitled. The government of the Philippine Islands is authorized to adopt the necessary laws and regulations for putting into effect the allocation hereinbefore provided.

Unrefined sugar.

(e) The government of the Commonwealth of the Philippine Islands shall impose and collect an export tax on all articles that may be exported to the United States from the Philippine Islands free of duty under the provisions of existing law as modified by the foregoing provisions of this section, including the articles enumerated in subdivisions (a), (b), and (c), within the limitations therein specified, as follows:

Graduated export taxes.

(1) During the sixth year after the inauguration of the new government the export tax shall be 5 per centum of the rates of duty which are required by the laws of the United States to be levied, collected, and paid on like articles imported from foreign countries;

(2) During the seventh year after the inauguration of the new government the export tax shall be 10 per centum of the rates of duty which are required by the laws of the United States to be levied, collected, and paid on like articles imported from foreign countries;

(3) During the eighth year after the inauguration of the new government the export tax shall be 15 per centum of the rates of duty which are required by the laws of the United States to be levied, collected, and paid on like articles imported from foreign countries;

(4) During the ninth year after the inauguration of the new government the export tax shall be 20 per centum of the rates of duty which are required by the laws of the United States to be levied, collected, and paid on like articles imported from foreign countries;

(5) After the expiration of the ninth year after the inauguration of the new government the export tax shall be 25 per centum of the rates of duty which are required by the laws of the United States to be levied, collected, and paid on like articles imported from foreign countries.

The government of the Commonwealth of the Philippine Islands shall place all funds received from such export taxes in a sinking fund, and such fund shall, in addition to other moneys available for that purpose, be applied solely to the payment of the principal and interest on the bonded indebtedness of the Philippine Islands, its Provinces, municipalities, and instrumentalities, until such indebtedness has been fully discharged.

Sinking fund created therefrom, for liquidating indebtedness.

When used in this section in a geographical sense, the term "United States" includes all Territories and possessions of the United States, except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam.

"United States", construed.

SEC. 7. Until the final and complete withdrawal of American sovereignty over the Philippine Islands—

Provisions pending final withdrawal of American sovereignty. Submission of constitutional amendments.

(1) Every duly adopted amendment to the constitution of the government of the Commonwealth of the Philippine Islands shall be submitted to the President of the United States for approval. If the President approves the amendment or if the President fails to disapprove such amendment within six months from the time of its submission, the amendment shall take effect as a part of such constitution.

(2) The President of the United States shall have authority to suspend the taking effect of or the operation of any law, contract, or executive order of the government of the Commonwealth of the Philippine Islands, which in his judgment will result in a failure of the government of the Commonwealth of the Philippine Islands to fulfill its contracts, or to meet its bonded indebtedness and interest thereon or to provide for its sinking funds, or which seems likely to impair the reserves for the protection of the currency of the Philippine Islands, or which in his judgment will violate international obligations of the United States.

Authority of the President.

Annual, etc., reports.

(3) The Chief Executive of the Commonwealth of the Philippine Islands shall make an annual report to the President and Congress of the United States of the proceedings and operations of the government of the Commonwealth of the Philippine Islands and shall make such other reports as the President or Congress may request.

United States High Commissioner to the Philippine Islands. Appointment, authority, duties, etc.

(4) The President shall appoint, by and with the advice and consent of the Senate, a United States High Commissioner to the government of the Commonwealth of the Philippine Islands who shall hold office at the pleasure of the President and until his successor is appointed and qualified. He shall be known as the United States High Commissioner to the Philippine Islands. He shall be the representative of the President of the United States in the Philippine Islands and shall be recognized as such by the government of the Commonwealth of the Philippine Islands, by the commanding officers of the military forces of the United States, and by all civil officials of the United States in the Philippine Islands. He shall have access to all records of the government or any subdivision thereof, and shall be furnished by the Chief Executive of the Commonwealth of the Philippine Islands with such information as he shall request.

Report of, upon failure of government to meet bonded, etc., indebtedness.

If the government of the Commonwealth of the Philippine Islands fails to pay any of its bonded or other indebtedness or the interest thereon when due or to fulfill any of its contracts, the United States High Commissioner shall immediately report the facts to the President, who may thereupon direct the High Commissioner to take over the customs offices and administration of the same, administer the same, and apply such part of the revenue received therefrom as may be necessary for the payment of such overdue indebtedness or for the fulfillment of such contracts. The United States High Commissioner shall annually, and at such other times as the President may require, render an official report to the President and Congress of the United States. He shall perform such additional duties and functions as may be delegated to him from time to time by the President under the provisions of this Act.

Compensation.

The United States High Commissioner shall receive the same compensation as is now received by the Governor General of the Philippine Islands, and shall have such staff and assistants as the President may deem advisable and as may be appropriated for by Congress, including a financial expert, who shall receive for submission to the High Commissioner a duplicate copy of the reports of the insular auditor. Appeals from decisions of the insular auditor may be taken to the President of the United States. The salaries and expenses of the High Commissioner and his staff and assistants shall be paid by the United States.

Assistants, etc.

When to take office.

The first United States High Commissioner appointed under this Act shall take office upon the inauguration of the new government of the Commonwealth of the Philippine Islands.

Resident Commissioner to the United States. Recognition, etc.

(5) The government of the Commonwealth of the Philippine Islands shall provide for the selection of a Resident Commissioner to the United States, and shall fix his term of office. He shall be the representative of the government of the Commonwealth of the Philippine Islands and shall be entitled to official recognition as such by all departments upon presentation to the President of credentials signed by the Chief Executive of said government. He shall have a seat in the House of Representatives of the United States, with the right of debate, but without the right of voting. His salary and expenses shall be fixed and paid by the government of the Philippine Islands. Until a Resident Commissioner is selected and qualified

under this section, existing law governing the appointment of Resident Commissioners from the Philippine Islands shall continue in effect.

(6) Review by the Supreme Court of the United States of cases from the Philippine Islands shall be as now provided by law; and such review shall also extend to all cases involving the constitution of the Commonwealth of the Philippine Islands.

SEC. 8. (a) Effective upon the acceptance of this Act by concurrent resolution of the Philippine Legislature or by a convention called for that purpose, as provided in section 17—

(1) For the purposes of the Immigration Act of 1917, the Immigration Act of 1924 (except section 13 (c)), this section, and all other laws of the United States relating to the immigration, exclusion, or expulsion of aliens, citizens of the Philippine Islands who are not citizens of the United States shall be considered as if they were aliens. For such purposes the Philippine Islands shall be considered as a separate country and shall have for each fiscal year a quota of fifty. This paragraph shall not apply to a person coming or seeking to come to the Territory of Hawaii who does not apply for and secure an immigration or passport visa, but such immigration shall be determined by the Department of the Interior on the basis of the needs of industries in the Territory of Hawaii.

(2) Citizens of the Philippine Islands who are not citizens of the United States shall not be admitted to the continental United States from the Territory of Hawaii (whether entering such Territory before or after the effective date of this section) unless they belong to a class declared to be nonimmigrants by section 3 of the Immigration Act of 1924 or to a class declared to be nonquota immigrants under the provisions of section 4 of such Act other than subdivision (c) thereof, or unless they were admitted to such Territory under an immigration visa. The Secretary of Labor shall by regulations provide a method for such exclusion and for the admission of such excepted classes.

(3) Any Foreign Service officer may be assigned to duty in the Philippine Islands, under a commission as a consular officer, for such period as may be necessary and under such regulations as the Secretary of State may prescribe, during which assignment such officer shall be considered as stationed in a foreign country; but his powers and duties shall be confined to the performance of such of the official acts and notarial and other services, which such officer might properly perform in respect of the administration of the immigration laws if assigned to a foreign country as a consular officer, as may be authorized by the Secretary of State.

(4) For the purposes of sections 18 and 20 of the Immigration Act of 1917, as amended, the Philippine Islands shall be considered to be a foreign country.

(b) The provisions of this section are in addition to the provisions of the immigration laws now in force, and shall be enforced as a part of such laws, and all the penal or other provisions of such laws, not inapplicable, shall apply to and be enforced in connection with the provisions of this section. An alien, although admissible under the provisions of this section, shall not be admitted to the United States if he is excluded by any provision of the immigration laws other than this section, and an alien, although admissible under the provisions of the immigration laws other than this section, shall not be admitted to the United States if he is excluded by any provision of this section.

(c) Terms defined in the Immigration Act of 1924 shall, when used in this section, have the meaning assigned to such terms in that Act.

United States Supreme Court.
Review of cases.
Ante, p. 762.

Immigration.

Vol. 39, p. 874; Vol. 43, p. 153.

Admittance from Hawaii limited.

Nonimmigrants.

Vol. 43, p. 154.

Nonquota immigrants.

Regulations to be provided.

Assignment of Foreign Service officer.

Application of Immigration Act of 1917.
Vol. 39, pp. 887, 890.

Additional provisions.

Terms defined.
Vol. 43, p. 168.

Bonds and obligations.

SEC. 9. There shall be no obligation on the part of the United States to meet the interest or principal of bonds and other obligations of the government of the Philippine Islands or of the Provincial and municipal governments thereof, hereafter issued during the continuance of United States sovereignty in the Philippine Islands: *Provided*, That such bonds and obligations hereafter issued shall not be exempt from taxation in the United States or by authority of the United States.

Proviso.
Not exempt from taxation.

Recognition of independence, etc.

RECOGNITION OF PHILIPPINE INDEPENDENCE AND WITHDRAWAL OF AMERICAN SOVEREIGNTY

Effective date.

SEC. 10. On the 4th day of July, immediately following the expiration of a period of ten years from the date of the inauguration of the new government under the constitution provided for in this Act, the President of the United States shall by proclamation withdraw and surrender all right of possession, supervision, jurisdiction, control, or sovereignty then existing and exercised by the United States in and over the territory and people of the Philippine Islands, including all military and other reservations of the Government of the United States in the Philippines (except such land or property reserved under section 5 as may be redesignated by the President of the United States not later than two years after the date of such proclamation), and, on behalf of the United States, shall recognize the independence of the Philippine Islands as a separate and self-governing nation and acknowledge the authority and control over the same of the government instituted by the people thereof, under the constitution then in force: *Provided*, That the constitution has been previously amended to include the following provisions:

Withdrawal, etc., to be made by proclamation.

Reservations.
Anie, p. 764.

Proviso.
Conditions.

Property rights.

(1) That the property rights of the United States and the Philippine Islands shall be promptly adjusted and settled, and that all existing property rights of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of the Philippine Islands.

Qualifications of officials.

(2) That the officials elected and serving under the constitution adopted pursuant to the provisions of this Act shall be constitutional officers of the free and independent government of the Philippine Islands and qualified to function in all respects as if elected directly under such government, and shall serve their full terms of office as prescribed in the constitution.

Assumption of debts, etc.

(3) That the debts and liabilities of the Philippine Islands, its Provinces, cities, municipalities, and instrumentalities, which shall be valid and subsisting at the time of the final and complete withdrawal of the sovereignty of the United States, shall be assumed by the free and independent government of the Philippine Islands; and that where bonds have been issued under authority of an Act of Congress of the United States by the Philippine Islands, or any Province, city, or municipality therein, the Philippine government will make adequate provision for the necessary funds for the payment of interest and principal, and such obligations shall be a first lien on the taxes collected in the Philippine Islands.

Obligations assumed.

(4) That the government of the Philippine Islands, on becoming independent of the United States, will assume all continuing obligations assumed by the United States under the treaty of peace with Spain ceding said Philippine Islands to the United States.

Provisions to be embodied in a treaty.

(5) That by way of further assurance the government of the Philippine Islands will embody the foregoing provisions (except paragraph (2)) in a treaty with the United States.

NEUTRALIZATION OF PHILIPPINE ISLANDS

SEC. 11. The President is requested, at the earliest practicable date, to enter into negotiations with foreign powers with a view to the conclusion of a treaty for the perpetual neutralization of the Philippine Islands, if and when Philippine independence shall have been achieved.

Neutralization to be sought.

NOTIFICATION TO FOREIGN GOVERNMENTS

SEC. 12. Upon the proclamation and recognition of the independence of the Philippine Islands, the President shall notify the governments with which the United States is in diplomatic correspondence thereof and invite said governments to recognize the independence of the Philippine Islands.

Recognition of independence invited.

TARIFF DUTIES AFTER INDEPENDENCE

SEC. 13. After the Philippine Islands have become a free and independent nation there shall be levied, collected, and paid upon all articles coming into the United States from the Philippine Islands the rates of duty which are required to be levied, collected, and paid upon like articles imported from other foreign countries: *Provided*, That at least one year prior to the date fixed in this Act for the independence of the Philippine Islands, there shall be held a conference of representatives of the Government of the United States and the government of the Commonwealth of the Philippine Islands, such representatives to be appointed by the President of the United States and the Chief Executive of the Commonwealth of the Philippine Islands, respectively, for the purpose of formulating recommendations as to future trade relations between the Government of the United States and the independent government of the Philippine Islands, the time, place, and manner of holding such conference to be determined by the President of the United States; but nothing in this proviso shall be construed to modify or affect in any way any provision of this Act relating to the procedure leading up to Philippine independence or the date upon which the Philippine Islands shall become independent.

Tariff duties after independence.

Proviso.
Conference on trade relations authorized.

IMMIGRATION AFTER INDEPENDENCE

SEC. 14. Upon the final and complete withdrawal of American sovereignty over the Philippine Islands the immigration laws of the United States (including all the provisions thereof relating to persons ineligible to citizenship) shall apply to persons who were born in the Philippine Islands to the same extent as in the case of other foreign countries.

Immigration after independence.

CERTAIN STATUTES CONTINUED IN FORCE

SEC. 15. Except as in this Act otherwise provided, the laws now or hereafter in force in the Philippine Islands shall continue in force in the Commonwealth of the Philippine Islands until altered, amended, or repealed by the Legislature of the Commonwealth of the Philippine Islands or by the Congress of the United States, and all references in such laws to the Philippines or Philippine Islands shall be construed to mean the government of the Commonwealth of the Philippine Islands. The government of the Commonwealth of the Philippine Islands shall be deemed successor to the present government of the Philippine Islands and of all the rights and obligations thereof. Except as otherwise provided in this Act, all laws or parts of laws relating to the present government of the Philippine Islands

Certain statutes continued in force.

and its administration are hereby repealed as of the date of the inauguration of the government of the Commonwealth of the Philippine Islands.

Saving clause.

SEC. 16. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

Effective date.

SEC. 17. The foregoing provisions of this Act shall not take effect until accepted by concurrent resolution of the Philippine Legislature or by a convention called for the purpose of passing upon that question as may be provided by the Philippine Legislature.

JNO N. GARNER

Speaker of the House of Representatives.

CHARLES CURTIS

*Vice President of the United States and
President of the Senate.*

Passage by the House
of Representatives.

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES

January 13, 1933.

The House of Representatives having proceeded, in pursuance of the Constitution, to reconsider the bill (H. R. 7233) entitled "An act to enable the people of the Philippine Islands to adopt a constitution and form a government for the Philippine Islands, to provide for the independence of the same, and for other purposes," returned by the President of the United States, with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

SOUTH TRIMBLE

Clerk.

Passage by the Sen-
ate.

IN THE SENATE OF THE UNITED STATES

January 10 (calendar day, January 17), 1933.

The Senate having proceeded to reconsider the bill (H. R. 7233) entitled "An Act to enable the people of the Philippine Islands to adopt a constitution and form a government for the Philippine Islands, to provide for the independence of the same, and for other purposes," returned by the President of the United States to the House of Representatives, in which it originated, with his objections, and passed by the House on a reconsideration of the same, it was

RESOLVED, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

EDWIN P. THAYER

Secretary.

[CHAPTER 12.]

AN ACT

To amend the United States mining laws applicable to the city of Prescott municipal watershed in the Prescott National Forest within the State of Arizona.

January 19, 1933.

[S. 4791.]

[Public, No. 312.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter mining locations made under the United States mining laws upon lands within the municipal watershed of the city of Prescott, within the Prescott National Forest in the State of Arizona, specifically described as the west half southwest quarter section 13; south half section 14; southeast quarter, and east half southwest quarter section 15; east half, and south half southwest quarter section 22; all of section 23; west half section 24; all of sections 26 and 27; north half north half section 34; and north half north half section 35, township 13 north, range 2 west, Gila and Salt River base and meridian, an area of three thousand six hundred acres, more or less, shall confer on the locator the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: *Provided, however,* That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the rules for timber cutting on adjoining national-forest land, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development.

Prescott, Ariz., municipal watershed.
Modification of mineral land laws as to certain lands within, authorized.
Description.

Proviso.
Cutting, etc., of timber.

SEC. 2. That hereafter all patents issued under the United States mining laws affecting lands within the municipal watershed of the city of Prescott, within the Prescott National Forest, in the State of Arizona, shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in extracting and removing the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national-forest rules and regulations, but each patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except under the rules and regulations of the Department of Agriculture.

Patents to convey title to minerals, etc.

Surface rights reserved.

SEC. 3. That valid mining claims within the municipal watershed of the city of Prescott, within the Prescott National Forest in the State of Arizona, existing on the date of the enactment of this Act, and thereafter maintained in compliance with the law under which they were initiated and the laws of the State of Arizona, may be perfected under this Act, or under the laws under which they were initiated, as the claimant may desire.

Existing mining claims may be perfected.

Approved, January 19, 1933.

[CHAPTER 13.]

AN ACT

January 19, 1933.

[S. 5183.]

[Public, No. 313.]

Granting the consent of Congress to the Board of County Commissioners of Allegheny County, Pennsylvania, to construct, maintain, and operate a toll bridge across the Monongahela River between the city of Pittsburgh and the borough of Homestead, Pennsylvania.

Monongahela River, Allegheny County, Pa., may bridge, between Pittsburgh and Homestead.

Construction.
Vol. 34, p. 84.

Tolls applied to maintenance, sinking fund, etc.

Free bridge thereafter.

Record of expenditures and receipts.

Amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the Board of County Commissioners of Allegheny County, Pennsylvania, to construct, maintain, and operate a toll bridge and approaches thereto across the Monongahela River, at a point suitable to the interest of navigation, between the city of Pittsburgh and the borough of Homestead, to replace what is known as the Brown Bridge, in accordance with the provisions of an Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

SEC. 2 If tolls are charged for the use of such bridge the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the cost of the bridge and its approaches, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed twenty years from the completion thereof. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the costs of the bridge and its approaches, the expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

Approved, January 19, 1933.

[CHAPTER 14.]

AN ACT

January 19, 1933.

[S. 5231.]

[Public, No. 314.]

To extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Randolph, Missouri.

Missouri River. Time extended for bridging, at Randolph, Mo.
Vol. 45, pp. 729, 1431.
Vol. 46, pp. 323, 1064.
Ante, p. 149, amended.

Amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Missouri River at or near Randolph, Missouri, authorized to be built by The Kansas City Southern Railway Company, its successors and assigns, by an act of Congress approved May 24, 1928, heretofore extended by Acts of Congress approved March 1, 1929, May 14, 1930, February 6, 1931, and May 6, 1932, are hereby further extended one and three years respectively, from May 24, 1933.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, January 19, 1933.

[CHAPTER 15.]

AN ACT

Providing for payment of \$25 to each enrolled Chippewa Indian of Minnesota from the funds standing to their credit in the Treasury of the United States.

January 20, 1933.
[S. 5252.]
[Public, No. 315.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to withdraw from the Treasury so much as may be necessary of the principal fund on deposit to the credit of the Chippewa Indians in the State of Minnesota, under section 7 of the Act entitled "An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889, as amended, and to make therefrom payment of \$25 to each enrolled Chippewa Indian of Minnesota, under such regulations as such Secretary shall prescribe. No payment shall be made under this Act until the Chippewa Indians of Minnesota shall, in such manner as such Secretary shall prescribe, have accepted such payments and ratified the provisions of this Act. The money paid to the Indians under this Act shall not be subject to any lien or claim of whatever nature against any of said Indians.

Approved, January 20, 1933.

Chippewa Indians of Minnesota.
Per capita payment to, from tribal funds.

Vol. 25, p. 645.

[CHAPTER 16.]

AN ACT

To amend an Act entitled "An Act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same," approved February 13, 1913, as amended (U. S. C., title 18, secs. 409-411), by extending its provisions to provide for the punishment of stealing or otherwise unlawful taking of property from passenger cars, sleeping cars, or dining cars, or from passengers on such cars, while such cars are parts of interstate trains, and authorizing prosecution therefor in any district in which the defendant may have taken or been in possession of the property stolen or otherwise unlawfully taken.

January 21, 1933.
[S. 4095.]
[Public, No. 316.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of February 13, 1913, as amended, entitled "An Act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same" be amended to read as follows:

Interstate or foreign transportation.
Vol. 37, p. 670; Vol. 43, p. 793, amended.
U. S. C., p. 496, amended.

"Whoever shall unlawfully break the seal of any railroad car containing interstate or foreign shipments of freight or express, or shall enter any such car with intent in either case to commit larceny therein; or whoever shall steal or unlawfully take, carry away, or conceal, or by fraud or deception obtain from any railroad car, station house, platform, depot, wagon, automobile, truck, or other vehicles, or from any steamboat, vessel, or wharf, with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight or express, or shall buy or receive or have in his possession any such goods or chattels, knowing the same to have been stolen; or who-

Larceny, etc., interstate or foreign shipments.

Receiving stolen property.

Fraudulently obtain-
ing baggage.

Receiving, etc., sto-
len baggage.

Unlawfully taking
property from any pas-
senger car, or passenger
on interstate trains.

Punishment.
Jurisdiction.

Asportation a sep-
arate offense.

Definitions.

Jurisdiction of state
courts not impaired.

Waybill prima facie
evidence to establish
character of shipment.

ever shall steal or shall unlawfully take, carry away, or by fraud or deception obtain with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia or to a foreign country, or from a foreign country to any State or Territory or the District of Columbia, or shall break into, steal, take, carry away, or conceal any of the contents of such baggage, or shall buy, receive, or have in his possession any such baggage or any article therefrom of whatever nature, knowing the same to have been stolen, or whoever shall steal or shall unlawfully take by any fraudulent device, scheme, or game, from any passenger car, sleeping car, or dining car, or from any passenger or from the possession of any passenger while on or in such passenger car, sleeping car, or dining car, when such car is a part of a train moving from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia or to a foreign country, or from a foreign country to any State or Territory or the District of Columbia, any money, baggage, goods, or chattels, or who shall buy, receive, or have in his possession any such money, baggage, goods, or chattels, knowing the same to have been stolen, shall in each case be fined not more than \$5,000 or imprisoned not more than ten years, or both, and prosecutions therefor may be instituted in any district wherein the crime shall have been committed or in which the defendant may have taken or been in possession of the said money, baggage, goods, or chattels. The carrying or transporting of any such money, freight, express, baggage, goods, or chattels from one State or Territory or the District of Columbia into another State or Territory or the District of Columbia, knowing the same to have been stolen, shall constitute a separate offense and subject the offender to the penalties above described for unlawful taking, and prosecutions therefor may be instituted in any district into which such money, freight, express, baggage, goods, or chattels shall have been removed or into which they shall have been brought by such offender. The words 'station house,' 'platform,' 'depot,' 'wagon,' 'automobile,' 'truck,' or 'other vehicle,' as used in this section, shall include any station house, platform, depot, wagon, automobile, truck, or other vehicle of any person, firm, association, or corporation having in his or its custody therein or thereon any freight, express, goods, chattels, shipments, or baggage moving as or which are a part of or which constitute an interstate or foreign shipment.

"Nothing herein shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

"To establish the interstate or foreign commerce character of any shipment in any prosecution under this Act the waybill of such shipment shall be prima facie evidence of the place from which and to which such shipment was made."

Approved, January 21, 1933.

[CHAPTER 17.]

AN ACT

To extend the time for completing the construction of a bridge across Lake Champlain at or near Rouses Point, New York, and a point at or near Alburgh, Vermont.

January 24, 1933.

[S. 5059.]

[Public, No. 317.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for completing the construction of a bridge across Lake Champlain at or near Rouses Point, New York, and a point at or near Alburgh, Vermont, authorized to be built by Elisha N. Goodsell, of Alburgh, Vermont, his heirs, legal representatives, and assigns, by an Act of Congress approved February 15, 1929, heretofore extended by Act of Congress approved April 19, 1930, is hereby extended three years from February 15, 1933.

Lake Champlain.
Time extended for
bridging from Rouses
Point, N. Y., to Al-
burgh, Vt.
Vol. 45, p. 1178; Vol.
46, p. 248, amended.

SEC. 2. The right to alter, amend, or repeal this Act is hereby reserved.

Amendment.

Approved, January 24, 1933.

[CHAPTER 18.]

AN ACT

Granting the consent of Congress to the Board of Supervisors of Marion County, Mississippi, to construct, maintain, and operate a free highway bridge across Pearl River at or near Columbia, Mississippi.

January 24, 1933.

[S. 5260.]

[Public, No. 318.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the Board of Supervisors of Marion County, Mississippi, and/or the Mississippi State Highway Commission and their successors and assigns, to construct, maintain, and operate a free highway bridge and approaches thereto across the Pearl River, at a point suitable to the interests of navigation, at or near Columbia, in the county of Marion, in the State of Mississippi, in accordance with the provisions of an Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Pearl River.
Marion County,
Miss., may bridge, at
Columbia.

Construction.
Vol. 34, p. 84.

SEC. 2. That the right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, January 24, 1933.

[CHAPTER 19.]

AN ACT

Granting the consent of Congress to the Board of Supervisors of Monroe County, Mississippi, to construct, maintain, and operate a free highway bridge across Tombigbee River at or near Old Cotton Gin Port, Mississippi.

January 24, 1933.

[S. 5261.]

[Public, No. 319.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the Board of Supervisors of Monroe County, Mississippi, and/or the Mississippi State Highway Commission, and their successors and assigns to construct, maintain, and operate a free bridge and approaches thereto across the Tombigbee River at a point suitable to the interests of navigation, at or near Old Cotton Gin Port, in the county of Monroe, in the State of Mississippi, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Tombigbee River.
Monroe County,
Miss., etc., may bridge,
at Old Cotton Gin
Port.

Construction.
Vol. 34, p. 84.

SEC. 2. That the right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, January 24, 1933.

[CHAPTER 20.]

JOINT RESOLUTION

January 24, 1933.
[H. J. Res. 559.]
[Pub. Res., No. 48.]

To exempt from the tax on admissions amounts paid for admission tickets sold by authority of the committee on inaugural ceremonies on the occasion of the inauguration of the President elect in March, 1933.

Inaugural admission tickets.
Payments for, exempt from admissions tax.
Vol. 44, p. 91.
Ante, p. 271.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all amounts paid for admission tickets sold by authority of the committee on inaugural ceremonies of the inauguration of the President elect in March, 1933, shall be exempt from the tax on admissions imposed by section 500 of the Revenue Act of 1926, as amended, all the net proceeds from the sale of said tickets to be donated by the said committee to charity.

Approved, January 24, 1933.

[CHAPTER 21.]

AN ACT

January 26, 1933.
[S. 3675.]
[Public, No. 320.]

Relating to the deferment and adjustment of construction charges for the years 1931 and 1932 on Indian irrigation projects.

Indian irrigation projects.
Payment of 1931 construction charges deferred.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized, under such rules and regulations as he may prescribe, to defer the payment of such of the construction charges as are in default for the calendar year 1931 on irrigation projects under the direction of the Commissioner of Indian Affairs, and to adjust the construction charges for the calendar year 1932 on such projects, in the same manner and under the same terms as provided by the Act of Congress for the temporary relief of water users on irrigation projects constructed and operated under the reclamation law, approved April 1, 1932 (Public, Numbered 70, Seventy-second Congress).

Ante, p. 75.

Approved, January 26, 1933.

[CHAPTER 22.]

AN ACT

January 26, 1933.
[S. 4597.]
[Public, No. 321.]

To restore to their former retired status in the Regular Army of the United States persons who resigned such status to accept the benefits of the Act of May 24, 1928 (45 Stat. 735), and for other purposes.

Army.
Warrant and enlisted men, restoration of former retired status.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to restore to their former status as a retired warrant officer or a retired enlisted man of the Regular Army of the United States with all pay, privileges, and emoluments pertaining thereto, any former emergency officer now on the emergency officers' retired list created by the Act of May 24, 1928 (45 Stat. 735), who resigned his retired status in the Regular Army in order to obtain the benefits of that Act: *Provided*, That such former emergency officer shall make application in writing to the Secretary of War not later than June 30, 1933, for such restoration: *Provided further*, That restorations to the retired list of the Army under this Act shall be effective as of July 1, 1933, and that no pay, privileges, or emoluments pertaining to the retired grade of the Regular Army to which such persons are restored shall accrue prior to the effective date of such restoration: *And provided further*, That after such restoration all persons so restored shall continue to be entitled, under the Act of May 24, 1928 (45 Stat.

Vol. 45, p. 735.
Provisos.
Application.

Effective date of restorations.

Continuing rights, etc.
Vol. 45, p. 735.

735), to those rights and privileges only to which they would have been entitled if they had not resigned from the retired lists of the Regular Army: *Provided further*, That nothing in this Act shall be construed to entitle any former emergency officer retired under the Act of May 24, 1928, to retired pay from the Veterans' Administration in a greater amount than when added to the retired or retainer pay received from the Army, Navy, or Marine Corps shall equal 75 per centum of the pay the former emergency officer was entitled to receive (except pay under the Act of May 18, 1920) when discharged from his commissioned service as a World War emergency officer.

Amount of retired pay.

Vol. 41, p. 601.

Approved, January 26, 1933.

[CHAPTER 23.]

AN ACT

Relative to restrictions applicable to Indians of the Five Civilized Tribes in Oklahoma

January 27, 1933.

[H. R. 8760.]

[Public, No. 322.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all funds and other securities now held by or which may hereafter come under the supervision of the Secretary of the Interior, belonging to and only so long as belonging to Indians of the Five Civilized Tribes in Oklahoma of one-half or more Indian blood, enrolled or unenrolled, are hereby declared to be restricted and shall remain subject to the jurisdiction of said Secretary until April 26, 1956, subject to expenditure in the meantime for the use and benefit of the individual Indians to whom such funds and securities belong, under such rules and regulations as said Secretary may prescribe: *Provided*, That where the entire interest in any tract of restricted and tax-exempt land belonging to members of the Five Civilized Tribes is acquired by inheritance, devise, gift, or purchase, with restricted funds, by or for restricted Indians, such lands shall remain restricted and tax-exempt during the life of and as long as held by such restricted Indians, but not longer than April 26, 1956, unless the restrictions are removed in the meantime in the manner provided by law: *Provided further*, That such restricted and tax-exempt land held by anyone, acquired as herein provided, shall not exceed one hundred and sixty acres: *And provided further*, That all minerals including oil and gas, produced from said land so acquired shall be subject to all State and Federal taxes as provided in section 8 of the Act approved May 10, 1928 (45 Stat. L. 495).

Five Civilized Tribes of Indians, Okla. Funds, etc., of certain members declared restricted.

Supervision of expenditure.

Provisos. Duration of restriction.

Tax-exempt lands.

Maximum area.

Minerals subject to taxation. Vol. 45, p. 496.

SEC. 2. The Secretary of the Interior be, and he is hereby, authorized to permit, in his discretion and subject to his approval, any Indian of the Five Civilized Tribes, over the age of twenty-one years, having restricted funds or other property subject to the supervision of the Secretary of the Interior, to create and establish, out of the restricted funds or other property, trusts for the benefits of such Indian, his heirs, or other beneficiaries designated by him, such trusts to be created by contracts or agreements by and between the Indian and incorporated trust companies or such banks as may be authorized by law to act as fiduciaries or trustees: *Provided*, That no trust company or bank shall be trustee in any trust created under this Act which has paid or promised to pay to any person other than an officer or employee on the regular pay roll thereof any charge, fee, commission, or remuneration for any service or influence in securing or attempting to secure for it the trusteeship in any

Creation of trusts by Indians.

Provisos. Restriction on payment of trustees' fees.

Trust agreements,
approval of.

trust: *Provided further*, That all trust agreements or contracts made or entered into prior to the date of approval of this Act, and all contracts or agreements made or entered into prior to said date providing for or looking to the creation of such trust or trusts shall be null and void unless such contracts or agreements shall have heretofore been approved by the Secretary of the Interior.

Transfers to trustee
authorized.

SEC. 3. The Secretary of the Interior be, and he is hereby, authorized, upon the execution and approval of any trust agreement or contract as herein provided, to transfer, or cause to be transferred, to the trustee, from the individual restricted or trust funds or other restricted property of the respective Indian, the funds or property required by the terms of the approved agreement, and the funds or property so transferred shall in each case be held by the trustee subject to the terms and conditions of the trust agreement or contract creating the trust, separate and apart from all assets, investments or trust estates in the hands of said trustee.

Segregation of assets.

Release of trust agree-
ment restrictions de-
nied.

SEC. 4. None of the restrictions upon the funds or property transferred under the terms of any such trust agreement or contract shall be in any manner released during the continuance of the restriction period now or hereafter provided by law, except as provided by the terms of such agreement or contract, and neither the corpus of said trust nor the income derived therefrom shall, during the restriction period provided by law, be subject to alienation, or encumbrance, nor to the satisfaction of any debt or other liability of any beneficiary of such trust during the said restriction period. The trustee shall render an annual accounting to the Secretary of the Interior and to the beneficiary or beneficiaries to whom the income for the preceding year, or any part thereof, was due and payable.

Alienation of corpus
and income.

Annual accounting
required.

Irrevocability of ap-
proved contracts.

SEC. 5. Trust agreements or contracts executed and approved as herein provided shall be irrevocable except with the consent and approval of the Secretary of the Interior: *Provided*, That if any trust, trust agreement, or contract be annulled, canceled, or set aside by order of any court, or otherwise, the principal or corpus of the trust estate, with all accrued and unpaid interest, shall be returned to the Secretary of the Interior as restricted individual Indian property.

Proviso.
Revesting of funds if
trust agreement an-
nulled.

Illegally procured
trusts.
Cancellation proceed-
ings.

SEC. 6. If, after the creation and approval of any trust, it is found that said trust was procured in violation of any of the provisions of this Act, or that the trustee designated therein has failed or refused to properly perform the duties imposed thereby, in accordance with the terms, provisions and requirements of said trust agreement, it shall be the duty of the Attorney General to institute appropriate proceedings in the Federal courts for the cancellation and annulment of said trust by court decree, and upon decree of annulment and cancellation, which shall be at the cost of the trustee, and after accounting, but without the allowance of any fee, charge, or commission for any services rendered by the trustee, all funds held by the trustee shall be paid to the Secretary of the Interior as restricted funds, and the Federal courts are hereby given exclusive jurisdiction of all actions involving an accounting under any trust created under the provisions of this Act, and all actions to cancel, annul, or set aside any trust entered into pursuant to this Act.

Return of trust
funds.

Jurisdiction, etc., of
courts.

Administration of
Act.

Valuation of trust,
bond, etc.

SEC. 7. The Secretary of the Interior is hereby authorized to prescribe such rules and regulations as he may deem necessary for the proper administration of this Act. He shall fix and determine the value of each trust, revising such valuation from time to time as he

may deem necessary, and, for the faithful performance of each trust agreement or contract, shall require corporate surety company bond equal to the value of the respective trust so fixed and determined, or the deposit of securities of the United States Government equal to such amount: *Provided, however,* That trusts created under the provisions of this Act shall not extend beyond a period twenty-one years after the death of the last survivor of the named beneficiaries in the respective trust agreement.

Proviso.
Trust period restriction.

SEC. 8. That it shall be the duty of the attorneys provided for under the Act of May 27, 1908 (35 Stat. L. 312), to appear and represent any restricted member of the Five Civilized Tribes before the county courts of any county in the State of Oklahoma, or before any appellate court thereof, in any matter in which said restricted Indians may have an interest, and no conveyance of any interest in land of any full-blood Indian heir shall be valid unless approved in open court after notice in accordance with the rules of procedure in probate matters adopted by the Supreme Court of Oklahoma in June of 1914, and said attorneys shall have the right to appeal from the decision of any county court approving the sale of any interest in land, to the district court of the district to which the county is a part.

Oklahoma courts.
Attorneys to represent restricted members.
Vol. 35, p. 312.

Approval of conveyances required.

Right of appeal.

Approved, January 27, 1933.

[CHAPTER 24.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Ohio River at or near Cannelton, Indiana.

January 27, 1933.
[S. 5131.]
[Public, No. 323.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Ohio River at or near Cannelton, Indiana, authorized to be built by the Hawesville and Cannelton Bridge Company, by an Act of Congress approved March 1, 1929, heretofore extended by Acts of Congress approved May 13, 1930 and February 20, 1931, are hereby further extended one and three years, respectively, from March 1, 1933.

Ohio River.
Time extended for bridging, at Cannelton, Ind.
Vol. 46, p. 1174, amended.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, January 27, 1933.

[CHAPTER 25.]

AN ACT

To extend the time for completing the construction of a bridge across the Missouri River at or near Saint Charles, Missouri.

January 27, 1933.
[S. 5232.]
[Public, No. 324.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for completing the construction of a bridge across the Missouri River at or near Saint Charles, Missouri, authorized to be built by the Wabash Railway Company, its successors and assigns, by an Act of Congress approved February 7, 1930, is hereby extended to February 7, 1935.

Missouri River.
Time extended for bridging, at Saint Charles, Mo.
Vol. 46, p. 64, amended.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, January 27, 1933.

[CHAPTER 26.]

AN ACT

January 30, 1933.
[H. R. 14436.]
[Public, No. 325.]

Making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1933, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1933, and for other purposes.

First Deficiency Act,
fiscal year 1933.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1933, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1933, and for other purposes, namely:

TITLE I

LEGISLATIVE BRANCH

Legislative.

Senate.

SENATE

Charles W. Waterman.
Pay to widow.
Wesley L. Jones.
Pay to widow.

To pay to Anna R. Waterman, widow of Honorable Charles W. Waterman, late a Senator from the State of Colorado, \$9,000.

To pay to Minda N. Jones, widow of Honorable Wesley L. Jones, late a Senator from the State of Washington, \$9,000.

Telephone operators.

Office of Sergeant at Arms and Doorkeeper: For two telephone operators, at \$1,560 each per annum, from March 1 to June 30, 1933, \$1,040.

Miscellaneous items.

For miscellaneous items, exclusive of labor, fiscal year 1933, \$20,000.

Inquiries and investigations, expenses.

For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers of committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding 25 cents per hundred words, fiscal year 1933, \$40,000.

Kitchens and restaurants, repairs, etc.

For repairs, improvements, equipment, and supplies for Senate kitchens and restaurants, Capitol Building and Senate Office Building, including personal and other services, to be expended from the contingent fund of the Senate under the supervision of the Committee on Rules, United States Senate, fiscal year 1933, \$15,000.

House of Representatives.

HOUSE OF REPRESENTATIVES

Daniel E. Garrett.
Pay to widow.

To pay the widow of Daniel E. Garrett, late a Representative from the State of Texas, \$9,000.

Charles A. Karch.
Pay to widow.

To pay the widow of Charles A. Karch, late a Representative from the State of Illinois, \$9,000.

J. Charles Linthicum.
Pay to widow.

To pay the widow of J. Charles Linthicum, late a Representative from the State of Maryland, \$9,000.

Henry St. George Tucker.
Pay to widow.

To pay the widow of Henry St. George Tucker, late a Representative from the State of Virginia, \$9,000.

The four foregoing appropriations to be disbursed by the Sergeant at Arms of the House.

Committee on Revision of the Laws.

Committee on Revision of the Laws: For the employment of competent persons to assist in continuing the work of compiling, codifying, and revising the laws and treaties of the United States, fiscal years 1933 and 1934, \$3,000.

Inaugural ceremonies.

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1933

Congressional expenses.

To enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States, March 4, 1933, in

accordance with such program as may be adopted by the joint committee of the Senate and House of Representatives, appointed under a concurrent resolution of the two Houses, including the pay for extra police, fiscal year 1933, \$35,000.

Post, p. 1781.

EXECUTIVE OFFICE AND INDEPENDENT ESTABLISHMENTS

Executive Office and independent establishments.

EXECUTIVE OFFICE

Executive Office.

Protection of interests of the United States in matters affecting oil lands in former naval reserves: For an additional amount for expenses of special counsel and for all other expenses, including employment of experts and other assistants at such rates as may be authorized or approved by the President, in connection with carrying into effect the joint resolution directing the Secretary of the Interior to institute proceedings touching sections 16 and 36, township 30 south, range 23 east, Mount Diablo meridian, approved February 21, 1924, \$5,000, to be expended by the President.

Naval oil leases. Expenses, cancelling leases.

Vol. 43, p. 15.

OFFICE OF PUBLIC BUILDINGS AND PUBLIC PARKS OF THE NATIONAL CAPITAL

Public buildings and parks of the National Capital. Salaries.

Salaries: For an additional amount for personal services in the District of Columbia and elsewhere, including the same objects specified under this head in the Independent Offices Appropriation Act for the fiscal year 1933, \$21,900.

Ante, p. 464.

General expenses: For an additional amount for general expenses in connection with the maintenance and care of public buildings, including the same objects specified under this head in the Independent Offices Appropriation Act for the fiscal year 1933, \$9,415.

General expenses. *Ante*, p. 464.

UNITED STATES GEOGRAPHIC BOARD

Geographic Board.

Printing and binding: For an additional amount for printing and binding for the United States Geographic Board, fiscal year 1933, \$1,700.

Printing and binding.

DISTRICT OF COLUMBIA

District of Columbia.

PUBLIC WELFARE

Public welfare.

Emergency relief of residents, District of Columbia: For the purpose of affording relief to residents of the District of Columbia who are unemployed or otherwise in distress because of the existing emergency, to be expended by the Board of Public Welfare of the District of Columbia, by loan, employment, and/or direct relief, under rules and regulations to be prescribed by the Board of Commissioners, and without regard to the provisions of any other law, payable from the revenues of the District of Columbia, fiscal year 1933, \$625,000: *Provided*, That not to exceed \$50,000 of this appropriation shall be available for administrative expenses including necessary personal services.

Emergency relief of residents.

Application of fund.

Payable from District revenues. *Proviso*. Limitation on administrative expenses.

DEPARTMENT OF AGRICULTURE

Department of Agriculture.

FOREST SERVICE

Forest Service.

Salaries and expenses (Fighting and preventing forest fires): For an additional amount for fighting and preventing forest fires, fiscal year 1933, including the same objects specified under this head in the Agricultural Appropriation Act for the year 1933, \$1,000,000.

Fighting, etc., forest fires.

Ante, p. 626.

For payment to Charles Lamkin, of Banning, California, as authorized by Private Act Numbered 159, Seventy-second Congress, entitled "An Act for the relief of Charles Lamkin," approved July 13, 1932 (47 Stat., Pt. 2, 82), \$66.

Charles Lamkin, fire losses. *Post*, p. 1708.

Department of Justice.

DEPARTMENT OF JUSTICE

CONTINGENT EXPENSES

Contingent expenses. *Ante*, p. 488. For an additional amount for contingent expenses, Department of Justice, including the same objects specified under this head in the Act making appropriations for the Department of Justice for the fiscal year 1930, \$331.52.

MISCELLANEOUS OBJECTS

Detection and prosecution of crimes. *Ante*, p. 488. Detection and prosecution of crimes: The amount which may be expended for personal services in the District of Columbia from the appropriation "Detection and prosecution of crimes, 1933," is hereby increased from \$477,356 to \$523,851.

United States courts. MARSHALS, DISTRICT ATTORNEYS, CLERKS, AND OTHER EXPENSES OF UNITED STATES COURTS

Commissioners, etc. R. S., sec. 1014, p. 189. U. S. C., p. 506. Fees of Commissioners: For additional amounts for fees of United States commissioners and justices of the peace acting under section 1014, Revised Statutes of the United States (U. S. C., title 18, sec. 591), for the fiscal years that follow:

For 1925, \$138.50;
For 1930, \$1,007.15;
For 1931, \$3,275.80;
For 1932, \$43,812.67.

Jurors and witnesses. *Ante*, p. 492. Fees of jurors and witnesses: For an additional amount for fees of jurors and witnesses, United States courts, including the same objects specified under this head in the Act making appropriations for the Department of Justice for the fiscal year 1931, \$11,356.85.

Bailiffs, etc. Pay of bailiffs, and so forth: For an additional amount of pay of bailiffs, and so forth, United States courts, including the same objects specified under this head in the Act making appropriations for the Department of Justice for the fiscal year 1931, \$1,261.07.

Miscellaneous expenses. *Ante*, p. 492. Miscellaneous expenses: For an additional amount for such miscellaneous expenses as may be authorized or approved by the Attorney General for the United States courts and their officers, including the same objects specified under this head in the Act making appropriations for the Department of Justice for the fiscal year 1930, \$244.55.

Penal and correctional institutions.

PENAL AND CORRECTIONAL INSTITUTIONS

Hospital for defective delinquents, construction. *Ante*, p. 495.

United States Hospital for Defective Delinquents, construction: For an additional amount for United States Hospital for Defective Delinquents, construction, including the same objects specified under this head in the Act making appropriations for the Department of Justice for the fiscal year 1933, \$177,983, to remain available until expended.

Available until expended.

United States prisoners, support. Fund transferred. Vol. 46, p. 1328.

Support of United States prisoners: The sum of \$185,000 is hereby transferred from the appropriation "Federal jails, 1932," to the appropriation "Support of United States prisoners, 1932."

Department of Labor.

DEPARTMENT OF LABOR

Immigration Bureau.

BUREAU OF IMMIGRATION

Salaries, etc. Amount increased. *Ante*, p. 520.

Salaries and expenses: The amount authorized to be expended for personal services in the District of Columbia during the fiscal year 1933 from the appropriation for salaries and expenses, Bureau of Immigration, is hereby increased from \$300,000 to \$320,000.

EMPLOYMENT SERVICE

For an additional amount for the Employment Service, including the same objects and under the same limitations specified under this head in the Act making appropriations for the Department of Labor for the fiscal year 1933, \$200,000.

Employment Service.

NAVY DEPARTMENT

Navy Department.

SECRETARY'S OFFICE

Secretary's office.

Claims for damages by collision with naval vessels: To pay claims for damages adjusted and determined by the Secretary of the Navy under the provisions of the Act entitled "An Act to amend the Act authorizing the Secretary of the Navy to settle claims for damages to private property arising from collisions with naval vessels," approved December 28, 1922 (U. S. C., title 34, sec. 599), as fully set forth in Senate Document Numbered 166 and House Document Numbered 503, Seventy-second Congress, \$1,858.58.

Collision damage claims.

Vol. 42, p. 1066.
U. S. C., p. 1127.

PUBLIC WORKS, BUREAU OF YARDS AND DOCKS

Public works.

The limit of cost of the buildings, equipment, accessories, utilities, and appurtenances for the naval hospital at Philadelphia, Pennsylvania, authorized by the Act approved February 12, 1931 (46 Stat. 1091), shall be as prescribed in such Act, any provision in the Act approved June 30, 1932 (47 Stat. 436), to the contrary notwithstanding: *Provided*, That section 320 of the Act approved June 30, 1932 (47 Stat. 412), shall not be applicable to such project.

Philadelphia, Pa., hospital construction.
Vol. 46, p. 1091.
Additional sum for, repealed.
Ante, p. 436, repealed.
Proviso.
Construction restriction.
Ante, p. 412.

POST OFFICE DEPARTMENT

Post Office Department.

OUT OF THE POSTAL REVENUES

OFFICE OF THE CHIEF INSPECTOR

Chief Inspector's office.

Payment of rewards: For an additional amount for payment of rewards, including the same objects specified under this head in the Act making appropriations for the Post Office Department for the fiscal year 1932, \$26,500.

Payment of rewards.
Vol. 46, p. 1237.

OFFICE OF THE FOURTH ASSISTANT POSTMASTER GENERAL

Fourth Assistant Postmaster General.

Not to exceed \$3,000 of the appropriation "Rent, light, and fuel, 1933," may be expended for payment as a compromise settlement in connection with the cancellation of the lease at Highland, Illinois, which expires September 30, 1937, and which cancellation is necessary because of the occupancy of a Federal building.

Highland, Ill. Lease cancellation.
Ante, p. 603.

DEPARTMENT OF STATE

Department of State.

General disarmament conference, Geneva, Switzerland: For an additional amount for the expenses of participation by the United States in a general disarmament conference at Geneva, Switzerland, as authorized by Public Resolution Numbered 6, approved January 20, 1932, and for each and every purpose connected therewith, including per diem allowances in accordance with the Subsistence Expense Act of 1926, as amended (U. S. C., Supp. VI, title 5, chap. 16), and other traveling expenses; personal services in the District of Columbia and elsewhere, without reference to the Classification Act of 1923, as amended; stenographic and other services by contract if deemed necessary without regard to the provisions of section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5); rent of offices and rooms;

Disarmament conference.
Additional appropriation for participation expenses.
Ante, pp. 4, 35.
Vol. 44, p. 688.
Ante, p. 405.
U. S. C., Supp. VI, p. 47.R. S., sec. 3709, p. 733.
U. S. C., p. 1360.

purchase of necessary books, and documents; printing and binding; official cards; entertainment; hire, maintenance, and operation of motor-propelled passenger-carrying vehicles; and such other expenses as may be authorized by the Secretary of State, fiscal year 1933, to remain available until June 30, 1934, \$150,000.

German Mixed
Claims Commission,
Vol. 42, p. 2200; Vol.
45, p. 2698.

Mixed Claims Commission, United States and Germany: For an additional amount for expenses of determining the amounts of claims against Germany by the Mixed Claims Commission established under the agreement concluded between the United States and Germany on August 10, 1922, and subsequent agreement between those Governments, for the determination of the amount to be paid by Germany in satisfaction of the financial obligations of Germany under the treaty concluded between the Governments of the United States and Germany on August 25, 1921, including the expenses which under the terms of such agreement of August 10, 1922, are chargeable in part to the United States, and the preparation of a final report by the American commissioner and the orderly arrangement for preservation and disposition of the records of the commission; and the expenses of an agency of the United States to perform all necessary services in connection with the preparation of claims and the presentation thereof before said Mixed Claims Commission, and the preparation of a final report of the agent and the orderly arrangement for preservation of the records of the agency and the disposition of property jointly owned by the two Governments, including salaries of an agent and necessary counsel and other assistants and employees, rent in the District of Columbia, employment of special counsel, translators, and other technical experts, by contract, without regard to the provisions of any statute relative to employment, and for contract stenographic reporting services without regard to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5), law books and books of reference, printing and binding, contingent expenses, traveling expenses, press-clipping service, and such other expenses in the United States and elsewhere as the President may deem proper, fiscal year 1933, \$40,000: *Provided*, That the appropriation made for this commission for the fiscal years 1932 and 1933 by the First Deficiency Act, fiscal year 1932, shall be available for payments heretofore or hereafter made for press-clipping service.

Vol. 42, p. 1939.

Agent, counsel, etc.

R. S., sec. 3709, p.
733.
U. S. C., p. 1309.

Proviso.
Press-clipping service,
sums available.
Ante, p. 25.

War Department.

WAR DEPARTMENT

MILITARY ACTIVITIES

Quartermaster
Corps.

QUARTERMASTER CORPS

Fort Knox, Ky.
Land for water supply.
Vol. 44, p. 877.

Acquisition of land, Fort Knox, Kentucky: For the completion of the acquisition of approximately seventy-five acres of land at Saunders Spring, Kentucky, for the construction of a water-supply system for Fort Knox, Kentucky, authorized by the Act approved July 3, 1926 (44 Stat., p. 877), fiscal year 1933, \$250.

Judgments and au-
thorized claims.

TITLE II—JUDGMENTS AND AUTHORIZED CLAIMS

Damage claims.

DAMAGE CLAIMS

Settlement of, not in
excess of \$1,000.

SECTION 1. For the payment of claims for damages to or losses of privately owned property adjusted and determined by the following respective departments and independent establishments under the provisions of the Act entitled "An Act to provide for a method for

the settlement of claims arising against the Government of the United States in sums not exceeding \$1,000 in any one case," approved December 28, 1922 (U. S. C., title 31, secs. 215-217), as fully set forth in Senate Document Numbered 162 and House Document Numbered 509, Seventy-second Congress, as follows:

Vol. 42, p. 1066.
U. S. C., p. 889.

- Veterans' Administration, \$37.50;
- Department of Agriculture, \$106.80;
- Department of Commerce, \$1,086.20;
- Department of the Interior, \$1,246.08;
- Department of Justice, \$298.37;
- Navy Department, \$1,944.56;
- Post Office Department (out of the postal revenues), \$13,532.37;
- Treasury Department, \$1,456.56;
- War Department, \$3,948.23;
- In all, \$23,656.67.

JUDGMENTS, UNITED STATES COURTS

United States courts,
judgments.

SEC. 2. For payment of the final judgments and decrees, including costs of suits, which have been rendered under the provisions of the Act of March 3, 1887, entitled "An Act to provide for the bringing of suits against the Government of the United States," as amended by the Judicial Code, approved March 3, 1911 (U. S. C., title 28, sec. 41, par. 20; sec. 258; secs. 761-765), certified to the Seventy-second Congress in House Document Numbered 508, under the following departments and establishments, namely:

Payment of.
Vol. 24, p. 506.
U. S. C., p. 897.

Vol. 36, p. 1063.
U. S. C., pp. 867, 898,
933.

- Department of Agriculture, \$1,885.81;
- Department of Commerce, \$400;
- Department of Labor, \$1,000;
- War Department, \$3,991.46;

In all, \$7,277.27, together with such additional sum as may be necessary to pay interest on the respective judgments at the rate of 4 per centum per annum from the date thereof until the time this appropriation is made.

Interest.

For the payment of judgments, including costs of suits, rendered against the Government of the United States by United States district courts under the provisions of an Act entitled "An Act authorizing suits against the United States in admiralty for damages caused by and salvage services rendered to public vessels belonging to the United States, and for other purposes," approved March 3, 1925 (U. S. C., title 46, secs. 781-789), certified to the Seventy-second Congress in House Document Numbered 508, under the following departments, namely:

Payment of, for suits
in admiralty.

Vol. 43, p. 1112.
U. S. C., p. 1529.

- Navy Department, \$2,793;
- War Department, \$190; in all, \$2,983, together with such additional sum as may be necessary to pay interest on any such judgment where specified therein and at the rate provided by law.

Judgments, in special
cases.

For the payment of the judgments, including costs of suits, rendered against the Government by United States district courts in special cases under the provisions of certain special Acts and certified to the Seventy-second Congress in Senate Document Numbered 163 and House Document Numbered 508, under the following departments: Navy Department, \$150; War Department, \$74,812.79; in all, \$74,962.79, together with such additional sum as may be necessary to pay interest as and where specified in such judgments.

Time of payments.

None of the judgments contained under this caption shall be paid until the right of appeal shall have expired except such as have become final and conclusive against the United States by failure of the parties to appeal or otherwise.

Interest.

Payment of interest wherever provided for judgments contained in this Act shall not in any case continue for more than thirty days after the date of approval of the Act.

Rate, under Economy Act not to apply. *Ante*, p. 412.

Availability of appropriations.

Ante, pp. 412, 419.

Section 319 of the Act of June 30, 1932 (Economy Act) (47 Stat. 412), shall not apply to any judgment rendered against the United States prior to July 1, 1932. Appropriations for the payment of any such judgment and interest thereon shall be available for the payment of principal and interest in accordance with the terms of such judgment and the appropriation therefor, notwithstanding the provisions of sections 319 and 803 of such Act.

Court of Claims.

JUDGMENTS, COURT OF CLAIMS

Judgments.

SEC. 3. For payment of the judgments rendered by the Court of Claims and reported to the Seventy-second Congress, in Senate Document Numbered 164 and House Document Numbered 504, under the following departments and establishments, namely:

United States Veterans' Administration, \$6,335.21;

Navy Department, \$675,565.68;

Treasury Department, \$6,238.43;

Interest.

War Department, \$49,950; in all, \$738,089.32, together with such additional sum as may be necessary to pay interest on certain of the judgments as and where specified in such judgments.

Time of payments.

None of the judgments contained under this caption which have not been affirmed by the Supreme Court or otherwise become final and conclusive against the United States shall be paid until the expiration of the time within which application may be made for a writ of certiorari under subdivision (b), section 3, of the Act entitled "An Act to amend the Judicial Code, and to further define the jurisdiction of the circuit courts of appeals and of the Supreme Court, and for other purposes," approved February 13, 1925 (U. S. C., title 28, sec. 288).

Vol. 43, p. 939.
U. S. C., p. 900.

Audited claims.

AUDITED CLAIMS

Payment.

SEC. 4. For the payment of the following claims, certified to be due by the General Accounting Office under appropriations the balances of which have been carried to the surplus fund under the provisions of section 5 of the Act of June 20, 1874 (U. S. C., title 31, sec. 713), and under appropriations heretofore treated as permanent, being for the service of the fiscal year 1930 and prior years, unless otherwise stated, and which have been certified to Congress under section 2 of the Act of July 7, 1884 (U. S. C., title 5, sec. 266), as fully set forth in House Document Numbered 510, Seventy-second Congress, there is appropriated as follows:

Vol. 18, p. 110.
U. S. C., p. 1022.

Vol. 23, p. 254.
U. S. C., p. 43.

Legislative.

LEGISLATIVE

For Capitol, building and repairs, \$21.

Independent offices.

INDEPENDENT OFFICES

For Federal Trade Commission, \$24.60.

For salaries and expenses, United States Shipping Board, \$5.62.

For medical and hospital services, Veterans' Bureau, \$36,011.30.

For military and naval compensation, Veterans' Administration, \$2,169.48.

For salaries and expenses, Veterans' Bureau, \$136.50.

For vocational rehabilitation, Veterans' Bureau, \$123.72.

For hospital facilities and services, Veterans' Bureau, \$428.82.

For Army pensions, \$333.73.

For investigation of pension cases, Pension Office, \$11.20.

For salaries and expenses, Employees' Retirement Act, Bureau of Pensions, \$2.

DISTRICT OF COLUMBIA

Audited claims—
Continued.
District of Colum-
bia.

For general expenses, public parks, District of Columbia, \$450,
payable from the revenues of the District of Columbia.

DEPARTMENT OF AGRICULTURE

Department of Agri-
culture.

For salaries and expenses, Extension Service, \$4.80.
For salaries and expenses, Weather Bureau, \$5.
For salaries and expenses, Bureau of Animal Industry, \$368.15.
For salaries and expenses, Bureau of Plant Industry, 50 cents.
For general expenses, Forest Service, \$1.80.
For salaries and expenses, Bureau of Entomology, \$6.95.
For prevention of spread of European corn borer, \$4.95.
For salaries and expenses, Bureau of Biological Survey, \$1.
For salaries and expenses, Bureau of Agricultural Economics,
\$5.08.
For salaries and expenses, plant quarantine and control adminis-
tration, \$34.80.

DEPARTMENT OF COMMERCE

Department of Com-
merce.

For contingent expenses, Department of Commerce, \$10.
For collecting statistics, Bureau of the Census, \$4.
For scientific library, Patent Office, \$9.32.
For salaries, keepers of lighthouses, \$37.33.
For general expenses, Lighthouse Service, \$13.
For protecting seal and salmon fisheries of Alaska, \$2.85.
For investigating mine accidents, \$1.
For aircraft in commerce, 75 cents.
For air navigation facilities, \$23,761.98.

DEPARTMENT OF THE INTERIOR

Department of the
Interior.

For Geological Survey, \$17.
For National Park Service, \$987.04.
For education of natives of Alaska, \$425.12.
For medical relief in Alaska, \$19.81.
For industry among Indians, \$7.37.
For Indian agency buildings, \$14.80.
For purchase and transportation of Indian supplies, \$2.71.
For irrigation, San Carlos and Florence-Casa Grande projects,
Arizona (reimbursable), \$4.26.
For conservation of health among Indians, \$118.73.
For Indian boarding schools, \$157.97.
For Indian school support, \$176.78.
For relieving distress and prevention, and so forth, of diseases
among the Indians, \$114.
For support and civilization of Indians, \$11.85.
For support of Indians and administration of Indian property,
\$19.35.

DEPARTMENT OF JUSTICE

Department of Jus-
tice.

For contingent expenses, Department of Justice, \$129.90.
For printing and binding, Department of Justice and courts,
\$205.50.
For detection and prosecution of crimes, \$31.50.
For examination of judicial offices, \$2.50.
For books for judicial officers, \$782.
For salaries, fees, and expenses of marshals, United States courts,
\$1,860.27.

Audited claims—
Continued.

For salaries and expenses of district attorneys, United States courts, \$2.12.
For fees of commissioners, United States courts, \$1,607.35.
For fees of jurors, United States courts, \$41.
For fees of witnesses, United States courts, \$41.10.
For fees of jurors and witnesses, United States courts, \$10.30.
For support of United States prisoners, \$869.60.
For United States penitentiary, Atlanta, Georgia, \$39.58.

Department of La-
bor.

DEPARTMENT OF LABOR

For salaries and expenses, Commissioners of Conciliation, \$1.50.
For expenses of regulating immigration, \$52.55.
For miscellaneous expenses, Bureau of Naturalization, \$28.95.

Navy Department.

NAVY DEPARTMENT

For pay, miscellaneous, \$3.35.
For organizing the Naval Reserve, \$53.63.
For engineering, Bureau of Engineering, \$112.74.
For construction and repair, Bureau of Construction and Repair, \$336.47.
For pay, subsistence, and transportation, Navy, \$9,409.13.
For pay of the Navy, \$5,562.68.
For transportation, Bureau of Navigation, \$162.77.
For maintenance, Bureau of Supplies and Accounts, \$389.01.
For maintenance, Bureau of Yards and Docks, \$101.20.
For aviation, Navy, \$37,536.37.
For pay, Marine Corps, \$1,629.33.
For general expenses, Marine Corps, \$137.50.
For maintenance, Quartermaster's Department, Marine Corps, \$42.91.

Post Office Depart-
ment.

POST OFFICE DEPARTMENT—POSTAL SERVICE

(Out of the postal revenues)

For balances due foreign countries, \$138,631.13.
For car fare and bicycle allowance, \$11.34.
For city delivery carriers, \$1,466.40.
For clerks, first and second class post offices, \$5,470.80.
For clerks, third-class post offices, \$221.25.
For compensation to postmasters, \$2,056.68.
For foreign-mail transportation, \$10,493.36.
For freight, express, or motor transportation of equipment, and so forth, \$26.78.
For indemnities, domestic mail, \$1,271.56.
For indemnities, international mail, \$673.69.
For miscellaneous items, first and second class post offices, \$12.42.
For post office equipment and supplies, \$25.40.
For railroad transportation and mail messenger service, \$1,099.25.
For rent, light, and fuel, \$2,593.96.
For separating mails, \$7.50.
For special-delivery fees, \$13.09.
For star-route service, \$20.47.
For vehicle service, \$28.80.
For village delivery service, \$184.80.

DEPARTMENT OF STATE

Audited claims—
Continued.
Department of State.

- For contingent expenses, Department of State, \$1,897.86.
- For contingent expenses, foreign missions, \$35.91.
- For contingent expenses, United States consulates, \$16.04.
- For immigration of aliens, Department of State, \$43.
- For relief and protection of American seamen, \$123.78.
- For salaries, ambassadors and ministers, \$1.94.
- For salaries, consular service, \$574.76.
- For salaries, Foreign Service officers, \$7.90.
- For salaries, Foreign Service officers while receiving instructions and in transit, \$861.11.
- For transportation of Foreign Service officers, \$4,666.69.

TREASURY DEPARTMENT

Treasury Department.

- For stationery, Treasury Department, \$11.46.
- For contingent expenses, public moneys, \$2.87.
- For collecting the revenue from customs, \$221.17.
- For collecting the internal revenue, \$95.52.
- For salaries and expenses of collectors, and so forth, of internal revenue, \$39.83.
- For enforcement of narcotic and national prohibition acts, internal revenue, \$1,290.97.
- For Coast Guard, \$360.21.
- For contingent expenses, Coast Guard, \$36.17.
- For pay and allowances, Coast Guard, \$406.71.
- For compensation of employees, Bureau of Engraving and Printing, \$18.59.
- For pay of other employees, Public Health Service, 85 cents.
- For pay of personnel and maintenance of hospitals, Public Health Service, \$141.
- For interstate quarantine service, \$3.75.
- For quarantine service, \$120.
- For mileage, and so forth, Coast Guard, \$4.
- For furniture and repairs of same for public buildings, \$178.65.
- For general expenses of public buildings, \$11.56.
- For mechanical equipment for public buildings, \$80.94.
- For operating force for public buildings, \$9.58.
- For operating supplies for public buildings, \$89.09.
- For remodeling and enlarging public buildings, \$1,591.75.
- For repairs and preservation of public buildings, \$10.11.

WAR DEPARTMENT

War Department.

- For contingencies, Military Intelligence Division, General Staff Corps, \$1,233.16.
- For civilian military training camps, \$16.03.
- For Organized Reserves, \$118.13.
- For Reserve Officers' Training Corps, \$153.90.
- For increase of compensation, Military Establishment, \$7,625.91.
- For increase of compensation, War Department, \$480.
- For pay, and so forth, of the Army, \$64,727.02.
- For pay of the Army, \$7,389.98.
- For mileage of the Army, \$44.25.
- For mileage to officers and contract surgeons, \$121.34.
- For arrears of pay, bounty, and so forth, \$39.10.
- For pay, and so forth, of the Army, war with Spain, \$279.43.
- For Army transportation, \$2,877.88.
- For barracks and quarters, \$5.50.

Audited claims—
Continued.

For barracks and quarters, other buildings, and utilities, \$3.40.
 For clothing and equipage, \$180.92.
 For construction of buildings, utilities, and appurtenances at military posts, \$1,491.32.
 For incidental expenses of the Army, \$50.
 For subsistence of the Army, \$37.57.
 For general appropriations, Quartermaster Corps, \$7,811.08.
 For supplies, services, and transportation, Quartermaster Corps, \$282.04.
 For ordnance service and supplies, Army, \$192.44.
 For armament of fortifications, \$17.38.
 For manufacture of arms, \$829.20.
 For ordnance stores, ammunition, \$92.76.
 For proving grounds, Army, \$638.32.
 For replacing ordnance and ordnance stores, \$593.94.
 For seacoast defenses, Panama Canal, ordnance, \$85.50.
 For medical and hospital department, \$163.25.
 For Signal Service of the Army, \$230.
 For Air Corps, Army, \$80.
 For arming, equipping, and training the National Guard, \$1,370.56.
 For pay of National Guard for armory drills, \$557.38.
 For arms, uniforms, equipment, and so forth, for field service, National Guard, 75 cents.
 For headstones for graves of soldiers, \$1.98.
 For Shiloh National Military Park, \$175.81.
 For operating snag and dredge boats on upper Mississippi, Illinois, and Minnesota Rivers, \$3.55.

Rates of exchange
added.

Total, audited claims, section 4, \$404,514.06, together with such additional sum due to increases in rates of exchange as may be necessary to pay claims in the foreign currency as specified in certain of the settlements of the General Accounting Office.

Audited claims.

AUDITED CLAIMS

Payment of additional.
Vol. 18, p. 110.
U. S. C., p. 1022.

SEC. 5. That for the payment of the following claims, certified to be due by the General Accounting Office under appropriations the balances of which have been carried to the surplus fund under the provisions of section 5 of the Act of June 20, 1874 (U. S. C., title 31, sec. 713), and under appropriations heretofore treated as permanent, being for the service of the fiscal year 1930 and prior years, unless otherwise stated, and which have been certified to Congress under section 2 of the Act of July 7, 1884 (U. S. C., title 5, sec. 266), as fully set forth in Senate Document Numbered 165, Seventy-second Congress, there is appropriated as follows:

Vol. 23, p. 254.
U. S. C., p. 43.

Independent offices.

INDEPENDENT OFFICES

For Interstate Commerce Commission, \$180.
 For medical and hospital services, Veterans' Bureau, \$1,501.96.
 For military and naval compensation, Veterans' Administration, \$144.25.
 For salaries and expenses, Veterans' Bureau, \$5.30.
 For vocational rehabilitation, Veterans' Bureau, \$51.
 For Army pensions, \$7.14.

Department of Agriculture.

DEPARTMENT OF AGRICULTURE

For salaries and expenses, Bureau of Animal Industry, \$33.33.
 For dairying and soil improvement, experiment station, South Carolina, \$6.25.

For loans to farmers in storm and flood stricken areas, Southwestern States, \$2.

Audited claims—
Continued.

DEPARTMENT OF COMMERCE

Department of Com-
merce.

For party expenses, Coast and Geodetic Survey, \$15.26.

For protecting seal and salmon fisheries of Alaska, \$4.62.

For air-navigation facilities, \$1.25.

DEPARTMENT OF THE INTERIOR

Department of the
Interior.

For relieving distress and prevention, and so forth, of diseases among Indians, \$250.

For conservation of health among Indians, \$83.

DEPARTMENT OF JUSTICE

Department of Jus-
tice.

For miscellaneous expenses United States courts, 94 cents.

NAVY DEPARTMENT

Navy Department.

For pay, subsistence, and transportation, Navy, \$381.49.

For pay of the Navy, \$69.33.

For transportation, Bureau of Navigation, \$4.60.

For maintenance, Bureau of Supplies and Accounts, \$2.68.

For pay, Marine Corps, \$154.30.

POST OFFICE DEPARTMENT—POSTAL SERVICE

Post Office Depart-
ment.

(Out of the postal revenues)

For balances due foreign countries, \$781.28.

For city delivery carriers, \$82.56.

For indemnities, domestic mail, \$123.75.

For indemnities, international mail, \$22.89.

For miscellaneous items, first and second class post offices, \$320.

For railway mail service, salaries, \$53.04.

For rent, light, and fuel, \$32.

For rural delivery service, \$3.37.

For separating mails, \$48.

DEPARTMENT OF STATE

Department of State.

For contingent expenses, United States consulates, \$3.12.

For transportation of Foreign Service officers, \$40.76.

TREASURY DEPARTMENT

Treasury Depart-
ment.

For enforcement of Narcotic and National Prohibition Acts, inter-
nal revenue, \$385.05.

For Coast Guard, \$60.

For pay and allowances, Coast Guard, \$167.81.

For operating supplies for public buildings, \$67.50.

WAR DEPARTMENT

War Department.

For pay, and so forth, of the Army, \$6,777.49.

For pay of the Army, \$1,067.17.

For Reserve Officers' Training Corps, \$79.50.

For increase of compensation, Military Establishment, \$8.53.

For pay, and so forth, of the Army, war with Spain, \$2.40.

For Army transportation, \$142.24.

For general appropriations, Quartermaster Corps, \$378.56.

For ordnance service and supplies, Army, 76 cents.

Audited claims—
Continued.

For arming, equipping, and training the National Guard, 32 cents.
For pay of National Guard for armory drills, \$17.65.

Exchange added.

Total, audited claims, section 5, \$13,564.45, together with such additional sum due to increases in rates of exchange as may be necessary to pay claims in the foreign currency as specified in certain of the settlements of the General Accounting Office.

Set-offs against judgments, etc.
Vol. 18, p. 481.
U. S. C., p. 990.

SEC. 6. For payment of interest on amounts withheld from claimants by the Comptroller General of the United States under the Act of March 3, 1875 (U. S. C., title 31, sec. 227), as allowed by the General Accounting Office and certified to the Seventy-second Congress, in House Document Numbered 507, under the Treasury Department, \$484.98.

Judgments against collectors of customs.

For the payment of claims allowed by the General Accounting Office covering judgments rendered by United States district courts against collectors of customs, where certificates of probable cause have been issued as provided for under section 989, Revised Statutes (U. S. C. title 28, sec. 842), and certified to the Seventy-second Congress in House Document Numbered 507, under the Treasury Department, \$1,669.93, together with such additional sum as may be necessary to pay interest as specified in the judgments.

R. S., sec. 989, p. 185.
U. S. C., p. 943.

Judgment against collector of internal revenue.

For the payment of a claim allowed by the General Accounting Office covering a judgment rendered by a United States district court against a collector of internal revenue, where a certificate of probable cause has been issued as provided for under section 989, Revised Statutes (U. S. C., title 28, sec. 842), and certified to the Seventy-second Congress in House Document Numbered 507, under the Treasury Department, \$139.85.

R. S., sec. 989, p. 185.
U. S. C., p. 943.

George H. Parsons.
Payment of claim.
Vol. 45, p. 2364.

For the payment of the claim allowed by the General Accounting Office under the provisions of Private Act Numbered 524, approved March 2, 1929 (45 Stat., Pt. 2, p. 2364), and certified to the Seventy-second Congress in House Document Numbered 507, under the War Department, \$52.71.

Total audited claims, section 6, \$2,347.47.

SHORT TITLE

Title.

This Act may be cited as the "First Deficiency Act, fiscal year 1933."

Approved, January 30, 1933.

[CHAPTER 27.]

JOINT RESOLUTION

January 30, 1933.
[S. J. Res. 240.]

[Pub. Res., No. 49.]

To provide for the quartering, in certain public buildings in the District of Columbia, of troops participating in the inaugural ceremonies.

Inaugural ceremonies, 1933.
Temporary quartering of troops in public buildings during, authorized.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Director of Public Buildings and Public Parks of the National Capital is authorized to allocate such space in any public building under his care and supervision as he deems necessary for the purposes of quartering troops participating in the inaugural ceremonies to be held on March 4, 1933, but such use shall not continue after March 6, 1933. Authority granted by this resolution may be exercised notwithstanding the provisions of the Legislative, Executive, and Judicial Appropriation Act for the fiscal year ending June 30, 1903, approved April 28, 1902, prohibiting the use of public buildings in connection with inaugural ceremonies.

Vol. 32, p. 152.

Approved, January 30, 1933.

[CHAPTER 28.]

JOINT RESOLUTION

Authorizing the granting of permits to the Committee on Inaugural Ceremonies on the occasion of the inauguration of the President elect in March, 1933, and for other purposes.

January 31, 1933.
[S. J. Res. 239.]
[Pub. Res., No. 50.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Director of Public Buildings and Public Parks of the National Capital, and such other officers of the District of Columbia and the United States as control any public lands in the District of Columbia, are hereby authorized to grant permits, under such restrictions as they may deem necessary, to the Committee on Inaugural Ceremonies for the use of any reservations or other public spaces in the city of Washington under their control on the occasion of the inauguration of the President elect in March, 1933: *Provided,* That in their opinion no serious or permanent injuries will be thereby inflicted upon such reservations or public spaces or statuary thereon; and the Commissioners of the District of Columbia may designate for such and other purposes on the occasion aforesaid such streets, avenues, and sidewalks in said city of Washington under their control as they may deem proper and necessary: *Provided, however,* That all stands or platforms that may be erected on the public space, as aforesaid, including such as may be erected in connection with the display of fireworks, shall be under the said supervision of the said inaugural committee, and no stand shall be built on the sidewalk, streets, parks, and public grounds of the District of Columbia, not including the area on the south side of Pennsylvania Avenue directly in front of the White House, except such as are approved by the inaugural committee and the building inspector of the District of Columbia, and no stands shall be built on the sidewalks or streets on the south side of Pennsylvania Avenue directly in front of the White House, except such as are approved by the inaugural committee, the building inspector of the District of Columbia, and the Director of Public Buildings and Parks: *And provided further,* That the reservations or public spaces occupied by the stands or other structures shall after the inauguration be promptly restored to their condition before such occupation, and that the inaugural committee shall indemnify the appropriate agency of the Government for any damages of any kind whatsoever upon such reservations or spaces by reason of such use.

SEC. 2. The Commissioners of the District of Columbia are hereby authorized to permit the committee on illumination, of the inaugural committee for said inaugural ceremonies, to stretch suitable overhead conductors, with sufficient supports wherever necessary, for the purpose of connecting with the present supply of light for the purpose of effecting the said illumination: *Provided,* That if it shall be necessary to erect wires for illuminating or other purposes over any park or reservation in the District of Columbia the work of erection and removal of said wires shall be under the supervision of the official in charge of said park or reservation: *Provided further,* That the said conductors shall not be used for conveying electrical currents after March 8, 1933, and shall, with their supports, be fully and entirely removed from the streets and avenues of the said city of Washington on or before March 15, 1933: *And provided further,* That the stretching and removing of the said wires shall be under the supervision of the Commissioners of the District of Columbia, or such other officials as may have jurisdiction in the premises, who shall see that the provisions of this resolution are enforced, that all needful precautions are taken for the protection of the public, and that the pavement of any street, avenue, or alley disturbed is replaced

Inauguration of the President, etc.
Use of reservations, etc., in Washington, D. C., authorized.

Provisos.
Condition.

Streets, etc., to be designated.

Supervision of stands, etc.

Removal of structures, etc.

Overhead conductors for illumination.

Provisos.
Supervision of work.

Time limit for use.

Safety precautions.

No expense to United States or District.

Loan of Army, Navy equipment.

Vol. 41, p. 272, waived.

Provisos.
Time limit.

Indemnity for damage, etc.

Loan of hospital tents, etc.

Indemnity for damages, etc.

Temporary overhead wires permitted.

in as good condition as before entering upon the work herein authorized: *And provided further*, That no expense or damage on account of or due to the stretching, operation, or removal of the said temporary overhead conductors shall be incurred by the United States or the District of Columbia.

SEC. 3. The Secretary of War and the Secretary of the Navy be, and they are hereby, authorized to loan to the Committee on Inaugural Ceremonies such hospital tents, smaller tents, camp appliances, ensigns, flags, and signal numbers, and so forth, belonging to the Government of the United States (except battle flags) that are not now in use and may be suitable and proper for decoration, and which may, in their judgment, be spared without detriment to the public service, such flags to be used in connection with said ceremonies by said committee under such regulations and restrictions as may be prescribed by the said Secretaries, or either of them, in decorating the fronts of public buildings and other places on the line of march, between the Capitol and the Executive Mansion and the interior of the reception hall: *Provided*, That the loan of the said hospital tents, smaller tents, camp appliances, ensigns, flags and signal numbers, and so forth, to said committee shall not take place prior to the 23d of February, and they shall be returned by the 9th day of March, 1933: *Provided further*, That the said committee shall indemnify the said departments, or either of them, for any loss or damage to such flags not necessarily incident to such use. That the Secretary of War is hereby authorized to loan to the inaugural committee for the purpose of caring for the sick, injured, and infirm on the occasion of said inauguration, such hospital tents and camp appliances, and other necessaries, hospital furniture and utensils of all descriptions, ambulances, horses, drivers, stretchers, and Red Cross flags and poles belonging to the Government of the United States as in his judgment may be spared and are not in use by the Government at the time of the inauguration: *And provided further*, That the inaugural committee shall indemnify the War Department for any loss or damage to such hospital tents and appliances, as aforesaid, not necessarily incident to such use.

SEC. 4. The Commissioners of the District of Columbia and the Director of Public Buildings and Public Parks be, and they are hereby, authorized to permit telegraph, telephone, and radiobroadcasting companies, to extend overhead wires to such points along the line of parade as shall be deemed by the chief marshal convenient for use in connection with the parade and other inaugural purposes, the said wires to be taken down within ten days after the conclusion of the ceremonies.

Approved, January 31, 1933.

[CHAPTER 34.]

AN ACT

February 3, 1933.

[S. 5484.]

[Public, No. 326.]

To extend the time during which certain provisions of the Act of February 27, 1932, relating to improving the facilities of the Federal reserve system to meet the needs of member banks in exceptional circumstances, shall be effective.

Federal Reserve Act, amendments.
Vol. 38, p. 260.
Anfe., p. 56; U. S. C., Supp. VI, p. 136.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(b) of the Federal Reserve Act, as amended (U. S. C., Supp. VI, title 12, sec. 347b), and the second paragraph of section 16 of the Federal

Reserve Act, as amended by section 3 of the Act entitled "An Act to improve the facilities of the Federal reserve system for the service of commerce, industry, and agriculture, to provide means for meeting the needs of member banks in exceptional circumstances, and for other purposes," approved February 27, 1932 (U. S. C., Supp. VI, title 12, sec. 412), are amended by striking out the date "March 3, 1933" wherever it appears and inserting in lieu thereof "March 3, 1934."

Authority of reserve banks to make loans and to accept United States obligations as security extended until March 3, 1934.

Ante, p. 57, amended. U. S. C., Supp. VI, p. 137.

Approved, February 3, 1933.

[CHAPTER 35.]

AN ACT

To provide for loans to farmers for crop production and harvesting during the year 1933, and for other purposes.

February 4, 1933.

[S. 5160.]

[Public, No. 327.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is hereby authorized and directed to request the Reconstruction Finance Corporation to advance to him the balance of the sum authorized to be allocated to the Secretary of Agriculture under section 2 of the Act of January 22, 1932, and the Reconstruction Finance Corporation is directed to make such advances regardless of the amounts of notes, debentures, bonds, or other obligations of such corporation that may be outstanding at the time of making such advances, and the Secretary of Agriculture is further authorized to request the corporation to return all sums heretofore returned and/or released to the corporation by the Secretary of Agriculture, except so much as may have been used by the corporation to establish agricultural credit corporations under section 201(e) of the Act of July 21, 1932, which sums, together with the sums collected or to be collected from loans made by the Secretary of Agriculture during the year 1932 under said section 2 of the Act of January 22, 1932, shall be available to the Secretary of Agriculture to make loans to farmers during the year 1933 for crop production, planting, fallowing, and cultivation, and in draught¹ and storm stricken areas not to exceed \$1,000,000 for feed for farm livestock: *Provided, however*, That the total sums used for the purposes of this Act shall not exceed \$90,000,000. Due consideration shall be given to the requirements of the truck-farming industry in the trucking areas of the various States.

Loans to farmers for crop production, etc., during year 1933.

Sums available from Reconstruction Finance Corporation.

Ante, p. 5.

Less sums for creating agricultural credit corporations.

Ante, p. 713.

Amount for livestock feed.

Proviso. Maximum allowance.

Truck farming.

SEC. 2. (a) A first lien on all crops growing or to be planted, grown, and harvested during the year 1933, or on livestock, shall be required as security for such loan. Such loan shall be made through such agencies upon such terms and conditions and subject to such regulations as the Secretary of Agriculture shall prescribe.

Lien on all 1933 crops, etc., required.

Vol. 48, p. 30. Regulations governing loans.

(b) The Secretary of Agriculture may require as a condition to the making of any loan that the borrower agree to reduce his acreage or production program on such basis, not to exceed 30 per centum, as may be determined by the Secretary of Agriculture, and may provide that any such limitation shall not apply to the farmer, tenant, or share cropper who in 1932 planted not more than a minimum acreage of such crops as shall be designated by the Secretary of Agriculture.

Acreage reduction requirement.

Exemption.

SEC. 3. (a) The moneys authorized to be loaned by the Secretary of Agriculture under this resolution are declared to be impressed with a trust to accomplish the purposes provided for by this

Sums authorized to constitute trust fund.

¹ So in original.

resolution, namely, the production, planting, fallowing, cultivation of crops, and feed for farm livestock, which trust shall continue until the moneys loaned pursuant to this resolution have been used for the purposes contemplated by this resolution, and it shall be unlawful for any person to make any material false representation for the purpose of obtaining any loan or to assist in obtaining such loan or to dispose of or assist in disposing of any crops given as security for any loan made under authority of this resolution, except for the account of the Secretary of Agriculture, and for the purpose of carrying out the provisions of this resolution.

False representation.

(b) It shall be unlawful for any person to charge a fee for the purpose of preparing or assisting in the preparation of any papers of an applicant for a loan under the provisions of this resolution.

Fees for preparing applications unlawful.

(c) Any person violating any of the provisions of this resolution shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding six months, or both.

Punishment for violations.

Approved, February 4, 1933.

[CHAPTER 39.]

AN ACT

February 7, 1933.
[H. R. 13959.]
[Public, No. 328.]

To authorize the incorporated town of Fairbanks, Alaska, to issue bonds in any sum not exceeding \$100,000 for the purpose of constructing and equipping a public-school building in the town of Fairbanks, Alaska, and for other purposes.

Fairbanks, Alaska.
Bonds for public-school building authorized.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the incorporated town of Fairbanks, Alaska, is hereby authorized and empowered to issue its bonds in any sum not exceeding \$100,000 for the purpose of constructing and equipping a public-school building in the town of Fairbanks, Alaska: *Provided, however,* That no issue of bonds or other instruments of any such indebtedness shall be made, other than such bonds or other instruments of indebtedness in serial form maturing in substantially equal annual installments, the first installment to mature not later than five years from the date of the issue of such series, and the last installment not later than fifteen years from the date of such issue.

Proviso.
Restriction.

Special election to authorize issue.

SEC. 2. That before said bonds shall be issued a special election shall be ordered by the common council of the said town of Fairbanks, at which election the question of whether such bonds shall be issued shall be submitted to the qualified electors of said town of Fairbanks whose names appear on the last assessment roll of said town for municipal taxation. Thirty days' notice of such election shall be given by publication thereof in a newspaper printed and published and of general circulation in said town before the day fixed for such election.

Notice of.

Conduct of election.

SEC. 3. That the registration for such election, the manner of conducting the same, and the canvass of the returns of said election shall be, as nearly as practicable, in accordance with the requirements of law in general or special elections in said municipality, and said bonds shall be issued only upon condition that not less than 65 per centum of the votes cast at such election in said town shall be in favor of issuing said bonds.

Interest rate.

SEC. 4. That the bonds above specified, when authorized to be issued as hereinbefore provided, shall bear interest at a rate to be fixed by the common council of the town of Fairbanks, not to exceed 7 per centum per annum, payable semiannually, and shall not be sold for less than their par value, with accrued interest, and shall be in

Sale, etc.

denominations not exceeding \$1,000 each: *Provided, however,* That the common council of the said town of Fairbanks may reserve the right to pay off such bonds in their numerical order at the rate of \$20,000 thereof per annum from and after the expiration of five years from the date of issue. Principal and interest shall be payable in lawful money of the United States of America at the office of the town treasurer of the town of Fairbanks, or at such bank in the city of New York, in the State of New York, or such place as may be designated by the common council of the town of Fairbanks, the place of payment to be mentioned in the bonds: *Provided further,* That each and every bond shall have the written signature of the mayor and clerk of said town of Fairbanks, and also bear the seal of said town.

Provisos.
Redemption.

Principal and interest payments.

Signature and seal requirement.

Limitation on use of funds, etc.

SEC. 5. That no part of the funds arising from the sale of said bonds shall be used for any purpose other than specified in this Act. Said bonds shall be sold only in such amounts as the common council shall direct, and the proceeds thereof shall be disbursed for the purposes hereinbefore mentioned and under the order and direction of said common council from time to time as the same may be required for said purposes.

SEC. 6. That the Act of Congress entitled "An Act to authorize the incorporated town of Fairbanks, Alaska, to issue bonds for the purchasing, construction, and maintenance of an electric light and power plant, telephone system, pumping station, and repairs to the water front, and for other purposes," approved February 7, 1927 (44 Stat. L. 1062), be, and the same is hereby, repealed.

Former Act repealed.
Vol. 44, p. 1062, repealed.

Approved, February 7, 1933.

[CHAPTER 43.]

AN ACT

To authorize the distribution of Government-owned cotton to the American National Red Cross and other organizations for relief of distress.

February 8, 1933.
[H. R. 13607.]
[Public, No. 329.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Farm Board is authorized and directed to take such action as may be necessary to make available, at any time prior to May 1, 1934, on application of the American National Red Cross, or any other organization designated by the Red Cross, the remainder (not in excess of three hundred and fifty thousand bales) of the cotton of the Cotton Stabilization Corporation, for use in providing cloth, wearing apparel, and bedding, comforters and blankets for the needy and distressed people of the United States and Territories. Such cotton shall be delivered upon any such application only upon the approval of the President of the United States and in such amounts as the President may approve.

Government-owned cotton.
Distribution of, to American National Red Cross, etc., authorized.
Post, p. 799.

Purpose.

Delivery upon President's approval.

No Federal expense.

Uses provided for.

No profit.

SEC. 2. No part of the expenses incident to the delivery, receipt, and distribution of such cotton shall be borne by the United States or the Federal Farm Board. In order to carry out the purposes of this Act such cotton may be manufactured into, exchanged for, or disposed of and the proceeds used for acquiring, cloth or wearing apparel or other articles of clothing or bedding made of cotton; but such manufacture, exchange, or sale shall be without profit to any mill, organization, or other person.

Loans to Cotton Stabilization Corporation.

SEC. 3. In so far as cotton is delivered to relief agencies by the Cotton Stabilization Corporation under this Act the Federal Farm Board is authorized to cancel such part of its loans to such corporation as equals the proportionate part of said loans represented by the

Proportionate cancellation based on cotton deliveries.

Deductions from revolving fund.

Vol. 46, p. 11.

Sums made available.

Ante, pp. 606, 741.

Purposes specified.

Additional amounts available.

Administrative provisions.

cotton delivered hereunder, less the current market value of the cotton delivered, and to deduct the amount of such loans canceled from the amount of the revolving fund established by the Agricultural Marketing Act. To carry out the provisions of this Act the unexpended balance of appropriations made for carrying out the provisions of the joint resolution entitled "Joint resolution authorizing the distribution of Government-owned wheat and cotton to the American National Red Cross and other organizations for relief of distress," approved July 5, 1932, is authorized to be made immediately available, and, in addition, the sum of \$4,100,000 is authorized to be appropriated and made immediately available, to the Federal Farm Board to be used solely for the following purposes: For advancing to such corporation amounts to repay loans held by commercial or intermediate credit banks against cotton which would be released for donations under this Act and to retire all storage and carrying charges against cotton, including compression charges, at the time of the approval of this Act; and for meeting carrying and handling charges, and interest payments on commercial or intermediate credit bank loans, on or against cotton which would be released for donations under this Act between the date of its approval and the delivery of the cotton to the American National Red Cross or other organization. Any additional amounts necessary for such purposes shall be paid from the revolving fund established by the Agricultural Marketing Act.

SEC. 4. The Federal Farm Board shall execute its functions under this Act through its usual administrative staff, and such additional clerical assistance as may be found necessary, without additional appropriations beyond its usual administrative appropriations.

Approved, February 8, 1933.

[CHAPTER 45.]

AN ACT

February 9, 1933.

[S. 4509.]

[Public, No. 330.]

To further amend the Act approved February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain."

Nonmetallic mineral deposits on public lands.

Vol. 41, p. 451, amended.

Lessees relieved of acreage rentals during suspension of operations, etc.

Term of lease extended accordingly.

Proviso.
Inoperative as to leases in designated reserves.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act approved February 25, 1920 (41 Stat. L. 437), entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," be, and the same is hereby, further amended by adding thereto the following section:

"SEC. 39. In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production of coal, oil, and/or gas under any lease granted under the terms of this Act, any payment of acreage rental prescribed by such lease likewise shall be suspended during such period of suspension of operations and production; and the term of such lease shall be extended by adding any such suspension period thereto: *Provided*, That nothing in this Act shall be construed as affecting existing leases within the borders of the naval petroleum reserves and naval oil-shale reserves."

Approved, February 9, 1933.

[CHAPTER 46.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Columbia River at or near Astoria, Oregon.

February 9, 1933.
[S. 5357.]
[Public, No. 331.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Columbia River at or near Astoria, Oregon, authorized to be built by J. C. Tenbrook, as mayor of Astoria, Oregon, his successors in office and assigns, by an Act of Congress approved June 10, 1930 (46 Stat. 540), are hereby extended one and three years, respectively, from the date of approval hereof.

Columbia River.
Time extended for
bridging, at Astoria,
Oreg.

Vol. 46, p. 540,
amended.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 9, 1933.

[CHAPTER 48.]

AN ACT

To change the name of "Roosevelt Island" to "Theodore Roosevelt Island."

February 11, 1933.
[H. R. 14228.]
[Public, No. 332.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an Act to establish a memorial to Theodore Roosevelt, approved May 21, 1932 (Public, Numbered 146, Seventy-second Congress), be amended as follows:

Theodore Roosevelt
Memorial, D. C.
Ante, p. 163, amend-
ed.

That wherever the name "Roosevelt Island" appears in sections 1, 2, and 3 of this Act it shall be stricken out and the name "Theodore Roosevelt Island" shall be inserted in lieu thereof.

"Theodore Roose-
velt Island."

SEC. 2. In all public documents, records, and maps of the United States in which such island is designated or referred to it shall be designated as "Theodore Roosevelt Island."

Public records, etc.,
to conform.

Approved, February 11, 1933.

[CHAPTER 49.]

JOINT RESOLUTION

To provide appropriations to carry into effect the Act entitled "An Act to authorize the distribution of Government-owned cotton to the American National Red Cross and other organizations for relief of distress," approved February 8, 1933:

February 11, 1933.
[H. J. Res. 597.]
[Pub. Res., No. 51.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That to enable the Federal Farm Board to carry into effect the provisions of the Act entitled "An Act to authorize the distribution of Government-owned cotton to the American National Red Cross and other organizations for relief of distress," approved February 8, 1933, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$4,100,000: *Provided*, That in addition to the purposes for which an appropriation was made by Public Resolution Numbered 43 of the Seventy-second Congress, approved July 22, 1932, for carrying out the provisions of the joint resolution entitled "Joint resolution authorizing the distribution of Government-owned wheat and cotton to the American National Red Cross and other organizations for relief of distress," approved July 5, 1932, any balance, or so much thereof as may be necessary, now or hereafter existing in such appropriation is hereby made available to enable the Federal Farm Board to carry into effect the provisions of such Act of February 8, 1933: *Provided further*, That the unexpended balance, or so much thereof as may be necessary, of the

Government-owned
cotton.
Appropriation for
distributing expenses.

Ante, p. 797.

Provisos.
Use of former appro-
priation.
Ante, pp. 605, 741.

Balance transferred.

appropriation under Public Resolution Numbered 43 of the Seventy-second Congress, approved July 22, 1932, shall be transferred in such amounts from time to time as may be requested by the Federal Farm Board to the appropriation herein made for the purposes of such Act of February 8, 1933.

Approved, February 11, 1933.

[CHAPTER 50.]

JOINT RESOLUTION

February 13, 1933.
[H. J. Res. 565.]
[Pub. Res., No. 52.]

To provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1933.

Presidential inaugural ceremonies, 1933.
Amount appropriated for maintenance of order, etc., during.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That \$25,000, or so much thereof as may be necessary, payable in like manner as other appropriations for the expenses of the District of Columbia, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from February 28 to March 10, 1933, both inclusive, including the employment of personal services, payment of allowances, traveling expenses, hire of means of transportation, cost of removing and relocating street-car loading platforms, for the construction, rent, maintenance, and expenses incident to the operation of temporary public comfort stations, first-aid stations, and information booths, during the period aforesaid, and other incidental expenses in the discretion of the commissioners. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period; and to grant under such conditions as they may impose, special licenses to peddlers and vendors to sell goods, wares, and merchandise on the streets, avenues, and sidewalks in the District of Columbia, and to charge for such privilege such fees as they may deem proper.

Regulations to be made.

Licenses to peddlers, etc.

Period of enforcing regulations, etc.

Publication of.

Penalties.

SEC. 2. Such regulations and licenses shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia, and in such other manner as the commissioners may deem best to acquaint the public with the same; and no penalty prescribed for the violation of any of such regulations shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine of not to exceed \$100 in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than sixty days.

Approved, February 13, 1933.

[CHAPTER 51.]

AN ACT

February 14, 1933.
[S. 4165.]
[Public, No. 333.]

To remove existing discriminations incident to certain land grants and to subject them to the same conditions that govern other land grants of their class.

Land grant railroads. Existing discriminations against certain, respecting transportation pay, removed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the land-grant railroad heretofore operated and now being operated between the stations of Hastings and Ortonville, in the State of Minnesota,

the land-grant railroad heretofore operated and now being operated between the stations of Houston and Airlie, in the State of Minnesota, the land-grant railroad heretofore operated and now being operated from a point about four miles south of Humboldt and through the station thereof to Junction City, in the State of Kansas, and the land-grant railroad heretofore operated and now being operated between the stations of Jonesville and Mackinaw City, in the State of Michigan, shall hereafter receive compensation for transportation of property and troops of the United States at the same rate as is paid to land-grant railroads organized under the Land Grant Act of March 3, 1863, and the Act of July 2, 1866¹ (ch. 278): *Provided*, That the Congress hereby reserves the right at any time by law to prescribe such charges as it deems advisable for such Government transportation.

Vol. 12, p. 772; Vol. 14, p. 292.
Post, p. 1424.
Proviso.
 Government transportation.

Approved, February 14, 1933.

CHAPTER 52.]

AN ACT

Authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the Campus Martius Memorial Museum, of the city of Marietta, Ohio, the silver service presented to the United States for the gunboat Marietta.

February 14, 1933.
 [H. R. 1225.]
 [Public, No. 334.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is authorized, in his discretion, to deliver to the custody of the Campus Martius Memorial Museum, of the city of Marietta, Ohio, for preservation and exhibition, until such time as he shall determine the Navy Department has need of the same, the silver service which was presented to the United States for the gunboat Marietta by the citizens of Marietta, Ohio: *Provided*, That no expense shall be incurred by the United States for the delivery of such silver service.

"Marietta," gunboat.
 Silver service of, delivered to custody of the Campus Martius Memorial Museum, Marietta, Ohio.

Proviso.
 No Federal expense.

Approved, February 14, 1933.

[CHAPTER 53.]

AN ACT

To amend section 24 of the Act approved February 28, 1925, entitled "An Act to provide for the creation, organization, administration, and maintenance of a Naval Reserve and a Marine Corps Reserve," as amended by the Act of March 2, 1929.

February 14, 1933.
 [H. R. 6329.]
 [Public, No. 835.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 24 of the Act approved February 28, 1925 (43 Stat. 1087; U. S. C., title 34, sec. 785), entitled "An Act to provide for the creation, organization, administration, and maintenance of a Naval Reserve and a Marine Corps Reserve," as amended by the Act of March 2, 1929 (45 Stat. 1477; U. S. C., Supp. IV, title 34, sec. 785), be, and the same is hereby, further amended by deleting from the second proviso of the Act of March 2, 1929, the words "transferred thereto prior to July 1, 1925," so that said proviso will read as follows:

Naval Reserve and Marine Corps Reserve. Members of Fleet Reserve.
 Vol. 43, p. 1087; Vol. 45, p. 1476, amended.
 U. S. C., p. 1136, Supp. VI, p. 690.

Clause deleted.

Provided further, That any pay which may be due any member of the Fleet Naval Reserve shall be forfeited when so ordered by the Secretary of the Navy, upon the failure, under such conditions as may be prescribed by the Secretary of the Navy, of such member to report for inspection.

Forfeiture of pay ordered on failure to report for inspection.

Approved, February 14, 1933.

¹ So in original.

[CHAPTER 54.]

AN ACT

February 14, 1933.
[H. R. 6733.]
[Public, No. 336.]

For estimates necessary for the proper maintenance of the flood-control works at Lowell Creek, Seward, Alaska.

Lowell Creek, Seward, Alaska.
Estimates for maintenance of flood control, authorized.

Vol. 44, p. 1066.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War is authorized to submit for the consideration of Congress such estimates as are, in his judgment, necessary for the proper maintenance of the flood-control works at Lowell Creek, Seward, Alaska, construction under authority contained in Public Resolution Numbered 52, Sixty-ninth Congress, approved February 9, 1927.

Approved, February 14, 1933.

[CHAPTER 55.]

AN ACT

February 14, 1933.
[H. R. 9385.]
[Public, No. 337.]

Authorizing Roy H. Campbell, Charles H. Brown, G. H. Wilsey, and Doctor H. O. Strosnider, their heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Des Moines River at or near Saint Francisville, Missouri.

Des Moines River.
Roy H. Campbell, et al., may bridge, at Saint Francisville, Mo.

Construction.
Vol. 34, p. 84.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to facilitate interstate commerce, improve the Postal Service, and provide for military and other purposes, Roy H. Campbell, Charles H. Brown, G. H. Wilsey, and Doctor H. O. Strosnider, their heirs, legal representatives, and assigns, be, and are hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Des Moines River, at a point suitable to the interests of navigation, at or near Saint Francisville, Missouri, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

Right to acquire real estate, etc., for location, approaches, etc.

Sec. 2. There is hereby conferred upon Roy H. Campbell, Charles H. Brown, G. H. Wilsey, and Doctor H. O. Strosnider, their heirs, legal representatives, and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

Condemnation proceedings.

Tolls authorized.

Sec. 3. The said Roy H. Campbell, Charles H. Brown, G. H. Wilsey, and Doctor H. O. Strosnider, their heirs, legal representatives, and assigns, are hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the Act of March 23, 1906.

Vol. 34, p. 85.

Acquisition authorized, after completion by Missouri, Iowa, etc.

Sec. 4. After the completion of such bridge, as determined by the Secretary of War, either the State of Missouri, the State of Iowa, any public agency or political subdivision of either of such States, within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and

take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation or expropriation, in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of five years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion costs, not to exceed 10 per centum of the sum of the cost of constructing the bridge and its approaches and acquiring such interests in real property; and (4) actual expenditures for necessary improvements.

Compensation, if acquired by condemnation, etc.

Limitation.

SEC. 5. If such bridge shall at any time be taken over or acquired by the States or public agencies or political subdivisions thereof, or by either of them, as provided in section 4 of this Act, and if tolls are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed twenty years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

Tolls under State, etc., operation.

Rates applied to operation, sinking fund, etc.

Maintenance as free bridge, etc., after amortizing costs.

Record of expenditures and receipts.

SEC. 6. The said Roy H. Campbell, Charles H. Brown, G. H. Wilsey, and Doctor H. O. Strosnider, their heirs, legal representatives, and assigns, shall within ninety days after the completion of such bridge file with the Secretary of War and with the highway departments of the States of Missouri and Iowa, a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of War may, and upon request of the highway department of either of such States shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said Roy H. Campbell, Charles H. Brown, G. H. Wilsey, and Doctor H. O. Strosnider, their heirs, legal representatives, and assigns, shall make available all of its records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes men-

Sworn statement of construction costs, etc., to be filed after completion.

Examination, etc., by Secretary of War.

Findings of Secretary conclusive.

tioned in section 4 of this Act, subject only to review in a court of equity for fraud or gross mistake.

Right to sell, etc.,
conferred.

SEC. 7. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this Act is hereby granted to Roy H. Campbell, Charles H. Brown, G. H. Wilsey, and Doctor H. O. Strosnider, their heirs, legal representatives, and assigns, and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

Amendment.

SEC. 8. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 14, 1933.

[CHAPTER 56.]

AN ACT

February 14, 1933.
[H. R. 13372.]
[Public, No. 338.]

To extend the times for commencing and completing the construction of a bridge across the Pee Dee River and a bridge across the Waccamaw River, both at or near Georgetown, South Carolina.

Pee Dee and Wacca-
maw Rivers.
Time extended for
bridging at Geor-
getown, S. C.
Vol. 46, p. 479,
amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Pee Dee River and a bridge across the Waccamaw River, both at or near Georgetown, South Carolina, authorized to be built by the county of Georgetown, South Carolina, by an Act of Congress approved May 29, 1930, are hereby extended one and three years, respectively, from May 29, 1933.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 14, 1933.

[CHAPTER 57.]

AN ACT

February 14, 1933.
[H. R. 13335.]
[Public, No. 339.]

To extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Garrison, North Dakota.

Missouri River.
Time extended for
bridging at Garrison,
N. Dak.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Missouri River, at or near Garrison, North Dakota, authorized to be built by the State of North Dakota, by an Act of Congress approved February 10, 1932, are hereby extended one and three years, respectively, from February 10, 1933.

Ante, p. 43, amended.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 14, 1933.

[CHAPTER 58.]

AN ACT

February 14, 1933.
[H. R. 13743.]
[Public, No. 340.]

Granting the consent of Congress to the State of Illinois to construct, maintain, and operate a free highway bridge across the Illinois and Mississippi Canal near Tiskilwa, Illinois.

Illinois and Missis-
sippi Canal.
Illinois may bridge,
at Tiskilwa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the State of Illinois to construct, maintain, and operate a free highway bridge and approaches thereto,

across the Illinois and Mississippi Canal, at a point suitable to the interest of navigation, at or near Tiskilwa, Illinois, in section 1, township 15 north, range 8 east, fourth principal meridian, in accordance with the provisions of an Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Construction.
Vol. 34, p. 84.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, February 14, 1933.

[CHAPTER 59.]

AN ACT

Granting the consent of Congress to the State of Illinois to construct, maintain, and operate a free highway bridge across the Illinois and Mississippi Canal near Langley, Illinois.

February 14, 1933.
[H. R. 13744.]
[Public, No. 341.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the State of Illinois to construct, maintain, and operate a free highway bridge and approaches thereto across the Illinois and Mississippi Canal, at a point suitable to the interests of navigation, at or near Langley, Illinois, between sections 9 and 10, township 16 north, range 7 east, fourth principal meridian, in accordance with the provisions of an Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Illinois and Missis-
sippi Canal.
Illinois may bridge,
at Langley.

Construction.
Vol. 34, p. 84.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, February 14, 1933.

[CHAPTER 60.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Rock River, south of Moline, Illinois.

February 14, 1933.
[H. R. 13852.]
[Public, No. 342.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge authorized by Act of Congress approved June 10, 1930, to be built by the State of Illinois across the Rock River, at a point south of Moline, Illinois, in section 16, township 17 north, range 1 west, fourth principal meridian are hereby extended one and three years, respectively, from June 10, 1933.

Rock River.
Time extended for
bridging, near Moline,
Ill.
Vol. 46, p. 552,
amended.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, February 14, 1933.

[CHAPTER 61.]

AN ACT

Granting the consent of Congress to Bonner County, State of Idaho, to construct, maintain, and operate a free highway bridge across Pend Oreille Lake at the city of Sandpoint in the State of Idaho.

February 14, 1933.
[H. R. 13974.]
[Public, No. 343.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to Bonner County, State of Idaho, its successors and assigns, to construct, maintain, and operate a free highway bridge and approaches thereto across the Pend Oreille Lake, at a point suitable to the interests of navigation, at the city of Sandpoint, State of Idaho, in accordance with the provisions of

Pend Oreille Lake.
Bonner County,
Idaho, may bridge, at
Sandpoint.

Construction.
Vol. 34, p. 84.

an Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 14, 1933.

[CHAPTER 62.]

AN ACT

February 14, 1933.
[H. R. 14060.]
[Public, No. 344.]

To extend the times for commencing and completing the construction of a bridge across the Columbia River at or near The Dalles, Oregon.

Columbia River.
Time extended for
bridging, at The Dalles,
Oreg.
Vol. 46, p. 1193.
Ante, p. 48, amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Columbia River at or near The Dalles, Oregon, authorized to be built by Dalles City, by an Act of Congress approved February 20, 1931, heretofore extended by Act of Congress approved February 11, 1932, are hereby further extended one and three years, respectively, from February 20, 1933.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 14, 1933.

[CHAPTER 63.]

AN ACT

February 14, 1933.
[H. R. 14120.]
[Public, No. 345.]

To extend the time for completing the construction of a bridge across that portion of Lake Michigan lying opposite the entrance to Chicago River, Illinois; and a bridge across the Michigan Canal, otherwise known as the Ogden Slip, in the city of Chicago, Illinois.

Lake Michigan.
Time extended for
bridging, at Chicago,
Ill.
Vol. 45, p. 1078,
amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for completing the construction of bridges authorized by Act of Congress approved January 14, 1929, to be built by the South Park Commissioners and the Commissioners of Lincoln Park, separately or jointly, is hereby extended four years from January 14, 1933.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 14, 1933.

[CHAPTER 64.]

AN ACT

February 14, 1933.
[H. R. 14200.]
[Public, No. 346.]

To extend the times for commencing and completing the construction of a bridge across the Saint Lawrence River at or near Alexandria Bay, New York.

Saint Lawrence
River.
Time extended for
bridging, at Alexandria
Bay, N. Y.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Saint Lawrence River at or near Alexandria Bay, New York, authorized to be built by the New York Development Association (Incorporated), a corporation organized under and by virtue of the membership corporation law of the State of New York, its successors and assigns, by an Act of Congress approved March 4, 1929, and heretofore extended by an Act of Congress approved February 13, 1931, and further heretofore extended by an Act of Congress approved April 15, 1932, are hereby further extended one and three years, respectively, from March 4, 1933.

Vol. 45, p. 1552; Vol.
46, p. 1093.

Ante, p. 83, amended.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 14, 1933.

[CHAPTER 65.]

JOINT RESOLUTION

To carry out certain obligations to certain enrolled Indians under tribal agreement:

February 14, 1933.
[S. J. Res. 167.]
[Pub. Res., No. 53.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That any person duly enrolled as a member of an Indian tribe who received in pursuance of a tribal treaty or agreement with the United States an allotment of land which by the terms of said treaty or agreement was exempted partially or in total from taxation, and from which land the restrictions have been or have not been removed and who was required or permitted contrary to law to pay any illegal or unauthorized Federal inheritance tax or Federal income tax on the rents, royalties, or other gains arising from such allotted lands, and who under the law and rulings of the Treasury Department have secured a refund of the taxes so illegally or erroneously collected but who did not receive interest on such refunds in accordance with the laws and the regulations in force at the time the refund was secured and who have failed to file a claim for the allowance of such interest, shall be allowed one year after the approval of this Act within which to file such claim, and if otherwise entitled thereto may recover such interest on such illegally collected taxes in the same manner and to the same extent as if such claims for interest had been theretofore duly filed as required by law, it not being the policy of the Government to invoke or plead a statute of limitations to escape the obligations of agreements solemnly entered into with its Indian wards: *Provided, however,* That in the case of the death of any person any such interest on the refund of illegal taxes paid by him or on his account may in like manner be claimed and recovered by the person or persons who would have received such money had it constituted a part of his estate at the time of his death: *Provided further,* That no interest on such refunds shall be payable prior to the time provided by law for the payment of interest in any such similar cases: *Provided further,* That it shall be unlawful for any person acting as attorney or agent for any claimant to receive more than a total of 5 per centum of the amount collected under the provisions of this Act, and any person collecting a total amount from such claimant in excess of said 5 per centum shall be guilty of a misdemeanor and punished by a fine not exceeding \$1,000 or imprisonment not exceeding six months, or both.

Indian allottees.
Claims for unpaid
interest on refunds of
certain Federal taxes,
allowed.To be filed within
one year.

Recovery.

Provided.
Payment to estate if
allottee deceased.

Prior payment.

Limitation on attor-
ney's, etc., fee.

Penalty for violation.

Approved, February 14, 1933.

[CHAPTER 72.]

AN ACT

To approve act numbered 268 of the session laws of 1931 of the Territory of Hawaii, entitled "An act to authorize and provide for the manufacture, maintenance, distribution, and supply of electric current for light and power within the island of Molokai."

February 15, 1933.
[H. R. 311.]
[Public, No. 347.]

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, The act numbered 268 of the session laws of 1931 of the Territory of Hawaii, entitled "An act to authorize and provide for the manufacture, maintenance, distribution, and supply of electric current for light and power within the island of Molokai," passed by the Legislature of the Territory of Hawaii and approved by the Governor of the Territory of Hawaii on April 30, 1931, is hereby approved: *Provided,* That the authority in section 16 of said act for the amending or repeal of said act shall not be held to authorize such action by the Legislature of

Molokai Island, Ha-
waii.
Grant of electric fran-
chise approved.*Provided.*
Amendment subject
to approval by Con-
gress.

Establishing value
on replacement cost,
not approved.

Hawaii except upon approval by Congress in accordance with the Organic Act: *Provided further*, That nothing herein shall be construed as an approval by Congress of the theory of establishing value on the actual cost of reproducing or replacing property as contained in section 18 of the said act.

Approved, February 15, 1933.

[CHAPTER 73.]

AN ACT

February 15, 1933.
[H. R. 11930.]
[Public, No. 348.]

To provide a preliminary examination of the Green River, Washington, with a view to the control of its floods.

Green River, Wash.
Preliminary examina-
tion of, directed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to cause a preliminary examination to be made of the Green River, Washington, with a view to control of its floods, in accordance with the provisions of section 3 of an Act entitled "An Act to provide for control of the floods of the Mississippi River, and of the Sacramento River, California, and for other purposes," approved March 1, 1917.

Vol. 39, p. 950.

Approved, February 15, 1933.

[CHAPTER 74.]

AN ACT

February 15, 1933.
[H. R. 12329.]
[Public, No. 349.]

To establish the boundary lines of the Chippewa Indian territory in the State of Minnesota.

Chippewa Indian ter-
ritory, Minn.
Boundaries reduced.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the passage of this Act the territory in Minnesota to be considered as Indian-treaty territory under provisions of article 7 of the treaty of February 22, 1855 (10 Stat. L. 1165-1169), between the United States and the Mississippi Bands of Chippewa Indians shall be reduced to the territory within the boundaries described as follows:

Vol. 10, p. 1169.

Description.

Beginning at the intersection of the range line common to ranges 32 and 33 west, with the common county line of Beltrami and Hubbard Counties of the State of Minnesota. From thence, bearing north following and on said range line to the northwest corner of township 148 north, range 32 west; thence angling to the right on to the north bounds of said township and bearing east on said bounds to the northeast corner thereof; thence continuing east on the said north bounds of said township 148 north, across ranges 31 and 30 west to the county line of Beltrami and Itasca Counties; thence north on said county line to the southwest corner of Koochiching County; thence east on the south bounds of Koochiching County to the corrected range line as between ranges numbered 25 on the west and 27 on the east side thereof; thence north on the last described range line to the northwest corner of township 66 north of the aforesaid range 27; thence east on the north bounds of said township across ranges numbered 27, 26, 25, 24, 23, 22, 21, 20, 19, and part of 18 to the point of intersection of said line with the Vermillion River; thence angling to the right on to a right line that will intersect the south boundary line of township 63 north, range 19 west. This point of intersection is equidistant from the southeast corner of said township 63 and the center of the railroad track of the Duluth, Winnipeg and Pacific Railroad, as measured on and along the said south bounds of said township; thence west on and along the said south bounds of township 63, crossing part of range 19 and the whole of ranges 20

and 21, to the southeast corner of Koochiching County; thence continuing west on the south bounds of said county to its intersection with the common line as between ranges 25 and 26 bearing north into Koochiching County and south into Itasca County; thence south on to the south range line, being also the west bounds of townships 56, 57, 58, 59, 60, 61, and 62 north of range 25 as in Itasca County to the southeast corner of township 56 north, range 26; thence west onto and following the south bounds of said township to its intersection with the corrected range line common to range 25 on the west side and range 27 on the east side thereof; thence angling to the left onto and following the said range line south, from this point being the common division line as between, in part, Itasca and Aitkin Counties, to the southeast corner of township 139 north, range 25 west; thence west on and along the south bounds of said township in range 25 west, crossing ranges 25, 26, 27, 28, 29, 30, and 31 to the southeast corner of Hubbard County; thence north on the east bounds of Hubbard County to the northeast corner of township 140 north, range 32 west; thence west on and along the north bounds of township 140, ranges 32, 33, 34, and 35 to the northwest corner of said township 140 north, range 35 west, as located on county line as between Hubbard and Becker Counties; thence south on the west boundary line of Hubbard County to the northwest corner of township 139 north, range 35 west; being also the northeast corner of township 139 north, range 36 west, as in Becker County; thence west on the north bounds of said township 139 north as said north bounds crosses ranges 36 to 43, both inclusive, to a point where said north bounds intersects with the common line as between Becker and Clay Counties; thence north on and along the west bounds of said Becker County to the north bounds thereof; thence continuing north on and following the range line of ranges 43 and 44 west as it is located between the townships 143 to 146 north in Norman County to the north bounds of the said Norman County; thence east following and along the north bounds of Norman County to the northeast corner thereof, being also the northwest corner of Mahnomen County; thence continuing east following and on the north bounds of Mahnomen County to the northeast corner thereof; thence continuing east following and along the north bounds of township 146 north, range 38 west, in Clearwater County to the northeast corner thereof; thence south following and along the east bounds of said township to the southeast corner thereof; thence east following and along the south bounds of township 146 north, ranges 37 and 36 west, to the intersection of said south bounds with the west bounds of Beltrami County; thence continuing east following and along the common boundary line as between said Beltrami and Hubbard Counties to the place of beginning.

Description—Continued.

Approved, February 15, 1933.

[CHAPTER 75.]

AN ACT

To authorize the Postmaster General to permit railroad and electric-car companies to provide mail transportation by motor vehicle in lieu of service by train.

February 15, 1933.
[H. R. 9636.]
[Public, No. 350.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General is hereby authorized, in his discretion, to permit railroad and electric-car companies to provide mail transportation by motor vehicle over highways in lieu of service by train, the com-

Postal Service.
Mail transportation
by motor vehicle in
lieu of by train, author-
ized.

Payment therefor.

pensation for such service to be at a rate not in excess of the rate that would be allowed for similar service by railroad or electric car, payment therefor to be made from the appropriate appropriation for railroad transportation and mail messenger service or electric and cable car service.

Approved, February 15, 1933.

[CHAPTER 76.]

AN ACT

In reference to land in the Bonnet Carre Floodway Area.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso in section 4 of the Act for the control of floods on the Mississippi River and its tributaries approved May 15, 1928, "That any land acquired under the provisions of this section shall be turned over without cost to the ownership of States or local interests," shall not apply to the lands heretofore acquired or that may be hereafter acquired in connection with the construction, maintenance, or operation of the Bonnet Carre Spillway and Floodway. The Secretary of War is hereby authorized to grant to any citizen, association, railroad, or other corporation, State or public agency thereof, rights of way, easements, and permits, over, across, in, and upon said lands for railway, highway, telephone, telegraph, and pipe-line crossings, and other purposes. The grants issued in pursuance of this authority shall be under such terms and conditions as the Secretary of War may deem advisable for the protection of the public interests, and may be perpetual or temporary in his discretion.

Approved, February 15, 1933.

CHAPTER 86.]

AN ACT

To repeal the Executive order of November 23, 1909, making the enticing of laborers from the Isthmian Canal Commission or the Panama Railroad a misdemeanor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Executive order of November 23, 1909, making the enticing of laborers from the Isthmian Canal Commission or the Panama Railroad a misdemeanor, be, and it is hereby, repealed.

Approved, February 16, 1933.

[CHAPTER 87.]

AN ACT

To repeal an ordinance enacted by the Isthmian Canal Commission August 5, 1911, and approved by the Secretary of War August 22, 1911, establishing market regulations for the Canal Zone.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the ordinance enacted by the Isthmian Canal Commission on August 5, 1911, and approved by the Secretary of War on August 22, 1911, establishing market regulations for the Canal Zone be, and it is hereby, repealed.

Approved, February 16, 1933.

February 15, 1933.
[H. R. 13523.]
[Public, No. 351.]

Bonnet Carre Floodway area.
Land in, removed from State, etc., jurisdiction.
Vol. 45, p. 536, amended.

Rights of way, etc., authorized.

Terms and conditions.

February 16, 1933.
[H. R. 7503.]
[Public, No. 352.]

Canal Zone.
Executive Order No. 1141 against enticing laborers from, repealed.

February 16, 1933.
[H. R. 7506.]
[Public, No. 353.]

Canal Zone.
Ordinance establishing market regulations for, repealed.

[CHAPTER 88.]

AN ACT

To provide for the inspection of vessels navigating Canal Zone waters.

February 16, 1933.
[H. R. 7508.]
[Public, No. 354.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all vessels navigating the waters of the Canal Zone, except public vessels of all nations, and private vessels merely transiting the canal, shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations; and the governor is hereby authorized to prescribe regulations concerning such inspection, provided that such regulations shall, as nearly as practicable, conform to the laws and regulations governing the Steamboat Inspection Service of the United States.

Canal Zone, navigation laws.
Inspection provisions.

To conform to United States laws, etc.

SEC. 2. A foreign vessel of a country which has inspection laws approximating those of the United States, having an unexpired certificate of inspection duly issued by the authorities of the said country, shall not be subjected to an inspection other than that necessary to determine if the vessel, boilers, and life-saving equipment are as stated in the certificate of inspection; but no such certificate of inspection shall be accepted as evidence of lawful inspection unless like privileges are granted to vessels of the United States under the laws of the country to which such vessel belongs.

Vessels of foreign countries having similar inspection laws.

Certificates of inspection.
Condition of acceptance.

SEC. 3. When the board of local inspectors of the Panama Canal approves a vessel and its equipment, a certificate of inspection, in triplicate, will be issued by the canal authorities, two copies of which shall be displayed in conspicuous places in the vessel where they are most likely to be observed by passengers and others, and there kept at all times framed under glass.

Issue of certificates by local authorities.

SEC. 4. Should the board of local inspectors not approve the vessel or its equipment, a certificate of inspection will be refused, and the board of local inspectors will make a statement in writing giving the reason for failure to approve, filing such statement in the records of the board, and giving a copy thereof to the owner, agent, or master of the vessel.

Refusal of certificates.

SEC. 5. Any vessel, other than those excepted in section 1 of this Act, that navigates the waters of the Canal Zone without having an unexpired certificate of inspection issued by the Canal authorities or by the Steamboat Inspection Service of the United States, or an unexpired certificate accepted by the Canal authorities under section 2 of this Act, shall be subject to a fine not exceeding \$1,000; and whenever any passenger is received on board a vessel not having certified copies of the certificate of inspection placed and kept as required by section 3 of this Act, or whenever passengers are received on board a vessel in excess of the number authorized by said certificate of inspection, such vessel shall be liable to fine not exceeding \$100 for each passenger so received. Fines shall be recovered in the district court of the Canal Zone, and the amount so recovered shall be a lien upon such vessel, and it may be seized and sold to satisfy same, as well as the costs of the court proceedings.

Penalty for navigating without proper certificate.

Overcrowding.

Recovery of fine.

SEC. 6. In case a vessel holding an unexpired certificate issued by the Canal authorities shall change its condition as to hull, boilers, machinery, equipment, or accommodations for passengers in such manner as not to conform to the regulations under which such certificate was issued, the board of local inspectors is authorized to make an inspection and to recommend revocation of the certificate of inspection, and upon approval of such recommendation by the marine superintendent, or such other officer of the Panama Canal as may be designated by the governor, a notice of revocation will

Revocation provisions.

Penalty. be issued to the owner, agent, or master of the vessel; and after such notice of revocation the navigating of Canal Zone waters by such vessel shall subject it to the penalty prescribed by section 5 of this Act.

Small vessels.
Machine propelled. SEC. 7. Other than public vessels of the United States or of the Republic of Panama, small vessels propelled in whole or in part by machinery shall be required to be registered, certificated, and numbered, and to display the numbers assigned in a conspicuous place in prescribed form. Such vessels shall not be operated except by an operator holding a license to operate, issue after examination by the board of local inspectors, and approval of such examination by the marine superintendent or such other officer of the Panama Canal as may be designated by the governor.

Not machine propelled. SEC. 8. Small vessels not propelled in whole or in part by machinery shall be registered and numbered, and when numbers have been assigned they shall be displayed in a conspicuous place in prescribed form.

Passenger carrying,
for hire in local waters. SEC. 9. Vessels under sixty-five feet in length, before carrying passengers for hire in the Canal Zone waters, shall obtain a certificate from the Canal Zone authorities to engage in this business, and such certificate shall specify the number of passengers and life preservers and the fire-fighting apparatus which the vessel must carry. Such vessels shall be subject to annual inspection, and the certificate referred to will be granted for one year only. Small vessels carrying passengers without having first obtained a certificate from the canal authorities, or carrying passengers in excess of the number authorized by such certificate, shall be liable to a fine of not exceeding \$100 for each passenger so carried.

Subject to annual inspection.
Penalty for violation.

Approved, February 16, 1933.

[CHAPTER 89.]

AN ACT

In relation to the Canal Zone postal service.

February 16, 1933.
[H. R. 7514.]

[Public, No. 355.]

Canal Zone postal service.
Rules, etc., of operation.

Post offices, personnel, postage stamps, etc.

Proviso.
Expenses defrayed from postal revenues.

Deposit money orders.
Issued in lieu of savings certificates.

Interest rate.

Use of accrued interest.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the postal service of the Canal Zone shall be governed by such of the laws, rules, and regulations of the Postal Service of the United States as are not inapplicable to the conditions existing in the Canal Zone, and the Governor of the Panama Canal is authorized to establish new post offices or discontinue those already established, to provide such rules and regulations as are necessary for the operation of the service, to appoint the personnel thereof, and to prescribe the postage stamps and other stamped paper which shall be used in such service: *Provided, however,* That the expenses of operating the Canal Zone postal service shall be defrayed, so far as possible, from the revenue derived therefrom, the use of which for that purpose is hereby authorized.

SEC. 2. That deposit money orders issued in the Canal Zone in lieu of postal savings certificates in accordance with rules and regulations heretofore established by the President, or that may hereafter be established by him, shall bear interest at a rate not exceeding 3 per centum per annum.

SEC. 3. That the interest received from the Canal Zone money-order funds deposited in banks under Canal Zone regulations shall be available to pay the interest on deposit money orders authorized by the preceding section. Such interest, which shall form a part

of the postal revenues, shall also be available to pay the losses which are chargeable to the Canal Zone postal service.

SEC. 4. That all other laws for the operation of the Canal Zone postal service, excepting section 43a of the Penal Code of the Canal Zone, are hereby repealed.

Designated laws repealed.

Approved, February 16, 1933.

[CHAPTER 90.]

AN ACT

To provide for the establishment of a Customs Service in the Canal Zone, and other matters.

February 16, 1933.

[H. R. 7515.]

[Public, No. 356.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Governor of the Panama Canal shall have control for customs purposes over all articles, including passengers' baggage, introduced into the Canal Zone, and he is authorized to establish rules and regulations governing the entry and importation of goods into said zone, the disposal of goods brought into the Canal Zone in violation of such regulations, and to alter and amend such rules and regulations from time to time.

Canal Zone, customs service.
Establishment of, provided.
Authority of Governor.

SEC. 2. That general powers of search, seizure, and arrest are hereby conferred upon customs officers in the Canal Zone, including deputy shipping commissioners and boarding officers when performing customs duties. In the exercise of these powers customs officers are authorized to enter any building, other than dwelling houses, to stop vessels and vehicles, and to search vessels, vehicles, and their contents; and to stop and search persons and any packages carried by them. Such right of entry, stopping, search, seizure, and arrest shall be exercised only when there are reasonable grounds for suspecting violations of the customs rules and regulations authorized hereunder or of the United States applicable in the Canal Zone.

Powers conferred upon customs officers, etc.

Right of entry, etc., restricted.

SEC. 3. That it shall be unlawful to enter or import, or attempt to enter or import, any articles or merchandise into the Canal Zone until the entry or importation of such articles or merchandise has been approved by the proper officers of the Canal Zone, and that it shall further be unlawful to pass, or attempt to pass, any false, forged, or fraudulent invoice or bill or other paper, for the purpose of securing the entry or importation into the Canal Zone of any articles or merchandise in violation of the rules and regulations to be promulgated in pursuance of the authority contained in the first section of this Act, and any article brought into or obtained in the Canal Zone in violation of such regulations may be seized and held, and, unless within a period of thirty days from the date of seizure such articles are entered in conformity to the rules and regulations to be promulgated by the governor, they may be confiscated and disposed of as provided in such rules and regulations. Any person violating the provisions of this section or any of the rules and regulations authorized hereunder, shall, upon conviction, be punished by a fine not exceeding \$100, or by imprisonment in jail not exceeding ninety days, or by both such fine and imprisonment.

Unlawful entry of merchandise, etc.

Fraudulent invoices, etc.

Seizure.

Punishment.

SEC. 4. That if any vessel arriving at the Canal Zone from any port, other than a port in the Canal Zone or the Republic of Panama, is found to have on board merchandise not manifested, the master of such vessel shall be liable to a penalty equal in amount to the value of the merchandise not manifested, and all such merchandise belonging to or consigned to or for the officers or crew of the vessel shall be forfeited: *Provided, however,* That such penalty shall not be imposed if it is made to appear to the customs officers, or to the court in which the trial is held, that no part of the cargo has been

Foreign vessel with merchandise not manifested.

Penalty.

Proviso.
Exemption.

Unloading permit restrictions.

Sea stores.

unloaded, except as accounted for in the master's report, and that the errors and omissions in the manifest were made without fraud or collusion; and in such case the master may be allowed to correct his manifest by means of a post entry. A permit shall not be granted to unload any such merchandise so omitted from the manifest before post entry or addition to report of manifest has been made.

SEC. 5. That if sea stores are found on board of a vessel from any port, other than a port in the Canal Zone or the Republic of Panama, which are not specified in the list furnished the boarding officer, or if a greater quantity of such articles is found than that specified in such list, or if any of such articles are landed without a permit being first obtained from the customs officer for that purpose, all of such articles omitted from the list or manifest, or so landed shall be seized and forfeited, and the master of the vessel shall be liable to a penalty treble the value of the articles so omitted or landed.

Approved, February 16, 1933.

[CHAPTER 91.]

AN ACT

To amend sections 7, 8, and 9 of the Panama Canal Act, as amended.

February 16, 1933.

[H. R. 7523.]

[Public, No. 357.]

Panama Canal Act amendments.
Vol. 37, p. 584; Vol. 42, p. 1004, amended.

Governor to have control of Canal Zone civil government.

Administration.

Towns and subdivisions authorized.

Magistrate's court jurisdiction.

Amounts increased.

Preliminary hearings in felony and misdemeanor charges.

Right of district attorney.

Magistrates, constables, etc.
Qualifications, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Panama Canal Act of August 24, 1912, as amended, is hereby amended to read as follows:

"SEC. 7. That the Governor of the Panama Canal shall, in connection with the operation of such canal, have official control and jurisdiction over the Canal Zone and shall perform all duties in connection with the civil government of the Canal Zone, which is to be held, treated, and governed as an adjunct of such Panama Canal. Unless in this Act otherwise provided, all existing laws of the Canal Zone referring to the civil governor or the civil administration of the Canal Zone shall be applicable to the Governor of the Panama Canal, who shall perform all such executive and administrative duties required by existing law.

"The President is authorized to determine or cause to be determined what towns shall exist in the Canal Zone, and subdivide and from time to time resubdivide said Canal Zone into subdivisions, to be designated by name or number, so that there shall be situated one town in each subdivision, and the boundaries of each subdivision shall be clearly defined.

"In each town there shall be a magistrate's court with exclusive original jurisdiction coextensive with the subdivision in which it is situated of all civil cases in which the principal sum claimed does not exceed \$500, and all criminal cases wherein the punishment that may be imposed shall not exceed a fine of \$100, or imprisonment for thirty days, or both, and all actions involving the forcible entry and detainer of real estate.

"Such magistrates' courts shall also hold preliminary hearings in all charges of felony and in charges of misdemeanor in which the punishment that may be imposed is beyond the jurisdiction herein granted to the magistrates' courts, and commit or bail in bailable cases to the district court; but this provision shall not deprive the district attorney of the right to present an information to the district court after a defendant has been discharged by a magistrate court.

"A sufficient number of magistrates and constables, who must be citizens of the United States, and other employees necessary to conduct the business of such courts, shall be appointed by the President

or by his authority for terms of four years and until their successors are appointed and qualified, and the compensation of such persons shall be fixed by the President, or by his authority.

Appointment, compensation.

"Before assuming office the magistrates and constables shall take and subscribe an oath of office before a notary public of the Canal Zone to the effect that they will faithfully and impartially discharge the duties of their respective offices.

Oath of office.

"The rules governing said courts and prescribing the duties of said magistrates and constables, oaths, and bonds, the times and places of holding such courts, the disposition of fines, costs, and forfeitures shall be established by order of the President.

Rules, etc., to be established.

"The Governor may grant pardons and reprieves and remit fines and forfeitures for offenses against the laws of the Canal Zone and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon.

Pardoning, etc., power of Governor.

"The Governor of the Panama Canal shall appoint all notaries public, prescribe their powers and duties, their official seal, and the fees to be charged and collected by them.

Notaries public.

"Appeals from the judgments and rulings of the magistrates' courts to the district court are authorized in all civil and criminal cases."

Appeals to district court.

SEC. 2. That section 8 of the Panama Canal Act, as amended, is hereby amended to read as follows:

"SEC. 8. There shall be in the Canal Zone one district court, to be known and designated as the United States District Court for the District of the Canal Zone. There shall be two divisions of said district court, one including Balboa and the other including Cristobal, and the boundaries of the divisions shall be determined by the President.

District court, divisions of.

"There shall be one district judge of the said district; provided that the President may appoint a special district judge to act, when necessary, during the absence of the district judge from the Canal Zone or during any period of disability or disqualification from sickness, or otherwise to discharge his duties, and such special district judge shall receive the same rate of compensation and the same mileage and per diem as is paid to the district judge. Terms of the district court shall be held in the Balboa and Cristobal divisions at such times as the judge may designate by order.

District judges.

"The rules of said district court shall be prescribed by the district judge.

Terms of district court.

"The said district court shall have jurisdiction of:

Rules to be prescribed.

"All criminal cases wherein the punishment that may be imposed exceeds a fine of \$100 or thirty days' imprisonment or both;

Jurisdiction.

"All cases in equity;

"All cases in admiralty;

"All cases of divorce and annulment of marriage;

"All cases at law involving principal sums exceeding \$500;

"All appeals from judgments rendered in the magistrates' courts;

"All cases and proceedings involving laws of the United States applicable to the Canal Zone;

"All other matters and proceedings wherein jurisdiction is conferred by the codes of law and procedure of the Canal Zone;

"In addition to the jurisdiction now specifically conferred on it by certain Acts of Congress, the said court shall have jurisdiction of offenses under the criminal laws of the United States when such offenses are committed upon the high seas beyond the territorial limits of the Canal Zone, on vessels belonging in whole or in part to the United States, or any citizen thereof or any corporation created by or under the laws of the United States or of any State, Territory,

Offenses on high seas on American vessels, and offenders found in Canal Zone, etc.

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| <p><i>Proviso.</i> Jurisdiction of United States district courts not affected.</p> | <p>or District thereof, and the offenders are found in the Canal Zone or are brought into the Canal Zone after the commission of the offense: <i>Provided</i>, That this provision shall not be construed to deprive the district courts of the United States of any jurisdiction now provided by law. The procedure and practice in such cases shall be the same as in other criminal cases tried under the laws of the Canal Zone.</p> |
| <p>Jurisdiction in admiralty, etc.</p> | <p>“The jurisdiction in admiralty herein conferred upon the district judge and the district court shall be the same as is exercised by the United States district judges and the United States district courts, and the practice and procedure shall be the same as in the United States district courts.</p> |
| <p>Practice, etc.</p> | <p>“The judge of the district court shall provide for the selection, summoning, and serving of jurors from among the citizens of the United States subject to jury duty to serve in the division of the district in which such jurors reside, and a jury shall be had in any civil or criminal case originating in the said court on the demand of either party, subject to such limitations as may be contained in any codes which may hereafter be enacted for the Canal Zone.</p> |
| <p>Jury duty, etc.</p> | <p>Any citizen of the United States who is employed by the Panama Canal or the Panama Railroad Company within the Canal Zone, and who resides in a residence owned by the Panama Canal or Panama Railroad Company in territory contiguous to the Canal Zone shall, for the purpose of this subdivision, be deemed to reside in the division nearest his place of residence. Jurors who are employed by the Panama Canal or the Panama Railroad Company shall receive their full pay for time attending court and shall not receive any other compensation from the court for their attendance as jurors. Any juror who is not an employee of the Panama Canal or the Panama Railroad Company shall be allowed a jury fee of \$5 per diem during the time of his attendance.</p> |
| <p>Vol. 44, p. 924.</p> | <p>“The said district judge shall receive the same salary as is allowed to United States district judges, and when holding court away from home shall be allowed the same mileage and per diem as is allowed to United States district judges.</p> |
| <p>Original civil or criminal cases.</p> | <p>“The district judge shall appoint the clerk of the district court and the President may authorize the appointment of such deputy clerk or deputy clerks and clerical assistants to the judge and the clerk as he shall deem necessary; and all of such officials and employees shall receive such compensation as the President shall prescribe.</p> |
| <p>Residence requirements.</p> | <p>“When no special judge has been appointed and the district judge is absent from the Canal Zone and is in the United States or any of the Territories or possessions thereof, he may make in the place where he is any order or orders which in his discretion may be necessary, and which could have been made in chambers on the Canal Zone, notwithstanding the fact that such order or orders were made by him outside of the jurisdiction of said court. Any such order so made shall have the same force and effect as though made in chambers on the Canal Zone.</p> |
| <p>Jurors, pay.</p> | <p>“Whenever any such order is made as provided in this section the judge shall forward the same to the clerk of the court by mail. He shall also communicate the substance of such order to the clerk of the court by radio or other means, and upon the receipt of such message the clerk of the court shall proceed to have the same carried into effect as fully as though such procedure were had on a written order made by the judge in chambers.</p> |
| <p>Pay, etc., of judge.</p> | <p>“The district judge shall appoint the clerk of the district court and the President may authorize the appointment of such deputy clerk or deputy clerks and clerical assistants to the judge and the clerk as he shall deem necessary; and all of such officials and employees shall receive such compensation as the President shall prescribe.</p> |
| <p>Clerk, etc.</p> | <p>“When no special judge has been appointed and the district judge is absent from the Canal Zone and is in the United States or any of the Territories or possessions thereof, he may make in the place where he is any order or orders which in his discretion may be necessary, and which could have been made in chambers on the Canal Zone, notwithstanding the fact that such order or orders were made by him outside of the jurisdiction of said court. Any such order so made shall have the same force and effect as though made in chambers on the Canal Zone.</p> |
| <p>Orders of judge when absent from Canal Zone.</p> | <p>“Whenever any such order is made as provided in this section the judge shall forward the same to the clerk of the court by mail. He shall also communicate the substance of such order to the clerk of the court by radio or other means, and upon the receipt of such message the clerk of the court shall proceed to have the same carried into effect as fully as though such procedure were had on a written order made by the judge in chambers.</p> |
| <p>Communication of, to clerk. By mail. By radio.</p> | <p>“Whenever any such order is made as provided in this section the judge shall forward the same to the clerk of the court by mail. He shall also communicate the substance of such order to the clerk of the court by radio or other means, and upon the receipt of such message the clerk of the court shall proceed to have the same carried into effect as fully as though such procedure were had on a written order made by the judge in chambers.</p> |

“The judge shall make such rules respecting such radio procedure, including the fixing and the payment of the cost thereof, as may, in his discretion, be necessary.” Rules of radio procedure.

“There shall be a district attorney for the Canal Zone, whose compensation shall be fixed by the President.” District attorney.

“It shall be the duty of the district attorney to conduct all legal proceedings, civil and criminal, for the Government of the United States and for the government of the Canal Zone, and it shall also be his duty to advise the Governor of the Panama Canal, upon request of the latter, on matters pertaining to the office of the governor.” Pay, duties, etc.

“The district attorney shall be allowed such assistant district attorneys, clerks, and other employees as the President may authorize, and all of such officials and employees shall receive such compensation as the President shall prescribe.” Assistants, etc.

“There shall be a marshal of the said district whose compensation shall be fixed by the President. The said marshal shall be allowed such deputy marshals as the President may authorize, and such deputies shall receive such compensation as the President shall prescribe.” Marshal, etc.
Pay.

“It shall be the duty of said marshal to attend the district court when sitting and to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States or of the government of the Canal Zone, except process returnable to the magistrates courts; and he shall have power to command all necessary assistance in the execution of his duty. He shall perform such other duties, not inconsistent with law, as may be prescribed from time to time by the President.” Duties.

“The district judge, the district attorney, and the marshal shall be appointed by the President, as heretofore, by and with the advice and consent of the Senate, for terms of four years each. They shall continue to discharge the duties of their respective offices, unless sooner removed by the President, until their successors shall be appointed and qualify in their stead. During their term of office they shall reside within the Canal Zone, and shall be allowed sixty days' leave of absence each year, with pay, under such regulations as the President may from time to time prescribe.” District judge, district attorney and marshal.
Appointment, tenure, etc.
Vol. 44, p. 924.

SEC. 3. That section 9 of the Panama Canal Act, as amended, is hereby amended to read as follows:

“SEC. 9. The Circuit Court of Appeals of the Fifth Circuit of the United States shall have jurisdiction to review, revise, modify, reverse, or affirm the final judgments and decrees of the said district court, and to render such judgments as in the opinion of the said appellate court should have been rendered by the trial court in all cases whereof original trial jurisdiction is in the district court. And such appellate jurisdiction, subject to the right of review by the Supreme Court of the United States as in other cases authorized by law, may be exercised by said Circuit Court of Appeals in the same manner, under the same regulations, and by the same procedure as nearly as practicable as is done in reviewing the final judgments and decrees of the district courts of the United States.” Circuit Court of Appeals of Fifth Circuit.
Right of review, etc.

“Cases pending in the said Circuit Court of Appeals at the time of the passage of this Act shall not be affected hereby, but the same shall be disposed of as though this Act had not been enacted.” Appellate jurisdiction.
Procedure.
Pending cases not affected.

“That it shall not be necessary in the district court to exercise separately the law and equity jurisdiction vested in said court.” Equity and law jurisdiction.

Approved, February 16, 1933.

[CHAPTER 92.]

AN ACT

February 16, 1933.
[H. R. 7518.]
[Public, No. 358.]

To amend an Act entitled "An Act extending certain privileges of canal employees to other officials on the Canal Zone and authorizing the President to make rules and regulations affecting health, sanitation, quarantine, taxation, public roads, self-propelled vehicles, and police powers on the Canal Zone, and for other purposes, including provision as to certain fees, money orders, and interest deposits," approved August 21, 1916.

Canal Zone.
Sanitation, etc., regu-
lations, amended.
Vol. 39, p. 527,
amended.
U. S. C., p. 1639.

Proviso.
President may au-
thorize local board of
health to issue healing-
art licenses.

Conditions of issue or
revocation.
Punishment for vio-
lating regulations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act approved August 21, 1916 (ch. 371, 39 Stat. 527), is hereby amended to read as follows: "That, until otherwise provided by Congress, the President is authorized to make rules and regulations in matters of sanitation, health, and quarantine for the Canal Zone or to modify or change existing rules and regulations and those hereafter made from time to time: *Provided,* That the President, under such regulations as he may prescribe, may authorize the Board of Health of the Canal Zone to issue licenses to practice the healing art, which regulations shall include conditions under which such licenses shall be issued and include provisions for revocation for cause of licenses issued. Violations of any quarantine regulations provided for herein shall be punished by fine not to exceed \$500 or by imprisonment in jail not to exceed ninety days, or by both such fine and imprisonment, in the discretion of the court; and a violation of any sanitary or health regulation authorized hereunder shall be punished by a fine not to exceed \$25 or by imprisonment in jail not to exceed thirty days, or by both such fine and imprisonment, in the discretion of the court. Each day such violation may continue shall constitute a separate offense."

Approved, February 16, 1933.

[CHAPTER 93.]

AN ACT

February 16, 1933.
[H. R. 13770.]
[Public, No. 359.]

To authorize an appropriation to carry out the provisions of the Act of May 3, 1928 (45 Stat. L. 484).

Sioux Indians.
Payment authorized
to certain members
against tribal funds.

Vol. 45, p. 484.

Proviso.
Attorneys' services.

Limitation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated out of any money in the Treasury of the United States of America not otherwise appropriated, \$19,357 to pay certain individual enrolled Indians under the Pine Ridge, Standing Rock, Cheyenne River, and Rosebud Sioux Agencies, in full settlement of such claims against the Government, the amounts which they have been awarded by the Secretary of the Interior under the Act of Congress of May 3, 1928 (45 Stat. 484): *Provided,* That the Secretary of the Interior is authorized and directed to determine what attorney or attorneys have rendered services of value in behalf of said Indians and to pay such attorney or attorneys on such findings when appropriation is available the reasonable value of such services, not to exceed 10 per centum of the recovery on any individual claim, which payment shall be in full settlement for all services rendered by such attorney or attorneys to said claimants.

Approved, February 16, 1933.

[CHAPTER 94.]

JOINT RESOLUTION

To amend the joint resolution entitled "Joint resolution to authorize the merger of street-railway corporations operating in the District of Columbia, and for other purposes," approved January 14, 1933.

February 16, 1933.
[S. J. Res. 248.]
[Pub. Res., No. 54.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph "Second" of the preamble of the joint resolution entitled "Joint resolution to authorize the merger of street-railway corporations operating in the District of Columbia, and for other purposes," approved January 14, 1933, is hereby amended to read as follows:

Merger of street rail-
ways, D. C.
Correction of text.
Ante, p. 753.

"Second. The New Company shall be incorporated under the provisions of Subchapter IV of Chapter XVIII of the Code of Law of the District of Columbia and pursuant to an Act of Congress entitled 'An Act to permit the merger of street-railway corporations operating in the District of Columbia, and for other purposes,' approved March 4, 1925, with power subject to the approval of the Public Utilities Commission to acquire, construct, own, and operate directly transit properties within the District of Columbia and either directly or through subsidiaries in adjacent States, including the power to acquire, own, and operate the properties to be conveyed to the New Company in accordance with this agreement, and to acquire and own the stock and/or bonds of said companies and of any other company or companies engaged in the transportation of passengers by street railway or bus in the District of Columbia and adjacent States with the power to mortgage its property, rights, and franchises, and to conduct such other activities as may be useful or necessary in connection with or incident to the foregoing purposes, including the power to buy, sell, hold, own, and convey real estate within and without the District of Columbia. Said New Company when incorporated shall become and remain subject in all respects to regulation by the Public Utilities Commission of the District of Columbia or its successors to the extent of the jurisdiction now or hereafter vested in it or them by law over corporations engaged in the transportation of passengers by street railway or bus within the District of Columbia: *Provided*, That before they are recorded, the articles of incorporation and/or any amendments thereto shall be approved by the Public Utilities Commission."

Ownership, etc., lim-
itations, added.

SEC. 2. That Congress hereby expressly reserves the right to alter, amend, or repeal this resolution.

Amendment, etc.

Approved, February 16, 1933.

[CHAPTER 97.]

AN ACT

Repealing certain provisions of the Act of June 21, 1906, as amended, relating to the sale and encumbrance of lands of Kickapoo and affiliated Indians of Oklahoma.

February 17, 1933.
[S. 4339.]
[Public, No. 360.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the paragraph relating to the sale and encumbrance of lands of the Kickapoo and affiliated Indians under the heading "Kickapoo" (34 Stat. L. 363) in the Act entitled "An Act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for

Kickapoo, etc., In-
dians of Oklahoma.

Paragraph relating to
sale, etc., of lands, re-
pealed.
Vol. 34, p. 363, re-
pealed.

other purposes, for the fiscal year ending June 30, 1907," approved June 21, 1906, as amended, is hereby repealed.

Restrictions on present Indian holdings reimposed for ten years.

Provisos.
Valid encumbrances not affected.

Discretionary extension of period.

SEC. 2. All restrictions upon said lands, which were removed by operation of said Act are hereby reimposed for a period of ten years from the date of the approval of this Act on all of such lands as are still held or owned by the Indians: *Provided, however,* That valid encumbrances now resting against any of said lands shall not in any manner be affected by the provisions of this Act, but any of such lands so encumbered, if still owned by the Indians, shall, when such encumbrances have been removed, become subject to the provisions of this Act as fully and to the same extent as if such lands were now unencumbered: *Provided further,* That the President may, in his discretion, in accordance with existing law, further extend the period of restriction herein provided for.

Approved, February 17, 1933.

[CHAPTER 98.]

AN ACT

February 17, 1933.
[H. R. 13710.]
[Public, No. 361.]

Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1934, and for other purposes.

Interior Department appropriations, fiscal year 1934.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior for the fiscal year ending June 30, 1934, namely:

Secretary's office.

OFFICE OF THE SECRETARY

SALARIES

Secretary, Assistants, and office personnel.

Provisos.
Salaries restricted to average rates under Classification Acts.
Vol. 42, p. 1488; Vol. 45, p. 776; Vol. 46, p. 1003.
U. S. C., p. 66; Supp. VI, p. 31.

Salaries: For the Secretary of the Interior, First Assistant Secretary, Assistant Secretary, and other personal services in the District of Columbia, \$372,420: *Provided,* That in expending appropriations or portions of appropriations, contained in this Act, for the payment for personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, with the exception of the First Assistant Secretary and the Assistant Secretary the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriation unit shall not at any time exceed the average of the compensation rates specified for the grade by such Act, as amended: *Provided,* That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed, as of July 1, 1924, in accordance with the rules of section 6 of such act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade in the same or a different bureau, office, or other appropriation unit, (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923, as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated.

Restriction not applicable to clerical-mechanical service.

No reduction in fixed salaries.
Vol. 42, p. 1490;
U. S. C., p. 66.
Transfer without reduction.

Payments under higher rates permitted.

If only one position in a grade.

Solicitor's office.

OFFICE OF SOLICITOR

Office personnel.

For personal services in the District of Columbia, \$99,920.

CONTINGENT EXPENSES, DEPARTMENT OF THE INTERIOR

For contingent expenses of the office of the Secretary and the bureaus and offices of the department; furniture, carpets, ice, lumber, hardware, dry goods, advertising, telegraphing, telephone service, including personal services of temporary or emergency telephone operators; street-car fares for use of messengers not exceeding \$150; expressage, diagrams, awnings, filing devices, typewriters, adding and addressing machines and other labor-saving devices, including the repair, exchange, and maintenance thereof; constructing model and other cases and furniture; postage stamps to prepay postage on foreign mail and for special-delivery and air mail stamps for use in the United States; traveling expenses, including necessary expenses of inspectors; fuel and light; examination of estimates for appropriations in the field for any bureau, office, or service of the department; not exceeding \$500 shall be available for the payment of damages caused to private property by department motor vehicles; purchase and exchange of motor trucks, motor cycles, and bicycles, maintenance, repair, and operation of two motor-propelled passenger-carrying vehicles and motor trucks, motor cycles, and bicycles to be used only for official purposes; rent of department garage; expense of taking testimony and preparing the same in connection with disbarment proceedings instituted against persons charged with improper practices before the department, its bureaus and offices; expense of translations, and not exceeding \$1,000 for contract stenographic reporting services; not exceeding \$700 for newspapers; stationery, including tags, labels, index cards, cloth-lined wrappers, and specimen bags, printed in the course of manufacture, and such printed envelopes as are not supplied under contracts made by the Postmaster General, for the department and its several bureaus and offices, and other absolutely necessary expenses not hereinbefore provided for, \$85,000; and, in addition thereto, sums amounting to \$34,000 for stationery supplies shall be deducted from other appropriations made for the fiscal year 1934, as follows: General Land Office, \$4,500; Geological Survey, \$5,500; Freedman's Hospital, \$1,000; Saint Elizabeths Hospital, \$2,900; National Park Service, \$8,100; Bureau of Reclamation, \$12,000, any unexpended portion of which shall revert and be credited to the reclamation fund; and said sums so deducted shall be credited to and constitute, together with the first-named sum of \$85,000, the total appropriation for contingent expenses for the department and its several bureaus and offices for the fiscal year 1934.

For the purchase or exchange of professional and scientific books, law and medical books, and books to complete broken sets, periodicals, directories, and other books of reference relating to the business of the department, \$500, and in addition there is hereby made available from any appropriations made for any bureau or office of the department not to exceed the following respective sums: Indian Service, \$500; Office of Education, \$1,800; Bureau of Reclamation, \$2,000; Geological Survey, \$3,000; National Park Service, \$1,500; General Land Office, \$500.

PRINTING AND BINDING

For printing and binding for the Department of the Interior, including all of its bureaus, offices, institutions, and services in the District of Columbia and elsewhere, except the Alaska Railroad, the Geological Survey, and the Bureau of Reclamation, \$135,000, of which \$35,000 shall be for the National Park Service, and \$40,000

Department contin-
gent expenses.

Traveling expenses.

Property damages,
Vehicles.Disbarment ex-
penses.

Stationery, etc.

Additional, from
specified appropria-
tions.Books, periodicals,
etc.

Office allotments.

Printing and bind-
ing.For Department, bu-
reaus, etc.

for the Office of Education, no part of which shall be available for correspondence instruction.

EXPENSES OF INDIAN COMMISSIONERS

Indian Commissioners, etc. For expenses of the Board of Indian Commissioners, \$11,430, of which amount not to exceed \$6,330 may be expended for personal services in the District of Columbia.

General Land Office.

GENERAL LAND OFFICE

SALARIES

Commissioner, and office personnel. For Commissioner of the General Land Office and other personal services in the District of Columbia, \$600,000, including one clerk of grade 1, clerical, administrative, and fiscal service, who shall be designated by the President, to sign land patents.

General expenses, public lands.

GENERAL EXPENSES

Traveling expenses, maps, etc.

For traveling expenses of officers and employees, including employment of stenographers and other assistants when necessary; for separate maps of public-land States and Alaska, including maps showing areas designated by the Secretary of the Interior under the enlarged homestead Acts, prepared by the General Land Office; for the reproduction by photolithography or otherwise official plats of surveys; for expenses of restoration to the public domain of lands in forest reserves and of lands temporarily withdrawn for forest-reserve purposes; and for expenses of hearings or other proceedings held by order of the General Land Office to determine the character of lands, whether alleged fraudulent entries are of that character or have been made in compliance with the law, and of hearings in disbarment proceedings, \$23,000.

Restoring lands in national forests, etc.

Hearings, etc.

Surveying.

Surveying public lands: For surveys and resurveys of public lands, examination of surveys heretofore made and reported to be defective or fraudulent, inspecting mineral deposits, coal fields, and timber districts, making fragmentary surveys, and such other surveys or examinations as may be required for identification of lands for purposes of evidence in any suit or proceeding in behalf of the United States, under the supervision of the Commissioner of the General Land Office and direction of the Secretary of the Interior, \$500,000, including not to exceed \$5,000 for the purchase, exchange, operation, and maintenance of motor-propelled passenger-carrying vehicles: *Provided*, That not to exceed \$5,000 of this appropriation may be expended for salaries of employees of the field surveying service temporarily detailed to the General Land Office: *Provided further*, That not to exceed \$10,000 of this appropriation may be used for the survey, classification, and sale of the lands and timber of the so-called Oregon and California Railroad lands and the Coos Bay Wagon Road lands: *Provided further*, That no part of this appropriation shall be available for surveys or resurveys of public lands in any State which, under the Act of August 18, 1894 (U. S. C., title 43, sec. 863), advances money to the United States for such purposes for expenditure during the fiscal year 1934: *Provided further*, That this appropriation may be expended for surveys made under the supervision of the Commissioner of the General Land Office, but when expended for surveys that would not otherwise be chargeable hereto it shall be reimbursed from the applicable appropriation, fund, or special deposit.

Vehicles.

Provisos. Detailed field employees.

Oregon and California Railroad and Coos Bay Wagon Road lands.

Not available for surveys in States advancing money therefor.

Vol. 28, p. 394; U. S. C., p. 1358.

Applicable for other surveys; reimbursable.

Registers: For salaries and commissions of registers of district land offices, \$68,750.

Registers.

Contingent expenses of land offices: For clerk hire, rent, and other incidental expenses of the district land offices, including the expenses of depositing public money; traveling expenses of clerks detailed to examine the books and management of district land offices and to assist in the operation of said offices, and for traveling expenses of clerks transferred in the interest of the public service from one district land office to another, \$150,000: *Provided*, That no expenses chargeable to the Government shall be incurred by registers in the conduct of local land offices except upon previous specific authorization by the Commissioner of the General Land Office.

Contingent expenses.

Proviso.
Previous authorization of expenses required.

Depredations on public timber, protecting public lands, and settlement of claims for swamp land and swamp-land indemnity: For protecting timber on the public lands, and for the more efficient execution of the law and rules relating to the cutting thereof; protecting public lands from illegal and fraudulent entry or appropriation, adjusting claims for swamp lands and indemnity for swamp lands; and traveling expenses of agents and others employed hereunder, \$400,000, including not exceeding \$30,000 for the purchase, exchange, operation, and maintenance of motor-propelled passenger-carrying vehicles and motor boats for the use of agents and others employed in the field service and including \$60,000 for prevention and fighting of forest and other fires on the public lands, to be available for this and no other purpose, and to be expended under the direction of the commissioner.

Timber depredations, protecting public lands, etc.

Swamp lands, indemnity.

Fighting forest fires.

Opening Indian reservations (reimbursable): For expenses pertaining to the opening to entry and settlement of such Indian reservation lands as may be opened during the fiscal year 1934, \$300: *Provided*, That the expenses pertaining to the opening of each of said reservations and paid for out of this appropriation shall be reimbursed to the United States from the money received from the sale of the lands embraced in said reservations, respectively.

Indian reservations.
Opening, to entry.

Proviso.
Reimbursement.

BUREAU OF INDIAN AFFAIRS

Indian Affairs Bureau.

SALARIES

For the Commissioner of Indian Affairs and other personal services in the District of Columbia, \$356,000.

Commissioner, and office personnel.

GENERAL EXPENSES

General expenses.

For transportation and incidental expenses of officers and clerks of the Bureau of Indian Affairs when traveling on official duty; for telegraph and telephone toll messages on business pertaining to the Indian Service sent and received by the Bureau of Indian Affairs at Washington, and for other necessary expenses of the Indian Service for which no other appropriation is available, \$20,000.

Transportation, etc.

For expenses necessary to the purchase of goods and supplies for the Indian Service, including inspection, pay of necessary employees, and all other expenses connected therewith, including advertising, storage, and transportation of Indian goods and supplies, \$650,000: *Provided*, That no part of this appropriation shall be used in payment for any services except bill therefor is rendered within one year from the time the service is performed.

Supplies.
Purchase, transportation, etc.

Proviso.
Limitation on payments.

For salaries, traveling and incidental expenses of field representatives of the Commissioner of Indian Affairs, \$19,000.

Field representatives.

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| Judges. | For pay of judges of Indian courts where tribal relations now exist, at rates to be fixed by the Commissioner of Indian Affairs, \$15,000. |
| Police. | For pay of Indian police, including chiefs of police at not to exceed \$70 per month each and privates at not to exceed \$50 per month each, to be employed in maintaining order, and for purchase of equipments and supplies, \$150,000. |
| Suppressing liquor, etc., traffic. | For the suppression of the traffic in intoxicating liquors and deleterious drugs, including peyote, among Indians, \$95,300. |
| Agency buildings. Lease, purchase, repairs, etc. | For lease, purchase, repair, and improvement of agency buildings, exclusive of hospital buildings, including the purchase of necessary lands and the installation, repair, and improvement of heating, lighting, power, and sewerage and water systems in connection therewith, \$164,260; for construction of physical improvements, exclusive of hospitals, \$55,000; in all, \$219,260: <i>Provided</i> , That not more than \$7,500 shall be expended for new construction at any one agency, except as follows: Northern Navajo, New Mexico, flood protection, \$42,000, to be immediately available; Zuni, New Mexico, improving water supply, \$8,800, to be immediately available. |
| <i>Proviso.</i> Limitation on new construction. Exceptions. | |
| Vehicles. Maintenance, etc. | Vehicles, Indian Service: Not to exceed \$230,000 of applicable appropriations made herein for the Bureau of Indian Affairs shall be available for the maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles for the use of employees in the Indian field service, including the transportation of Indian school pupils: <i>Provided</i> , That not to exceed \$115,000 may be used for the purchase and exchange of motor-propelled passenger-carrying vehicles, and that such vehicles shall be used only for official service, including the transportation of Indian school pupils. |
| Transporting Indian pupils. <i>Proviso.</i> Purchases limited. | |
| Emergency allowance by diversions from specified appropriations. | Replacement of property destroyed by fire, flood, or storm: That to meet possible emergencies not exceeding \$75,000 of the appropriations made by this Act for support of reservation and nonreservation schools, for school and agency buildings, and for conservation of health among Indians shall be available, upon approval of the Secretary of the Interior, for replacing any buildings, equipment, supplies, livestock, or other property of those activities of the Indian Service above referred to which may be destroyed or rendered unserviceable by fire, flood, or storm: <i>Provided</i> , That the limitations for new construction contained in the appropriations for Indian school, agency, and hospital buildings shall not apply to such emergency expenditures: <i>Provided further</i> , That any diversions of appropriations made hereunder shall be reported to Congress in the annual Budget. |
| <i>Provisos.</i> Building construction limited. | |
| Report to Congress. | |
| Attendance at meetings. | Authorization for attending health and educational meetings: Not to exceed \$7,000 shall be available from applicable funds for expenses (not membership fees) of employees of the Indian Service when authorized by the Secretary of the Interior to attend meetings of medical, health, educational, agricultural, forestry, engineering, and industrial associations in the interest of work among the Indians. |

Probate matters.

EXPENSES IN PROBATE MATTERS

Determining heirs of allottees.

For the purpose of determining the heirs of deceased Indian allottees having right, title, or interest in any trust or restricted property, under regulations prescribed by the Secretary of the Interior, \$60,000, reimbursable as provided by existing law, of which \$12,000 shall be available for personal services in the District of Columbia: *Provided*, That the provisions of this paragraph shall not apply to the Osage Indians nor to the Five Civilized Tribes of Oklahoma.

Services in the District. *Proviso.* Tribes excepted.

For salaries and expenses of such attorneys and other employees as the Secretary of the Interior may, in his discretion, deem necessary in probate matters affecting restricted allottees or their heirs in the Five Civilized Tribes and in the several tribes of the Quapaw Agency, and for the costs and other necessary expenses incident to suits instituted or conducted by such attorneys, \$30,000: *Provided*, That no part of this appropriation shall be available for the payment of (with the exception of attorneys) employees unless appointed after a competitive examination by the Civil Service Commission and from an eligible list furnished by such commission.

Five Civilized Tribes and Quapaws. Attorneys, etc., for.

Proviso. Restricted to civil-service eligibles.

INDIAN LANDS

Indian lands.

For the survey, resurvey, classification, and allotment of lands in severalty under the provisions of the Act entitled "An Act to provide for the allotment of lands in severalty to Indians," approved February 8, 1887 (U. S. C., title 25, sec. 331), and under any other Act or Acts providing for the survey or allotment of Indian lands, \$20,000: *Provided*, That no part of said sum shall be used for the survey, resurvey, classification, or allotment of any land in severalty on the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona, who was not residing upon the public domain prior to June 30, 1914.

Surveying, allotting in severalty, etc. Vol. 24, p. 338. U. S. C., p. 711.

Proviso. Use in New Mexico and Arizona limited.

For carrying out the provisions of section 13 of the Act entitled "An Act to quiet the title to lands within Pueblo Indian land grants, and for other purposes," approved June 7, 1924 (43 Stat., p. 636), \$10,000, together with the unexpended balance of the appropriation for this purpose for the fiscal year 1933.

Pueblo Board, expenses. Vol. 43, p. 640. *Ante*, p. 96.

For the payment of newspaper advertisements and printing locally of posters of sales of Indian lands, \$500, reimbursable from payments by purchasers of costs of sale, under such rules and regulations as the Secretary of the Interior may prescribe.

Advertising land sales.

For the pay of one special attorney for the Pueblo Indians of New Mexico, to be designated by the Secretary of the Interior, and for necessary traveling expenses of said attorney, \$3,440.

Pueblo Indians, N. Mex. Attorney for.

Purchase of land and water rights, and so forth, Pueblo Indians, New Mexico (tribal funds): For the purchase of additional land and water rights, development of water for irrigation and domestic use, purchase of equipment for industrial advancement of direct benefit to the several pueblos involved, as follows:

Additional land and water rights, etc.

Cochiti, \$10,630.56; Nambe, \$24,767.03; Pecos, \$28,145; Picuris, \$52,574.09; Sandia, \$3,823.35; San Felipe, \$9,805.53; San Ildefonso, \$22,627.91; San Juan, \$4,485.54; Santa Ana, \$3,695.69; Santa Clara, \$112,976.74; Santo Domingo, \$13,911; Taos, \$27,631.85; Tesuque, \$426.23; in all, \$315,500.52, payable from funds held in trust by the United States for said pueblos: *Provided*, That the unexpended balances of appropriations heretofore made, from the trust funds of the several pueblos, for the purchase of land and water rights, and fencing, irrigating, and improving lands, are hereby continued available for the same purposes until June 30, 1934.

Payment to designated pueblos.

Payable from trust funds.

Proviso. Balance available.

Public Laws, 1st sess., p. 96.

Purchase of land for Navajo Indians (tribal funds): For purchase, or lease pending purchase, of additional land and water rights for the use and benefit of Indians of the Navajo Tribe as authorized to be acquired by the Act of May 29, 1928 (45 Stat., p. 899), the unexpended balances of the appropriations available for this purpose for the fiscal year 1933 are hereby continued available for the same purpose and subject to the same conditions and provisions until June 30, 1934: *Provided*, That title to all such lands so purchased shall be taken in the name of the United States in trust for the Navajo Tribe,

Navajo Indians. Additional land and water rights.

Vol. 45, pp. 899, 1569.

Balance available. *Ante*, p. 96.

Proviso. Title for surface only.

and in purchasing such lands title may be taken, in the discretion of the Secretary of the Interior, for the surface only.

Loyal Shawnee Indians, Okla.
Paying award to, under treaty obligations.
Vol. 15, p. 516; Vol. 45, p. 1550.
Vol. 46, p. 105.
Ante, p. 96.

The unexpended balance of the appropriation of \$109,746.25 contained in the First Deficiency Act, fiscal year 1930, for payment to the loyal Shawnee Indians in settlement of their claim arising under the twelfth article of the treaty with said Indians proclaimed October 14, 1868 (15 Stat., p. 513), as authorized by and in accordance with the Act of March 4, 1929, and continued available until June 30, 1933, is hereby continued available until June 30, 1934.

Kiowa, etc., Okla.
Payment to, from royalty funds.

Payment to Kiowa, Comanche, and Apache Indians, Oklahoma (tribal funds): For payment to the Kiowa, Comanche, and Apache Indians, of Oklahoma, under such rules and regulations as the Secretary of the Interior may prescribe, \$75,000, from the tribal trust fund established by joint resolution of Congress, approved June 12, 1926 (44 Stat., p. 740), being a part of the Indians' share of the money derived from the south half of the Red River in Oklahoma: *Provided*, That said sum herein made available shall be paid out in two equal installments—one during the month of October and one during the month of March.

Vol. 44, p. 740.

Proviso.
Payable in two installments.

INDUSTRIAL ASSISTANCE AND ADVANCEMENT

Industrial assistance and advancement.

Timber preservation, etc.

For the preservation of timber on Indian reservations and allotments other than the Menominee Indian Reservation in Wisconsin, the education of Indians in the proper care of forests, and the general administration of forestry and grazing work, including fire prevention and payment of reasonable rewards for information leading to arrest and conviction of a person or persons setting forest fires in contravention of law on Indian lands, \$197,000: *Provided*, That this appropriation shall be available for the expenses of administration of Indian forest lands from which timber is sold to the extent only that proceeds from the sales of timber from such lands are insufficient for that purpose.

Proviso.
Administration of forest lands, from timber sales, etc.

Timber sales, etc., expenses.

For expenses incidental to the sale of timber, and for the expenses of administration, including fire prevention, of Indian forest lands from which such timber is sold to the extent that the proceeds of such sales are sufficient for that purpose, \$108,521.67, reimbursable to the United States as provided in the Act of February 14, 1920 (U. S. C., title 25, sec. 413): *Provided*, That this appropriation shall be available for the payment of reasonable rewards for information leading to arrest and conviction of a person or persons setting forest fires in contravention of law.

Reimbursable.
Vol. 41, p. 415.
U. S. C., p. 720.

Proviso.
Rewards for information.

Klamath Reservation, Ore.
Forest insect control.

Insect control work, Klamath Indian Reservation, Oregon (tribal funds): For continuation of forest insect control work on the Klamath Indian Reservation in Oregon, \$20,000, payable from funds on deposit in the Treasury to the credit of the Klamath Indians.

Emergency forest-fire suppression.

For the suppression or emergency prevention of forest fires on or threatening Indian reservations, \$40,000, together with \$25,000 from funds held by the United States in trust for the respective tribes of Indians interested: *Provided*, That not to exceed \$50,000 of appropriations herein made for timber operations and for support and administration purposes may be transferred, upon the approval of the Secretary of the Interior, for fire suppression or emergency prevention purposes, and allotments of funds so transferred shall be made by the Secretary of the Interior only after the obligation for the expenditure has been incurred: *Provided further*, That any diversions of appropriations made hereunder shall be reported to Congress in the annual Budget.

Provisos.
Additional sums available.

Limitation.
Report to Congress.

For transfer to the Geological Survey for expenditures to be made in inspecting mines and examining mineral deposits on Indian lands and in supervising mining operations on restricted, tribal, and allotted Indian lands leased under the provisions of the Acts of February 28, 1891 (26 Stat., p. 795), May 27, 1908 (35 Stat., p. 312), March 3, 1909 (U. S. C., title 25, sec. 396), and other Acts authorizing the leasing of such lands for mining purposes, \$60,000.

For the purpose of obtaining remunerative employment for Indians, \$21,160, and \$30,000 of the unexpended balance for this purpose for the fiscal year 1933 is continued available for the same purpose for the fiscal year 1934.

For the purpose of developing agriculture and stock raising among the Indians, including necessary personnel, traveling and other expenses, and purchase of supplies and equipment, \$355,000, of which not to exceed \$15,000 may be used to conduct agricultural experiments and demonstrations on Indian school or agency farms and to maintain a supply of suitable plants or seed for issue to Indians.

For the purpose of encouraging industry and self-support among the Indians and to aid them in the culture of fruits, grains, and other crops, \$449,200, which sum may be used for the purchase of seeds, animals, machinery, tools, implements, and other equipment necessary, and for advances to Indians having irrigable allotments to assist them in the development and cultivation thereof, in the discretion of the Secretary of the Interior, to enable Indians to become self-supporting: *Provided*, That the expenditures for the purposes above set forth shall be under conditions to be prescribed by the Secretary of the Interior for repayment to the United States on or before June 30, 1939, except in the case of loans on irrigable lands for permanent improvement of said lands, in which the period for repayment may run for not exceeding twenty years, in the discretion of the Secretary of the Interior: *Provided further*, That \$150,000 shall be immediately available for expenditures for the benefit of the Pima Indians, and not to exceed \$25,000 of the amount herein appropriated shall be expended on any other one reservation or for the benefit of any other one tribe of Indians: *Provided further*, That no part of this appropriation shall be used for the purchase of tribal herds: *Provided further*, That the Secretary of the Interior is hereby authorized, in his discretion and under such rules and regulations as he may prescribe, to make advances from this appropriation to old, disabled, or indigent Indian allottees, for their support, to remain a charge and lien against their lands until paid: *Provided further*, That advances may be made to worthy Indian youths to enable them to take educational courses, including courses in nursing, home economics, forestry, and other industrial subjects in colleges, universities, or other institutions, and advances so made shall be reimbursed in not to exceed eight years, under such rules and regulations as the Secretary of the Interior may prescribe.

Industrial assistance (tribal funds): For the construction of homes for individual members of the tribes; the purchase for sale to them of seed, animals, machinery, tools, implements, building material, and other equipment and supplies; and for advances to old, disabled, or indigent Indians for their support, and Indians having irrigable allotments to assist them in the development and cultivation thereof, the unexpended balances of the appropriations under this head contained in the Interior Department Appropriation Act for the fiscal year 1933, and the Act of June 27, 1932 (47 Stat., p. 335), are hereby continued available during the fiscal year 1934

Geological Survey.
Supervising mining operation.

Vol. 26, p. 795; Vol. 35, pp. 312, 444, 783.
U. S. C., p. 717.

Employment for Indians.
Balance available.
Ante, p. 98.

Developing agriculture and stock raising.

Agricultural experiments on farms.

Encouraging industry, etc., among Indians.

Proviso.
Repayment.

Pima Indians, Ariz.

Purchase of tribal herds.

Advances to old, etc., allottees.

Education of Indian youths.

Repayment.

Industrial assistance.
Construction of homes, purchase of equipment, etc.

Advances to old, etc., Indians.

Balances available.
Ante, pp. 98, 335.

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| From tribal funds. | together with the following amounts payable from tribal funds on deposit in the Treasury: San Carlos, Arizona, \$50,000; Kiowa, Comanche, and Apache, Oklahoma, \$75,000; Klamath, Oregon, \$3,000; Truxton Canyon, Arizona, \$15,000; in all \$143,000: <i>Provided</i> , That the expenditures for the purposes above set forth shall be under conditions to be prescribed by the Secretary of the Interior for repayment to the United States on or before June 30, 1939, except in the case of loans on irrigable lands for permanent improvement of said lands in which the period for repayment may run for not exceeding twenty years, in the discretion of the Secretary of the Interior, and advances to old, disabled, or indigent Indians for their support, which shall remain a charge and lien against their land until paid: <i>Provided further</i> , That advances may be made to worthy Indian youths to enable them to take educational courses, including courses in nursing, home economics, forestry, and other industrial subjects in colleges, universities, or other institutions, and advances so made shall be reimbursed in not to exceed eight years, under such rules and regulations as the Secretary of the Interior may prescribe: <i>Provided further</i> , That all moneys reimbursed during the fiscal year 1934 shall be credited to the respective appropriations and be available for the purposes of this paragraph. |
| <i>Provisos.</i> Conditions for re- payment. | |
| Loans on irrigable lands. | |
| Reimbursement of advances to youths for educational courses. | |
| Credits and availa- bility. | |
| Livestock infected with dourine. Reimbursement for animals destroyed. | For reimbursing Indians for livestock destroyed on account of being infected with dourine, and for expenses in connection with the work of eradicating and preventing dourine in livestock of Indians, to be expended under such rules and regulations as the Secretary of the Interior may prescribe, \$3,000. |
| Scabies in sheep and goats. Eradication, etc. | For assisting Indians in the eradication of scabies in their sheep and goats, \$5,000, which amount may be transferred by the Secretary of the Interior, with the approval of the Secretary of Agriculture, to the Bureau of Animal Industry for direct expenditure. |

Water supply.

DEVELOPMENT OF WATER SUPPLY

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| Developing, conserv- ing, etc. | Developing water supply: For improving springs, drilling wells, and otherwise developing and conserving water for Indian use, including the purchase, construction, and installation of pumping machinery, tanks, troughs, and other necessary equipment, for operation and maintenance thereof, and for necessary investigations and surveys for the purpose of increasing the available grazing range on unallotted lands on Indian reservations; for the Navajo and Hopi Indians in Arizona and New Mexico, the Papago Indians in Arizona, and the Pueblo Indian lands in New Mexico, \$87,300. |
| Increasing grazing range. | |
| Improving, from tribal funds. | Water supply for Indian use and increasing grazing range on unallotted Indian land (tribal funds): For improving springs, drilling wells, and otherwise developing and conserving water for Indian use, including the purchase, construction, and installation of pumping machinery, tanks, troughs, and other necessary equipment, for operation and maintenance thereof, and for necessary investigations and surveys for the purpose of increasing the available grazing range on unallotted lands on Indian reservations: For the Mescalero Reservation, New Mexico, \$5,000; for the Ute Mountain Reservation, Colorado, \$3,000; for the Jicarilla Reservation, New Mexico, \$6,000; for the Truxton Canyon Reservation, Arizona, \$3,000; in all, \$17,000; to be paid from funds held in trust for said tribes of Indians, respectively, by the United States. |
| Reservations desig- nated. | |
| From tribal funds. | |

IRRIGATION AND DRAINAGE

For the construction, repair, and maintenance of irrigation systems, and for purchase or rental of irrigation tools and appliances, water rights, ditches, and lands necessary for irrigation purposes for Indian reservations and allotments; for operation of irrigation systems or appurtenances thereto when no other funds are applicable or available for the purpose; for drainage and protection of irrigable lands from damage by floods or loss of water rights, upon the Indian irrigation projects named below, in not to exceed the following amounts, respectively:

Miscellaneous projects, \$13,000; Arizona: Ak Chin, \$5,700; Chiu Chui, \$3,800; Navajo and Hopi, miscellaneous projects, Arizona and New Mexico, \$7,500; Camp McDowell, \$5,000; California: Coachella Valley, \$1,925; Morongo, \$3,200; Pala and Rincon, \$1,950; Colorado: Southern Ute, \$15,250; Nevada: Walker River, \$8,750; Western Shoshone, \$5,000; New Mexico: Miscellaneous pueblos, \$4,900; Zuni, \$9,500; Washington: Colville, \$4,100;

For necessary miscellaneous expenses incident to the general administration of Indian irrigation projects, including pay of employees and their traveling and incidental expenses, \$76,225;

In all, for irrigation on Indian reservations, not to exceed \$161,500, reimbursable: *Provided*, That no part of this appropriation shall be expended on any irrigation system or reclamation project for which public funds are or may be otherwise available: *Provided further*, That the foregoing amounts appropriated for such purposes shall be available interchangeably, in the discretion of the Secretary of the Interior, for the necessary expenditures for damages by floods and other unforeseen exigencies, but the amount so interchanged shall not exceed in the aggregate 10 per centum of all the amounts so appropriated: *Provided further*, That the cost of irrigation projects and of operating and maintaining such projects where reimbursement thereof is required by law shall be apportioned on a per acre basis against the lands under the respective projects and shall be collected by the Secretary of the Interior as required by such law, and any unpaid charges outstanding against such lands shall constitute a first lien thereon which shall be recited in any patent or instrument issued for such lands.

For operation and maintenance, of the San Carlos project for the irrigation of lands in the Gila River Indian Reservation, and in the Casa Grande Valley, Arizona, including not more than \$5,000 for crop and improvement damages and not more than \$5,000 for purchases of rights of way, \$143,500; for continuing construction, \$77,100, including \$54,000 for purchase or construction of transmission and distribution lines; in all, \$220,600, reimbursable.

For improvement, operation, and maintenance of the pumping plants and irrigation system on the Colorado River Indian Reservation, Arizona, as provided in the Act of April 4, 1910 (36 Stat., p. 273), \$12,010, reimbursable.

For operation and maintenance of the Ganado irrigation project, Arizona, reimbursable, \$1,830.

Operation and maintenance, pumping plants, San Carlos Reservation, Arizona (tribal funds): For the operation and maintenance of pumping plants for the irrigation of lands on the San Carlos Reservation in Arizona, \$4,830, to be paid from the funds held by the United States in trust for the Indians of such reservation: *Provided*, That the sum so used shall be reimbursed to the tribe by the Indians benefited, under such rules and regulations as the Secretary of the Interior may prescribe.

Irrigation and drainage.

Construction, maintenance, etc.

Allotments.

Administration. Traveling, etc., expenses.

Reimbursable.

Provisos.
Use restricted.

Flood damage, etc., expenses interchangeable.

Limitation.

Apportionment of costs on per acre basis.

Unpaid charges a first lien on property.

San Carlos project, Ariz.
Operation, etc.Colorado River Reservation, Ariz.
Improvement, etc.
Vol. 36, p. 273.

Ganado project, Ariz.

Operation, etc.

San Carlos Reservation, Ariz.
Irrigating tribal lands.*Proviso.*
Reimbursable.

- Yuma Reservation, Ariz.-Calif. Reclamation, etc., charges. For reclamation and maintenance charges on Indian lands within the Yuma Reservation, California, and on ten acres within each of the eleven Yuma homestead entries in Arizona under the Yuma reclamation project, \$19,500, reimbursable.
- Fort Hall project, Idaho. Operation, etc. For improvements, maintenance, and operation of the Fort Hall irrigation system, Idaho, \$27,200.
- Damage claims. Vol. 46, p. 1061. For improvements to the Fort Hall irrigation project, Idaho, including payment of damage claims and purchase of rights of way, as authorized by and in accordance with the provisions of the Act of February 4, 1931 (46 Stat., p. 1061), the unexpended balance of the appropriation for this purpose contained in the Interior Department Appropriation Act for the fiscal year 1933 is continued available until June 30, 1934: *Provided*, That no part of this appropriation shall be available for expenditure until repayment contracts shall have been entered into in accordance with the provisions of the Act of February 4, 1931: *Provided further*, That no part of this appropriation shall be available for the extension of canals or ditches in connection with the Michaud Division.
- Balance available. *Ante*, p. 100.
- Provisos*. Repayment. Vol. 46, p. 1062.
- Michaud Division extension, excluded.
- Kootenai Indians, Idaho. Drainage, etc. Vol. 45, p. 938; Vol. 46, p. 1127. For the purpose of carrying out the provisions of the Act approved May 29, 1928 (45 Stat., p. 938), to provide reclamation of Kootenai Indian allotments in Idaho within the exterior boundaries of drainage districts that may be benefited by drainage works of such districts, the unexpended balance of the appropriation of \$114,000 contained in the Act of March 4, 1929 (45 Stat., p. 1574), and continued available until June 30, 1933, is hereby continued available until June 30, 1934.
- Fund available. Vol. 45, p. 1574. *Ante*, p. 101.
- Fort Belknap Reservation, Mont. Maintenance, etc. For maintenance and operation, repairs, purchase of stored waters, and continuation of construction of the irrigation systems on the Fort Belknap Reservation, in Montana, \$21,200, reimbursable.
- Fort Peck Reservation, Mont. Maintenance, etc., of projects. For maintenance and operation of the Little Porcupine Division, the Big Porcupine Division, and not exceeding four thousand acres under the West Side Canal of the Poplar River Division, Fort Peck project, Montana, \$5,650, reimbursable.
- Flathead Reservation, Mont. Maintenance, etc. Construction of designated projects. For operation and maintenance of the irrigation systems on the Flathead Indian Reservation, Montana, \$12,000; for completing Pablo Reservoir enlargement, \$35,000, to be immediately available; enlargement and improvement of Tabor feed canal, \$22,000; construction of Alder Creek and Lost Creek feed canals, \$12,000; purchase of water rights, Mission Creek, \$6,200; continuing construction of power distributing system, \$50,000; lateral systems betterment, \$20,000; miscellaneous engineering, surveys, and examinations, \$5,000; in all, not to exceed \$152,000, reimbursable: *Provided*, That the unexpended balance of the appropriation of \$55,000 contained in the Interior Department Appropriation Act, fiscal year 1932 (46 Stat., p. 1127), for purchase of sites for reservoirs, construction headquarters and administrative uses, is hereby made available for the same purpose until June 30, 1934: *Provided further*, That (with the consent of the irrigation districts on the Flathead irrigation project which have executed repayment contracts with the United States as required by law) the Secretary of the Interior may modify the terms of such contracts by requiring the operation and maintenance charges (not heretofore carried into construction costs and dealt with in the Act of March 7, 1928 (45 Stat., pp. 212-213)) to be paid over the same period of years and in like manner as the construction costs are to be paid under the terms of the public notice issued by such Secretary on November 1, 1930, as amended April 20, 1931: *Provided further*, That the first installment of such operation and maintenance charges shall be due and payable on the same date as the first
- Provisos*. Balance for reservoir sites, etc., continued available. Vol. 46, p. 1127.
- Operation and maintenance charges. Vol. 45, p. 212.
- Payment of first installment.

installment of construction charges is due and payable, where modifications of the contracts are made pursuant hereto.

For improvement, maintenance, and operation, of the irrigation systems, Blackfeet Reservation, Montana, \$28,120 (reimbursable).

Blackfeet Reserva-
tion, Mont.
Maintenance, etc.

Crow Reservation,
Mont.
Operating systems.

For improvement, maintenance, and operation of the irrigation systems on the Crow Reservation, Montana, including maintenance assessments payable to the Two Leggins Water Users' Association and Bozeman Trail Ditch Company, Montana, properly assessable against lands allotted to the Indians irrigable thereunder, \$17,880, reimbursable.

Reimbursement.

For operation and maintenance of the irrigation system on the Pyramid Lake Reservation, Nevada, \$3,750, reimbursable.

For payment of annual installment of reclamation charges against Paiute Indian lands within the Newlands reclamation project, Nevada, \$5,381; and for payment in advance, as provided by district law, of operation and maintenance assessments, including assessments for the operation of drains to the Truckee-Carson irrigation district, which district, under contract, is operating the Newlands reclamation project, \$10,443, to be immediately available; in all, \$15,824.

Pyramid Lake Res-
ervation, Nev.
Operation, etc.
Newlands project,
Nev.
Paying charges
against Paiute lands.

For improvement, operation, and maintenance of the irrigation system for the Laguna and Acoma Indians in New Mexico, \$15,770, reimbursable.

Laguna and Acoma
Indians, N. Mex.
Maintenance, etc.

For improvement, operation, and maintenance of the Hogback irrigation project on that part of the Navajo Reservation in New Mexico under the jurisdiction of the Northern Navajo Agency, \$11,350, reimbursable.

Hogback project, N.
Mex.
Maintenance, etc.

For repair of damage to irrigation systems resulting from flood and for flood protection of irrigable lands on the several pueblos in New Mexico, \$4,850.

Flood damages, New
Mexico pueblos.

For salaries and all other expenses of the Government engineer and assistants appointed in pursuance to contract executed December 14, 1928, by the Secretary of the Interior with the Middle Rio Grande Conservancy District, \$4,480, together with the unexpended balance of the appropriation for this purpose for the fiscal year 1933.

Middle Rio Grande
Conservancy District,
N. Mex., expenses.

Balance available.
Anie, p. 102.

Irrigation systems, Klamath Reservation, Oregon (tribal funds): For improvements, maintenance, and operation of miscellaneous irrigation projects on the Klamath Reservation, \$2,750, to be paid from the funds held by the United States in trust for the Klamath Indians in the State of Oregon, said sum, or such part thereof as may be used, to be reimbursed to the tribe under such rules and regulations as the Secretary of the Interior may prescribe.

Klamath Reserva-
tion, Oreg.
Maintenance of proj-
ects, from tribal funds.

Repayment.

Irrigation system, Uintah Reservation, Utah (tribal funds): For continuing operation and maintenance and betterment of the irrigation system to irrigate allotted lands of the Uncompahgre, Uintah, and White River Utes in Utah, authorized under the Act of June 21, 1906 (34 Stat., p. 375), \$22,370, to be paid from tribal funds held by the United States in trust for said Indians, said sum to be reimbursed to the tribal fund by the individuals benefited under such rules and regulations as may be prescribed by the Secretary of the Interior.

Uintah Reservation,
Utah.
Maintenance, etc.
Vol. 34, p. 375.

From tribal funds.

For operation and maintenance, including repairs, of the Toppenish-Simcoe irrigation unit, on the Yakima Reservation, Washington, reimbursable, \$900.

Yakima Reservation,
Wash.
Toppenish - Simcoe
unit.

For continuing construction of the Wapato irrigation and drainage system, for the utilization of the water supply provided by the Act of August 1, 1914 (38 Stat., p. 604), \$76,500, reimbursable.

Wapato project.
Construction.
Vol. 38, p. 604.

Yakima Reservation, Wash.
Water payments.
Vol. 38, p. 604.

For reimbursement to the reclamation fund the proportionate expense of operation and maintenance of the reservoirs for furnishing stored water to the lands in Yakima Indian Reservation, Washington, in accordance with the provisions of section 22 of the Act of August 1, 1914 (38 Stat., p. 604), \$11,000.

Lummi diking project, Wash.
Flood damagerepairs.
Wind River Reservation, Wyo.
Extension of irrigation to additional lands.

For repairing flood damage, Lummi diking project, Washington, \$8,000, to be immediately available and reimbursable.

For the extension of canals and laterals on the ceded portion of the Wind River Reservation, Wyoming, to provide for the irrigation of additional Indian lands, and for the Indians' pro rata share of the cost of the operation and maintenance of canals and laterals and for the Indians' pro rata share of the cost of the Big Bend drainage project on the ceded portion of that reservation, and for continuing the work of constructing an irrigation system within the diminished reservation, including the Big Wind River and Dry Creek Canals, and including the maintenance and operation of completed canals, \$45,000, reimbursable.

Big Bend project.

Big Wind River and Dry Creek Canals.

Expenditure under direction of Commissioner of Indian Affairs.

Appropriations herein for irrigation and drainage of Indian lands shall be available only for expenditure by and under the direction of the Commissioner of Indian Affairs, except for such engineering and economic studies and construction work as the Secretary of the Interior decides may be more advantageously performed by the Bureau of Reclamation.

Education.

EDUCATION

Support of schools.

For the support of Indian schools not otherwise provided for, and other educational and industrial purposes in connection therewith, including tuition for Indian pupils attending public schools, \$3,590,800: *Provided*, That not to exceed \$15,000 of this appropriation may be used for the support and education of deaf and dumb or blind, physically handicapped, or mentally deficient Indian children: *Provided further*, That \$4,500 of this appropriation may be used for the education and civilization of the Alabama and Coshatta Indians in Texas: *Provided further*, That not more than \$10,000 of the amount herein appropriated may be expended for the tuition of Indian pupils attending higher educational institutions, under such rules and regulations as the Secretary of the Interior may prescribe, but formal contracts shall not be required, for compliance with section 3744 of the Revised Statutes (U. S. C., title 41, sec. 16), for payment of tuition of Indian pupils attending public schools, higher educational institutions, or schools for the deaf and dumb, blind, physically handicapped, or mentally deficient: *And provided further*, That not to exceed \$10,000 of the amount herein appropriated shall be available for educating Indian youth in stock raising at the United States Range Livestock Experiment Station at Miles City, Montana.

Proviso.
Deaf and dumb, or blind.

Alabama and Coshattas.

Tuition of Indian children in public schools.

No formal contracts.
R. S., sec. 3744, p. 738.
U. S. C., p. 1310.

Education in stock raising.

Support of schools from tribal funds.
Vol. 44, p. 589.
U. S. C., Supp. VI, p. 380.

Red Lake, Minn., school.

Proviso.
New construction limited.

Five Civilized Tribes.

Support of Indian schools from tribal funds: For the support of Indian schools, and other educational and industrial purposes in connection therewith, other than among the Five Civilized Tribes, there shall be expended from Indian tribal funds and from school revenues arising under the Act of May 17, 1926 (U. S. C., Supp. V, title 25, sec 155a), not more than \$618,100, including not to exceed \$95,000 from trust funds of the Red Lake Indians for support of schools on the Red Lake Reservation: *Provided*, That not more than \$7,500 of the above authorization of \$618,100 shall be expended for new construction at any one school unless herein expressly authorized; for tuition and other educational purposes in the Choctaw Nation, \$40,000; for payment of tuition for Chippewa

Indian children enrolled in the public schools of the State of Minnesota, \$48,000, payable from the principal sum on deposit to the credit of the Chippewa Indians in the State of Minnesota arising under section 7 of the Act of January 14, 1889 (25 Stat., p. 645); in all, \$706,100.

Vol. 25, p. 645.

Education, Osage Nation, Oklahoma (tribal funds): For the education of unallotted Osage Indian children in the Saint Louis Mission Boarding School, Oklahoma, \$2,500, payable from funds held in trust by the United States for the Osage Tribe.

Saint Louis Boarding School, Okla.
Education of Osage children.

For subsistence of pupils retained in Government boarding schools of all classes during summer months, \$90,000.

Summer schools.
Subsistence, etc.

For collection and transportation of pupils to and from Indian and public schools, and for placing school pupils, with the consent of their parents, under the care and control of white families qualified to give them moral, industrial, and educational training, \$95,000.

School transportation, etc.

For lease, purchase, repair, and improvement of buildings at Indian schools not otherwise provided for, including the purchase of necessary lands and the installation, repair, and improvement of heating, lighting, power, and sewerage and water systems in connection therewith, \$272,600, for construction of physical improvements, \$192,000, to be immediately available; in all, \$464,600: *Provided*, That not more than \$7,500 out of this appropriation shall be expended for new construction at any one school or institution except for new construction authorized as follows: New Mexico: Northern Navajo, construction of heating and power systems, \$57,000; North Dakota: Turtle Mountain, improvement of water supply and sewer system, \$17,000; South Dakota: Pine Ridge, central heating plant, \$38,000.

School buildings.
Lease, repair, construction, etc.

Proviso.
New construction limited.

Exceptions.

For flood protection and drainage, Leupp Indian School and Agency, Arizona, \$29,500, to be immediately available.

Leupp School and Agency, Ariz.
Flood protection, etc.
Support, etc., of designated boarding schools.

For support and education of Indian pupils at the following non-reservation boarding schools in not to exceed the following amounts, respectively:

Phoenix, Arizona: For seven hundred and twenty-five pupils, including not to exceed \$1,500 for printing and issuing school paper, \$226,860; for pay of superintendent, drayage, and general repairs and improvements, \$27,620; in all, \$254,480;

Phoenix, Ariz.

Truxton Canyon, Arizona: For two hundred and fifteen pupils, \$62,380; for pay of superintendent, drayage, and general repairs and improvements, \$9,735; for employees' quarters, \$3,000; in all, \$75,115;

Truxton Canyon, Ariz.

Theodore Roosevelt Indian School, Fort Apache, Arizona: Four hundred pupils, \$115,930; for pay of superintendent, drayage, and general repairs and improvements, \$22,750; in all, \$138,680;

Theodore Roosevelt, Fort Apache, Ariz.

Sherman Institute, Riverside, California: For eight hundred pupils, including not to exceed \$1,000 for printing and issuing school paper, \$251,285; for pay of superintendent, drayage, and general repairs and improvements, \$19,615; in all, \$270,900;

Sherman Institute, Riverside, Calif.

Haskell Institute, Lawrence, Kansas: For nine hundred pupils, including not to exceed \$2,500 for printing and issuing school paper, \$282,885; for pay of superintendent, drayage, and general repairs and improvements, including necessary drainage work, \$29,615; in all, \$312,500: *Provided*, That the unexpended balance of the appropriation contained in the Interior Department Appropriation Act, fiscal year 1933, for shop building, including equipment, is hereby continued available until June 30, 1934;

Haskell Institute, Lawrence, Kans.

Proviso.
Balance for shop building continued available.
Anz., p. 105.

Mount Pleasant, Michigan: For three hundred and twenty-five pupils, \$97,850; for pay of superintendent, drayage, and general repairs and improvements, \$13,750; in all, \$111,600;

Mount Pleasant, Mich.

Pipestone, Minn.

Pipestone, Minnesota: For three hundred and twenty-five pupils, \$97,440; for pay of superintendent, drayage, and general repairs and improvements, \$17,740; for septic tank and sewer system, \$13,500, to be immediately available; in all, \$128,680: *Provided*, That the unexpended balance of the appropriation contained in the Second Deficiency Act, fiscal year 1932, for new school building and auditorium, including equipment, is hereby continued available for the same purpose until June 30, 1934;

Proviso.
Balance for school
building available.
Ante, p. 534.

Genoa, Nebr.

Genoa, Nebraska: For four hundred pupils, including not more than \$400 for printing and issuing school paper, \$124,600; for pay of superintendent, drayage, and general repairs and improvements, \$17,650; in all, \$142,250;

Carson City, Nev.

Carson City, Nevada: For five hundred and twenty-five pupils, \$148,110; for pay of superintendent, drayage, and general repairs and improvements, \$14,690; in all, \$162,800;

Albuquerque, N. Mex.

Albuquerque, New Mexico: For eight hundred pupils, \$253,885; for pay of superintendent, drayage, and general repairs and improvements, \$24,615; in all, \$278,500;

Santa Fe, N. Mex.

Santa Fe, New Mexico: For five hundred and twenty-five pupils, \$159,085; for pay of superintendent, drayage, and general repairs and improvements, \$14,615; in all, \$173,700;

Charles H. Burke,
Fort Wingate, N. Mex.

Charles H. Burke School, Fort Wingate, New Mexico: For six hundred pupils, \$177,515; for pay of superintendent, drayage, and general repairs and improvements, \$19,685; in all, \$197,200;

Bismarck, N. Dak.

Bismarck, North Dakota: For one hundred pupils, \$33,450; for pay of superintendent, drayage, and general repairs and improvements, \$6,750; in all, \$40,200;

Wahpeton, N. Dak.

Wahpeton, North Dakota: For three hundred and fifty pupils, \$104,250; for pay of superintendent, drayage, and general repairs and improvements, \$11,750; in all, \$116,000: *Provided* That the unexpended balance of the appropriation contained in the Interior Department Appropriation Act, fiscal year 1933, for central heating plant, is hereby continued available for the same purpose until June 30, 1934;

Proviso.
Balance for heating
plant available.
Ante, p. 106.

Chillico, Okla.

Chillico, Oklahoma: For eight hundred and fifty pupils, including not to exceed \$2,000 for printing and issuing school paper, \$268,850; for pay of superintendent, drayage, and general repairs and improvements, \$29,650; for improving heating system, \$12,500; in all, \$311,000;

Sequoyah Orphan
Training School, Okla.

Sequoyah Orphan Training School, near Tahlequah, Oklahoma: For three hundred and fifty orphan Indian children of the State of Oklahoma belonging to the restricted class, to be conducted as an industrial school under the direction of the Secretary of the Interior, \$105,420; for pay of superintendent, drayage, and general repairs and improvements, \$11,750; in all, \$117,170;

Carter Seminary,
Okla.

Carter Seminary, Oklahoma: For one hundred and sixty-five pupils, \$53,365; for pay of superintendent, drayage, and general repairs and improvements, \$5,785; in all, \$59,150;

Euclaw, Okla.

Euclaw, Oklahoma: For one hundred and fifteen pupils, \$36,880; for pay of superintendent, drayage, and general repairs and improvements, \$6,790; in all, \$43,670;

Eufaula, Okla.

Eufaula, Oklahoma: For one hundred and thirty-five pupils, \$43,185; for pay of superintendent, drayage, and general repairs and improvements, \$6,785; in all, \$49,970;

Jones Academy,
Okla.

Jones Academy, Oklahoma: For one hundred and seventy-five pupils, \$56,945; for pay of superintendent, drayage, and general repairs and improvements, \$6,775; for improvement of water supply, \$7,000; in all \$70,720;

Wheelock Academy, Oklahoma: For one hundred and thirty pupils, \$41,600; for pay of superintendent, drayage, and general repairs and improvements, \$6,790; for improvement of water supply, \$7,000; in all, \$55,390;

Wheelock Academy,
Okla.

Chemawa, Salem, Oregon: For six hundred and fifty pupils, including not to exceed \$1,000 for printing and issuing school paper, \$204,785; for pay of superintendent, drayage, and general repairs and improvements, \$19,615; in all, \$224,400;

Chemawa, Salem,
Oreg.

Flandreau, South Dakota: For four hundred and fifty pupils, \$147,835; for pay of superintendent, drayage, and general repairs and improvements, \$16,615; for repairs to heating system, \$23,000; in all, \$187,450;

Flandreau, S. Dak.

Pierre, South Dakota: For three hundred and twenty-five pupils, \$97,305; for pay of superintendents, drayage, and general repairs and improvements, \$14,615; for power house, \$10,000; in all, \$121,920;

Pierre, S. Dak.

Rapid City, South Dakota: For two hundred and seventy-five pupils, \$84,760; for pay of superintendent, drayage, and general repairs and improvements, \$14,710; in all, \$99,470;

Rapid City, S. Dak.

Tomah, Wisconsin: For three hundred and twenty-five pupils, \$96,485; for pay of superintendent, drayage, and general repairs and improvements, \$17,735; in all, \$114,220;

Tomah, Wis.

In all, for above-named nonreservation boarding schools, not to exceed \$3,755,000: *Provided*, That 10 per centum of the foregoing amounts shall be available interchangeably for expenditures for similar purposes in the various boarding schools named, but not more than 10 per centum shall be added to the amount appropriated for any one of said boarding schools or for any particular item within any boarding school. Any such interchanges shall be reported to Congress in the annual Budget.

Nonreservation
boarding schools.
Proviso.
Summs interchangeable.

Report to Congress.

For aid to the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations and the Quapaw Agency in Oklahoma, \$387,680, to be expended in the discretion of the Secretary of the Interior and under rules and regulations to be prescribed by him: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of the Act of May 25, 1918 (U. S. C., title 25, sec. 297), limiting the expenditure of money to educate children of less than one-fourth Indian blood: *Provided further*, That of this appropriation not to exceed \$2,500 may be expended in the printing and issuance of a paper devoted to Indian education, which paper shall be printed at an Indian school, not to exceed \$10,000 may be expended under rules and regulations of the Secretary of the Interior, in part payment of truancy officers in any county or two or more contiguous counties where there are five hundred or more Indian children eligible to attend school and not to exceed \$10,000 may be expended in the discretion of the Secretary of the Interior for the payment of salaries of public-school teachers employed by the State or county in special Indian day schools in full blood Indian communities where there are not adequate white day schools available for their attendance.

Five Civilized Tribes,
Okla.
Common schools.

Proviso.
Parentage limitation
not applicable.
Vol. 40, p. 564.
U. S. C., p. 708.

Printing, etc., school
papers.

Truancy officers.

For support and maintenance of day and industrial schools among the Sioux Indians, including the erection and repairs of school buildings, in accordance with the provisions of article 5 of the agreement made and entered into September 26, 1876, and ratified February 28, 1877 (19 Stat., p. 254), \$373,650.

Sioux Indians, S.
Dak.
Day and industrial
schools.

Vol. 19, p. 256.

Natives in Alaska: To enable the Secretary of the Interior, in his discretion and under his direction, to provide for support and education of the Eskimos, Aleuts, Indians, and other natives of Alaska, including necessary traveling expenses of pupils to and

Alaska natives.

from industrial boarding schools in Alaska; erection, purchase, repair, and rental of school buildings, including purchase of necessary lands; textbooks and industrial apparatus; pay and necessary traveling expenses of superintendents, teachers, physicians, and other employees; repair, equipment, maintenance, and operation of vessels; and all other necessary miscellaneous expenses which are not included under the above special heads, including \$300,000 for salaries in the District of Columbia and elsewhere, \$17,500 for traveling expenses, \$179,500 for equipment, supplies, fuel, and light, \$23,000 for repairs of buildings, \$15,000 for purchase or erection of buildings, \$62,000 for freight and operation and repair of vessels, \$1,000 for rentals, and \$2,000 for telephone and telegraph; total, \$600,000, to be immediately available: *Provided*, That not to exceed 10 per centum of the amounts appropriated for the various items in this paragraph shall be available interchangeably for expenditures on the objects included in this paragraph, but not more than 10 per centum shall be added to any one item of appropriation except in cases of extraordinary emergency and then only upon the written order of the Secretary of the Interior: *Provided further*, That of said sum not exceeding \$5,800 may be expended for personal services in the District of Columbia.

Services in the District.
Specific allotments.

Provisos.
Interchangeable sums.

Services in the District.

Conservation of health.

CONSERVATION OF HEALTH

Expenses designated.

For conservation of health among Indians including equipment, materials, and supplies; repairs and improvements to buildings and plants; compensation and traveling expenses of officers and employees and renting of quarters for them when necessary; transportation of patients and attendants to and from hospitals and sanatoria; returning to their former homes and interring the remains of deceased patients; and not exceeding \$1,000 for printing and binding circulars and pamphlets for use in preventing and suppressing trachoma and other contagious and infectious diseases, \$2,996,200, including not to exceed the sum of \$2,251,610 for the following-named hospitals and sanatoria:

Suppressing trachoma.
Allotments for specified hospitals and sanatoria.

Arizona.

Arizona: Indian Oasis Hospital, \$22,100; Kayenta Sanatorium, \$43,200; Fort Defiance Sanatorium and Southern Navajo General Hospital, \$102,100; Phoenix Sanatorium, \$71,200; Pima Hospital, \$26,000; Truxton Canyon Hospital, \$11,250; Western Navajo Hospital, \$33,950; Chin Lee Hospital, \$10,450; Fort Apache Hospital, \$26,000; Havasupai Hospital, \$4,750; Hopi Hospital, \$38,650; Leupp Hospital, \$24,950; San Carlos Hospital, \$18,325; Tohatchi Hospital, \$11,450; Colorado River Hospital, \$22,150; San Xavier Sanatorium, \$36,000; Phoenix Hospital, \$29,050; Hopi Navajo Sanatorium, \$28,750;

California.

California: Hoopa Valley Hospital, \$20,900; Soboba Hospital, \$19,150; Fort Bidwell Hospital, \$14,350; Fort Yuma Hospital, \$13,350;

Colorado.

Colorado: Ute Mountain Hospital, \$11,650; Edward T. Taylor Hospital, \$24,400;

Idaho.

Idaho: Fort Lapwai Sanatorium, \$81,000; Fort Hall Hospitals, \$14,300;

Iowa.

Iowa: Sac and Fox Sanatorium, \$66,650; annex for general patients, \$6,000; in all, \$72,650;

Minnesota.

Minnesota: Pipestone Hospital, \$21,350;

Mississippi.

Mississippi: Choctaw Hospital, \$26,000;

Montana.

Montana: Blackfeet Hospital, \$23,900; Fort Peck Hospital, \$21,350; Crow Agency Hospital, \$23,300; Fort Belknap Hospital, \$28,900; Tongue River Hospital, \$28,900;

Nebraska: Winnebago Hospital, \$34,100;

Nevada: Carson Hospital, \$19,125; Pyramid Lake Sanatorium, \$33,100; Walker River Hospital, \$19,950; Western Shoshone Hospital, \$9,450;

New Mexico: Jicarilla Hospital and Sanatorium, \$57,450; Laguna Sanatorium, \$28,600; Mescalero Hospital, \$19,200; Eastern Navajo Hospital, \$14,300; Northern Navajo Hospital, \$26,800; Taos Hospital, \$8,725; Zuni Sanatorium, \$52,200; Albuquerque Hospital, \$48,050; Charles H. Burke Hospital, \$7,650; Santa Fe Hospital, \$38,450; Toadlena Hospital, \$9,675;

North Carolina: Cherokee Hospital, \$7,525;

North Dakota: Turtle Mountain Hospital, \$33,850; Fort Berthold Hospital, \$17,450; Fort Totten Hospital, \$22,025; Standing Rock Hospital, \$24,100;

Oklahoma: Cheyenne and Arapahoe Hospital, \$34,500; Choctaw and Chickasaw Sanatorium, \$52,360; Shawnee Sanatorium, \$86,900; for water supply, including payment for necessary rights of way, \$15,000, to be immediately available; in all, \$101,900; Claremore Hospital, \$30,400; Clinton Hospital, \$19,200; Pawnee and Ponca Hospital, \$28,350; Kiowa Hospital, \$67,550;

South Dakota: Canton Asylum, \$44,550; Crow Creek Hospital, \$20,700; Pine Ridge Hospitals, \$41,250; Rosebud Hospital, \$27,050;

Utah: Uintah Hospital, \$10,450;

Washington: Yakima Sanatorium, \$38,300; Tacoma Sanatorium, \$192,150; Tulalip Hospital, \$8,600;

Wisconsin: Hayward Hospital, \$28,700; Tomah Hospital, \$25,950;

Wyoming: Shoshone, \$17,100;

Provided, That 10 per centum of the foregoing amounts shall be available interchangeably for expenditures in the various hospitals named, but not more than 10 per centum shall be added to the amount appropriated for any one of said hospitals or for any particular item within any hospital, and any interchange of appropriations hereunder shall be reported to Congress in the Annual Budget: *Provided further*, That nonreservation boarding schools receiving specific appropriations shall contribute on a per diem basis for the hospitalization of pupils in hospitals located at such schools and supported from this appropriation: *Provided further*, That the unexpended balance of the appropriation contained in the Interior Department Appropriation Act, fiscal year 1932, for the construction and equipment of the Albuquerque Sanatorium, and employees' quarters, New Mexico, and not to exceed \$300,000 of the unexpended balance of the appropriation for the Sioux Sanatorium and employees' quarters, South Dakota, contained in the same Act, are hereby continued available for the same purposes until June 30, 1934;

For a clinical survey of tuberculosis, trachoma, and venereal and other disease conditions among Indians, \$25,000, together with the unexpended balance of the appropriation for this purpose for the fiscal year 1933: *Provided*, That in conducting such survey the cooperation of such State and other organizations engaged in similar work shall be enlisted wherever practicable and where services of physicians, nurses, or other persons are donated their travel and other expenses may be paid from this appropriation.

Support of hospitals, Chippewas in Minnesota (tribal funds): For support of hospitals maintained for the benefit of the Chippewa Indians in the State of Minnesota, including not to exceed \$12,000 for improvement of water and sewer systems, Onigum Sanatorium, \$131,550, payable from the principal sum on deposit to the credit

Nebraska.

Nevada.

New Mexico.

North Carolina.

North Dakota.

Oklahoma.

South Dakota.

Utah.

Washington.

Wisconsin.

Wyoming.

Provisos.
Interchangeable expenditures.

Report to Congress.

Hospitalization of pupils.

Albuquerque Sanatorium, N. Mex.
Balance reappropriated.
Vol. 46, p. 1135.

Sioux Sanatorium, S. Dak.
Vol. 46, p. 1136.

Clinical survey of disease conditions.
Balance reappropriated.
Ante, p. 109.

Proviso.
Local cooperation.

Chippewas in Minnesota.
Hospitals for, from tribal funds.

Vol. 25, p. 645.

of said Indians arising under section 7 of the Act of January 14, 1889 (25 Stat., p. 645).

Health work.

There shall be available for health work among the several tribes of Indians not exceeding \$175,000 of the tribal trust funds authorized elsewhere in this Act for support of Indians and administration of Indian property: *Provided*, That not more than \$7,500 of such amount may be expended for new construction in connection with health activities at any one place.

Proviso.
New construction.

Medical relief in Alaska.

Medical relief in Alaska: To enable the Secretary of the Interior, in his discretion, and under his direction through the Bureau of Indian Affairs, with the advice and cooperation of the Public Health Service, to provide for the medical and sanitary relief of the Eskimos, Aleuts, Indians, and other natives of Alaska; erection, purchase, repair, rental, and equipment of hospital buildings; books and surgical apparatus; pay and necessary traveling expenses of physicians, nurses, and other employees, and all other necessary miscellaneous expenses which are not included under the above special heads, \$281,600, to be available immediately.

Support and administration.

GENERAL SUPPORT AND ADMINISTRATION

Expenses, for sundry agencies and reservations.

For general support of Indians and administration of Indian property, including pay of employees, \$1,590,900: *Provided*, That no part of the money appropriated in this Act shall be used for the payment of the salary or expenses of a special commissioner to negotiate with Indians.

Proviso.
Special commissioner's salary, etc.

Fulfilling treaties, etc.

Fulfilling treaties with Indians: For the purpose of discharging obligations of the United States under treaties and agreements with various tribes and bands of Indians as follows:

Northern Cheyennes and Arapahoes, Mont. Vol. 19, p. 256.

Northern Cheyennes and Arapahoes, Montana (article 7, treaty of May 10, 1868, and agreement of February 28, 1877), \$73,000;

Pawnees, Okla. Vol. 11, p. 731; Vol. 27, p. 644.

Pawnees, Oklahoma (articles 3 and 4, treaty of September 24, 1857, and article 3, agreement of November 23, 1892), \$50,000;

Sioux. Vol. 15, p. 635; Vol. 19, p. 254.

Sioux of different tribes, including Santee Sioux of Nebraska, North Dakota, and South Dakota (articles 8 and 13, treaty of April 29, 1868, 15 Stat., p. 635, and Act of February 28, 1877, 19 Stat., p. 254), \$428,000;

Total.

In all, for said treaty stipulations, not to exceed \$551,000.

General support, etc., at specified agencies, from tribal funds.

For general support of Indians and administration of Indian property under the jurisdiction of the following agencies, to be paid from the funds held by the United States in trust for the respective tribes, in not to exceed the following sums, respectively:

Arizona.

Arizona: Colorado River, \$3,500; Fort Apache, \$18,900; Leupp, \$2,000; Paiute, \$7,500; San Carlos, \$48,700; Truxton Canyon, \$9,400; in all, \$90,000;

California.

California: Fort Yuma, \$4,000; Mission, \$3,000; Round Valley, \$1,000; in all, \$8,000;

Colorado.

Colorado: Consolidated Ute (Southern Ute, \$15,000; Ute Mountain, \$15,000); in all, \$30,000;

Idaho.

Idaho: Fort Hall, \$9,500; Fort Lapwai, \$4,800; in all, \$14,300;

Iowa.

Iowa: Sac and Fox, \$2,000;

Minnesota.

Minnesota: Red Lake, \$43,500;

Montana.

Montana: Blackfeet, \$7,500; Flathead, \$19,400; Tongue River, \$12,740; Rocky Boy, \$1,000; in all, \$40,640;

Nebraska.

Nebraska: Omaha, \$1,000;

Travel expenses.

For traveling and other necessary expenses of a delegation of Omaha Indians to and from Washington, District of Columbia, on business relating to the affairs of said Indians, \$650, to be imme-

diately available, payable from funds held by the United States in trust for the Omaha Tribe;

Nevada: Carson (Summit Lake), \$1,000; Pyramid Lake, \$2,860; Western Shoshone, \$9,640; in all, \$13,500;

North Carolina: Cherokee, \$10,000;

North Dakota: Fort Totten, \$1,000;

Oregon: Klamath, \$44,900; Umatilla, \$4,570; in all, \$49,470;

South Dakota: Cheyenne River, \$75,000; Pine Ridge, \$4,000; in all, \$79,000;

Utah: Uintah and Ouray, \$10,000: *Provided*, That not to exceed \$500 of this amount may be used to pay part of the expenses of the State Experimental Farm, located near Fort Duchesne, Utah, within the Uintah and Ouray Indian Reservation;

Washington: Colville, \$35,000; Neah Bay, \$4,740; Puyallup, \$2,000, of which \$1,000 shall be available for the upkeep of the Puyallup Indian cemetery; Taholah (Quinaialet), \$1,000; in all, \$42,740;

Wisconsin: Lac du Flambeau, \$2,000; Keshena, \$55,000, including \$5,000 for monthly allowances, under such rules and regulations as the Secretary of the Interior may prescribe, to such old and indigent members of the Menominee Tribe as it is impracticable to place in the home for old and indigent Menominee Indians, and who reside with relatives or friends; in all, \$57,000;

Wyoming: Shoshone, \$37,050;

In all, not to exceed \$529,850.

Support of Chippewa Indians in Minnesota (tribal funds): For general support, administration of property, and promotion of self-support among the Chippewa Indians in the State of Minnesota, \$75,000, to be paid from the principal sum on deposit to the credit of said Indians, arising under section 7 of the Act entitled "An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889 (25 Stat., p. 645), to be used exclusively for the purposes following: Not exceeding \$45,000 of this amount may be expended for general agency purposes; not exceeding \$30,000 may be expended in the discretion of the Secretary of the Interior in aiding indigent Chippewa Indians upon the condition that any funds used in support of a member of the tribe shall be reimbursed out of and become a lien against any individual property of which such member may now or hereafter become seized or possessed, the two preceding requirements not to apply to any old, infirm, or indigent Indian, in the discretion of the Secretary of the Interior.

Expenses of tribal officers, Five Civilized Tribes, Oklahoma (tribal funds): For the current fiscal year money may be expended from the tribal funds of the Choctaw, Chickasaw, Creek, and Seminole Tribes for equalization of allotments, per capita, and other payments authorized by law to individual members of the respective tribes, salaries and contingent expenses of the governor of the Chickasaw Nation and chief of the Choctaw Nation and one mining trustee for the Choctaw and Chickasaw Nations at salaries at the rate heretofore paid for the said governor and said chief and \$4,000 for the said mining trustee, and one attorney each for the Choctaw and Chickasaw Tribes employed under contract approved by the President under existing law: *Provided*, That the expenses of the above-named officials shall be determined and limited by the Commissioner of Indian Affairs, not to exceed \$2,500 each.

Support of Osage Agency and pay of tribal officers, Oklahoma (tribal funds): For the support of the Osage Agency, and for necessary expenses in connection with oil and gas production on

Nevada.

North Carolina.

North Dakota.

Oregon.

South Dakota.

Utah.
Proviso.
State Experimental Farm.

Washington.

Wisconsin.

Wyoming.

Chippewas in Minnesota.
General support, etc.

Vol. 25, p. 645.

Purposes specified.

Five Civilized Tribes.
Expenses specified.

Proviso.
Limitation.

Osages, Okla.
Agency expenses, from trust funds.

the Osage Reservation, Oklahoma, including pay of necessary employees, the tribal attorney and his stenographer, one special attorney in tax and other matters, and pay of tribal officers; repairs to buildings, rent of quarters for employees, traveling expenses, printing, telegraphing and telephoning, and purchase, repair, and operation of automobiles, \$125,000, payable from funds held by the United States in trust for the Osage Tribe of Indians in Oklahoma.

Visits of tribal council to Washington, D. C.

Expenses of Osage Tribal Council (tribal funds): For traveling and other expenses of the Osage Tribal Council or committees thereof when engaged on business of the Tribe, including visits to Washington, District of Columbia, when duly authorized or approved by the Secretary of the Interior, \$5,000, to be paid from the funds held by the United States in trust for the Osage Tribe.

Confederated Bands of Utes, Utah.
Distribution to, from tribal funds.

Confederated Bands of Utes (tribal funds): The sum of \$24,250 is hereby appropriated out of the principal funds to the credit of the Confederated Bands of Ute Indians, the sum of \$14,710 of said amount for the benefit of the Ute Mountain (formerly Navajo Springs) Band of said Indians in Colorado, and the sum of \$9,540 of said amount for the Uintah, White River, and Uncompahgre Bands of Ute Indians in Utah, which sums shall be charged to said bands, and the Secretary of the Interior is also authorized to withdraw from the Treasury the accrued interest to and including June 30, 1933, on the funds of the said Confederated Bands of Ute Indians appropriated under the Act of March 4, 1913 (37 Stat., p. 934), and to expend or distribute the same for the purpose of administering the property of and promoting self-support among the said Indians, under such regulations as the Secretary of the Interior may prescribe: *Provided*, That none of the funds in this paragraph shall be expended on road construction unless preference shall be given to Indians in the employment of labor on all roads constructed from the sums herein appropriated from the funds of the Confederated Bands of Utes.

Self-support and administering property.
Vol. 37, p. 934.

Proviso.
Indian labor on road construction.

Roads and bridges.

ROADS AND BRIDGES

Red Lake Reservation, Minn.
Construction, etc., from Chippewa trust funds.

Roads and bridges, Red Lake, Minnesota (tribal funds): For the construction and repair of roads and bridges on the Red Lake Indian Reservation, including the purchase of material, equipment, and supplies, and the employment of labor, \$25,000, to be paid from the funds held by the United States in trust for the Red Lake Band of Chippewa Indians in the State of Minnesota: *Provided*, That Indian labor shall be employed as far as practicable.

Proviso.
Indian labor.

Road construction, non-Federal aid highways.

For the construction, repair, and maintenance of roads on Indian reservations not eligible to Government aid under the Federal Highway Act, including engineering and supervision and the purchase of material, equipment, supplies, and the employment of Indian labor, \$250,000: *Provided*, That where practicable the Secretary of the Interior shall arrange with the local authorities to defray the maintenance expenses of roads constructed hereunder and to cooperate in such construction.

Proviso.
Local contribution.

Gallup-Shiprock Highway, N. Mex.
Maintenance, etc.
Proviso.
Indian labor.

For maintenance and repair of that portion of the Gallup-Shiprock Highway within the Navajo Reservation, New Mexico, including the purchase of machinery, \$20,000, reimbursable: *Provided*, That other than for supervision and engineering only Indian labor shall be employed for such maintenance and repair work.

ANNUITIES AND PER CAPITA PAYMENTS

For fulfilling treaties with Senecas of New York: For permanent annuity in lieu of interest on stock (Act of February 19, 1831, 4 Stat., p. 442), \$6,000.

For fulfilling treaties with Six Nations of New York: For permanent annuity, in clothing and other useful articles (article 6, treaty of November 11, 1794), \$4,500.

For fulfilling treaties with Choctaws, Oklahoma: For permanent annuity (article 2, treaty of November 16, 1805, and article 13, treaty of June 22, 1855), \$3,000; for permanent annuity for support of light horsemen (article 13, treaty of October 18, 1820, and article 13, treaty of June 22, 1855), \$600; for permanent annuity for support of blacksmith (article 6, treaty of October 18, 1820, and article 9, treaty of January 20, 1825, and article 13, treaty of June 22, 1855), \$600; for permanent annuity for education (article 2, treaty of January 20, 1825, and article 13, treaty of June 22, 1855), \$6,000; for permanent annuity for iron and steel (article 9, treaty of January 20, 1825, and article 13, treaty of June 22, 1855), \$320; in all \$10,520.

To carry out the provisions of the Chippewa treaty of September 30, 1854 (10 Stat., p. 1109), \$10,000, in part settlement of the amount, \$141,000, found due and heretofore approved for the Saint Croix Chippewa Indians of Wisconsin, whose names appear on the final roll prepared by the Secretary of the Interior pursuant to Act of August 1, 1914 (38 Stat., pp. 582-605), and contained in House Document Numbered 1663, said sum of \$10,000 to be expended in the purchase of land or for the benefit of said Indians by the Commissioner of Indian Affairs: *Provided*, That, in the discretion of the Commissioner of Indian Affairs, the per capita share of any of said Indians under this appropriation may be paid in cash.

When, in the judgment of the Secretary of the Interior, it is necessary for accomplishment of the purposes of appropriations herein made for the Indian field service, such appropriations shall be available for purchase of ice, rubber boots for use of employees, for travel expenses of employees on official business, and for the cost of packing, crating, drayage, and transportation of personal effects of employees upon permanent change of station.

The appropriations for education of natives of Alaska and medical relief in Alaska shall be available for the payment of traveling expenses of new appointees from Seattle, Washington, to their posts of duty in Alaska, and of traveling expenses, packing, crating, and transportation (including drayage) of personal effects of employees upon permanent change of station within Alaska, under regulations to be prescribed by the Secretary of the Interior.

BUREAU OF RECLAMATION

The following sums are appropriated out of the special fund in the Treasury of the United States created by the Act of June 17, 1902, and therein designated "the reclamation fund," to be available immediately:

Salaries: For the Commissioner of Reclamation and other personal services in the District of Columbia, \$126,700; for office expenses in the District of Columbia, \$20,000; in all, \$146,700.

Administrative provisions and limitations: For all expenditures authorized by the Act of June 17, 1902 (32 Stat., p. 388), and Acts amendatory thereof or supplementary thereto, known as the reclamation law, and all other Acts under which expenditures from said fund are authorized, including not to exceed \$156,000 for personal

Annuities, etc.

Senecas, N. Y.
Vol. 4, p. 442.Six Nations, N. Y.
Vol. 7, p. 46.Choctaws, Okla.
Vol. 7, pp. 99, 212,
213, 236.
Vol. 11, p. 614.Saint Croix Chippe-
was, Wis.
Purchase of land.
Vol. 10, p. 1109.

Vol. 38, p. 607.

Proviso.
Discretionary cash
payment.Field service appro-
priations.Available for sup-
plies, etc.Alaska natives.
Education and med-
ical relief.

Reclamation Bureau.

Payments, from rec-
lamation fund.
Vol. 32, p. 388.Commissioner, office
personnel, and other
expenses.Administrative pro-
visions, etc.
Vol. 32, p. 388.

Purposes designated.

services and \$15,000 for other expenses in the office of the chief engineer, \$20,000 for telegraph, telephone, and other communication service, \$5,000 for photographing and making photographic prints, \$41,250 for personal services, and \$10,000 for other expenses in the field legal offices; examination of estimates for appropriations in the field; refunds of overcollections and deposits for other purposes; not to exceed \$18,000 for lithographing, engraving, printing, and binding; purchase of ice; purchase of rubber boots for official use by employees; maintenance and operation of horse-drawn and motor-propelled passenger-carrying vehicles; not to exceed \$35,000 for purchase and exchange of horse-drawn and motor-propelled passenger-carrying vehicles; packing, crating, and transportation (including drayage) of personal effects of employees upon permanent change of station, under regulations to be prescribed by the Secretary of the Interior; payment of damages caused to the owners of lands or other private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of irrigation works, and which may be compromised by agreement between the claimant and the Secretary of the Interior, or such officers as he may designate; payment for official telephone service in the field hereafter incurred in case of official telephones installed in private houses when authorized under regulations established by the Secretary of the Interior; not to exceed \$1,000 for expenses, except membership fees, of attendance, when authorized by the Secretary, upon meetings of technical and professional societies required in connection with official work of the bureau; payment of rewards, when specifically authorized by the Secretary of the Interior, for information leading to the apprehension and conviction of persons found guilty of the theft, damage, or destruction of public property: *Provided*, That no part of said appropriations may be used for maintenance of headquarters for the Bureau of Reclamation outside the District of Columbia except for an office for the chief engineer and staff and for certain field officers of the division of reclamation economics: *Provided further*, That the Secretary of the Interior in his administration of the Bureau of Reclamation is authorized to contract for medical attention and service for employees and to make necessary pay-roll deductions agreed to by the employees therefor: *Provided further*, That no part of any sum provided for in this Act for operation and maintenance of any project or division of a project by the Bureau of Reclamation shall be used for the irrigation of any lands within the boundaries of an irrigation district which has contracted with the Bureau of Reclamation and which is in arrears for more than twelve months in the payment of any charges due the United States, and no part of any sum provided for in this Act for such purpose shall be used for the irrigation of any lands which have contracted with the Bureau of Reclamation and which are in arrears for more than twelve months in the payment of any charges due from said lands to the United States;

Examination and inspection of projects: For examination of accounts and inspection of the works of various projects and divisions of projects operated and maintained by irrigation districts or water users' associations, and bookkeeping, accounting, clerical, legal, and other expenses incurred in accordance with contract provisions for the repayment of such expenses by the districts or associations, the unexpended balance of the appropriation for this purpose for the fiscal year 1933 is continued available for the same purpose for the fiscal year 1934;

Transporting personal effects. per-

Property damages.

Attendance at meetings, etc.

Provisos.
Headquarters, outside of District restricted.

Medical attention for employees.

Restriction on use for irrigation districts in arrears.

Examination of projects operated by districts, etc.

Balance available.
Ante, p. 115.

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| Operation and maintenance of reserved works: For operation and maintenance of the reserved works of a project or division of a project when irrigation districts, water-users' associations, or Warren Act contractors have contracted to pay in advance but have failed to pay their proportionate share of the cost of such operation and maintenance, to be expended under regulations to be prescribed by the Secretary of the Interior, the unexpended balance of the appropriation for this purpose for the fiscal year 1933 is continued available for the same purpose for the fiscal year 1934; | Operation of reserved works. |
| Yuma project, Arizona-California: For operation and maintenance, \$47,500; for continuation of construction of drainage, \$19,000; in all, \$66,500: <i>Provided</i> , That not to exceed \$25,000 from the power revenues shall be available during the fiscal year 1934 for the operation and maintenance of the commercial system; | Yuma, Ariz.-Calif. <i>Proviso</i> , Operation of commercial system. |
| Orland project, California: For operation and maintenance, \$35,200; | Orland, Calif. |
| Boise project, Idaho: For operation and maintenance, Payette division, \$28,300: <i>Provided</i> , That the unexpended balance of the appropriation for continuation of construction, Arrowrock division, fiscal year 1933, shall remain available for the same purpose during the fiscal year 1934; | Boise, Idaho. <i>Proviso</i> , Balance, Arrowrock division, continued available. <i>Ante</i> , p. 115. |
| Minidoka project, Idaho: For operation and maintenance, reserved works, \$12,300; for continuation of construction gravity extension unit, the unexpended balance of the appropriation for this purpose for the fiscal year 1933 is continued available for the fiscal year 1934: <i>Provided</i> , That not to exceed \$50,000 from the power revenues shall be available during the fiscal year 1934 for the operation of the commercial system; and not to exceed \$125,000 from power revenues shall be available during the fiscal year 1934 for continuation of construction, south side division; | Minidoka, Idaho. Balance available. <i>Ante</i> , p. 115. <i>Proviso</i> , Commercial system and construction. |
| Bitter Root project, Montana: For loaning to the Bitter Root irrigation district for necessary construction, betterment, and repair work, \$100,000, as authorized by the Act entitled "An Act for the rehabilitation of the Bitter Root irrigation project, Montana," approved July 3, 1930 (46 Stat., pp. 852, 853); | Bitter Root, Mont. Vol. 46, p. 852. |
| Milk River project, Montana: For continuation of construction, \$14,200; | Milk River, Mont. |
| Sun River project, Montana: Of the unexpended balance of the appropriation for continuation of construction for the fiscal year 1932, \$100,000 is reappropriated and made available for the fiscal year 1934 for construction, Greenfields division; | Sun River, Mont. Sum reappropriated. Vol. 46, p. 1144. |
| North Platte project, Nebraska-Wyoming: Not to exceed \$120,000 from the power revenues shall be available during the fiscal year 1934 for the operation and maintenance of the commercial system; | North Platte, Nebr.-Wyo. |
| Rio Grande project, New Mexico-Texas: For operation and maintenance, \$305,000: <i>Provided</i> , That the unexpended balance of the appropriation for continuation of construction for the fiscal year 1933 shall remain available for the same purposes for the fiscal year 1934; | Rio Grande, N. Mex.-Tex. <i>Proviso</i> , Balance available. <i>Ante</i> , p. 116. |
| Owyhee project, Oregon: For continuation of construction, \$1,577,000; | Owyhee, Ore. |
| Vale project, Oregon: For operation and maintenance, \$19,000: <i>Provided</i> , That the unexpended balance of the appropriation for the purchase of right of way, fiscal year 1932, shall be available for the same purpose during the fiscal year 1934; | Vale, Ore. <i>Proviso</i> , Right of way. Vol. 46, p. 1144. |
| Klamath project, Oregon-California: For operation and maintenance, \$45,500: <i>Provided</i> , That revenues received from the lease of marginal lands, Tule Lake division, shall be available for refunds to the lessees in such cases where it becomes necessary to make refunds | Klamath, Ore.-Calif. <i>Proviso</i> , Revenues from Tule Lake division. |

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| Sum reappropriated. Vol. 46, p. 1144. | because of flooding or other reasons within the terms of such leases: <i>Provided further</i> , That \$85,000 of the unexpended balance of the appropriation for continuation of construction, fiscal year 1932, shall be available for continuation of construction during the fiscal year 1934; |
| Salt Lake Basin, Utah. Balance available. <i>Ante</i> , p. 116. | Salt Lake Basin project, Utah, second division: The unexpended balance of the appropriation for the fiscal year 1933 shall remain available for the same purposes for the fiscal year 1934, the proviso to said original appropriation for said second division being hereby amended so as to read as follows: " <i>Provided</i> , That no part of this sum shall be available for construction work until a contract or contracts shall be made as required by the reclamation laws with an irrigation district or districts or water users' association or associations for the payment to the United States of the cost of such second division"; |
| <i>Proviso</i> . Contracts required. | |
| Yakima, Wash. | Yakima project, Washington: For operation and maintenance, \$265,000; for continuation of construction, \$355,000; in all, \$620,000: <i>Provided</i> , That not to exceed \$40,000 from power revenues shall be available during the fiscal year 1934 for operation and maintenance of the power system; |
| <i>Proviso</i> . Power system. | |
| Kittitas division. | Yakima project (Kittitas division), Washington: The unexpended balance of the appropriation for continuation of construction for the fiscal year 1933 shall remain available during the fiscal year 1934; |
| Riverton, Wyo. | Riverton project, Wyoming: For operation and maintenance, \$21,000: <i>Provided</i> , That not to exceed \$20,000 from the power revenues shall be available during the fiscal year 1934 for the operation and maintenance of the commercial system; |
| <i>Proviso</i> . Sum from power revenues. | |
| Shoshone, Wyo. Willwood division. <i>Provisos</i> . Balance reappropriated. <i>Ante</i> , p. 117. | Shoshone project, Wyoming: For operation and maintenance, Willwood division, \$12,300: <i>Provided</i> , That the unexpended balance of the appropriation for construction, Willwood division, for the fiscal year 1933, shall remain available for the same purposes for the fiscal year 1934: <i>Provided further</i> , That not to exceed \$25,000 from power revenues shall be available during the fiscal year 1934 for the operation and maintenance of the commercial system; |
| Use of power revenues. | |
| Secondary projects, etc. Investigations. | Secondary and economic investigations: For cooperative and general investigations, including investigations necessary to determine the economic conditions and financial feasibility of projects and investigations and other activities relating to the reorganization, settlement of lands, and financial adjustments of existing projects, including examination of soils, classification of land, land-settlement activities, including advertising in newspapers and other publications, and obtaining general economic and settlement data, the unexpended balances of the appropriations for these purposes for the fiscal year 1933 shall remain available for the same purposes for the fiscal year 1934: <i>Provided</i> , That the expenditures from this appropriation for any reclamation project shall be considered as supplementary to the appropriation for that project and shall be accounted for and returned to the reclamation fund as other expenditures under the Reclamation Act: <i>Provided further</i> , That the expenditure of any sums from this appropriation for investigations of any nature requested by States, municipalities, or other interests shall be upon the basis of the State, municipality, or other interest advancing at least 50 per centum of the estimated cost of such investigation; |
| <i>Provisos</i> . Expenditures supplementary to appropriations for projects. | |
| Division of expense for investigations. | |
| Information to settlers. | Giving information to settlers: For the purpose of giving information and advice to settlers on reclamation projects in the selection of lands, equipment, and livestock, the preparation of land for irrigation, the selection of crops, methods of irrigation and agricultural practice, and general farm management, the cost of which shall be charged to the general reclamation fund and shall not be charged |

as a part of the construction or operation and maintenance cost payable by the water users under the projects the unexpended balance of the appropriation for this purpose for the fiscal year 1933 is continued available for the same purpose for the fiscal year 1934;

Limitation of expenditures: Under the provisions of this Act no greater sum shall be expended, nor shall the United States be obligated to expend during the fiscal year 1934, on any reclamation project appropriated for herein, an amount in excess of the sum herein appropriated therefor, nor shall the whole expenditures or obligations incurred for all of such projects for the fiscal year 1934 exceed the whole amount in the "reclamation fund" for the fiscal year;

Interchange of appropriations: Ten per centum of the foregoing amounts shall be available interchangeably for expenditures on the reclamation projects named; but not more than 10 per centum shall be added to the amount appropriated for any one of said projects, except that should existing works or the water supply for lands under cultivation be endangered by floods or other unusual conditions an amount sufficient to make necessary emergency repairs shall become available for expenditure by further transfer of appropriation from any of said projects upon approval of the Secretary of the Interior;

Total from reclamation fund, \$3,003,000.

To defray the cost of operating and maintaining the Colorado River front work and levee system adjacent to the Yuma Federal irrigation project in Arizona and California, subject only to section 4 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved January 21, 1927 (44 Stat., p. 1010), \$48,000, to be immediately available, together with the unexpended balance of the appropriation for the fiscal year 1933.

Boulder Canyon project: For the continuation of construction of the Hoover Dam and incidental works in the main stream of the Colorado River at Black Canyon, to create a storage reservoir, and of a complete plant and incidental structures suitable for the fullest economic development of electrical energy from the water discharged from such reservoir; to acquire by proceedings in eminent domain or otherwise, all lands, rights of way, and other property necessary for such purposes; and for incidental operations, as authorized by the Boulder Canyon Project Act, approved December 21, 1928 (U. S. C., Supp. V, title 43, ch. 12A): \$8,000,000, to be immediately available and to remain available until advanced to the Colorado River Dam fund, which amount shall be available for personal services in the District of Columbia and for all other objects of expenditure that are specified for projects included in this Act under the caption "Bureau of Reclamation" without regard to the limitations of amounts therein set forth: *Provided*, That of this fund not to exceed \$18,000 shall be available for the erection, operation, and maintenance of necessary school buildings and appurtenances on the Boulder Canyon project Federal reservation, and for the purchase and repair of required desks, furnishings, including maps, globes, stationery, books, schoolroom equipment, and other suitable facilities: *Provided further*, That of this fund not to exceed \$50,000, reimbursable, shall be available for investigation and reports as authorized by section 15 of the Boulder Canyon Project Act: *Provided further*, That no part of any appropriation in this Act for the Bureau of Reclamation shall be used for investigations to determine the economic and/or financial feasibility of any new reclamation project.

Balance available.
Ante, p. 117.

Expenditures limited to specific allotments.

Interchange of appropriations.

Emergency flood repairs.

Yuma project, Ariz.-Calif.
Colorado River front work adjacent to.
Vol. 44, p. 1016.

Ante, p. 118.

Boulder Canyon project, construction.

Vol. 45, p. 1087.
U. S. C., Supp. VI, p. 785.

Proviso.
School buildings, etc.

Investigations and reports.
Vol. 45, p. 1065.
U. S. C., Supp. VI, p. 789.
Not available for investigating new projects.

Geological Survey.

GEOLOGICAL SURVEY

SALARIES

Director, and office personnel. For the Director of the Geological Survey and other personal services in the District of Columbia, \$125,000;

General expenses.

GENERAL EXPENSES

Authorization for all services, etc. For every expenditure requisite for and incident to the authorized work of the Geological Survey, including personal services in the District of Columbia and in the field, including not to exceed \$35,000

Vehicles.

for the purchase and exchange, and not to exceed \$55,000 for the hire, maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles for field use only by geologists, topographers, engineers, and land classifiers, and the Geological Survey is authorized to exchange unserviceable and worn-out passenger-carrying and freight-carrying vehicles as part payment for new freight-carrying vehicles, and including not to exceed \$4,000 for necessary traveling expenses of the director and members of the Geological Survey acting under his direction, for attendance upon meetings of technical, professional, and scientific societies when required in connection with the authorized work of the Geological Survey, to be expended under the regulations from time to time prescribed by the Secretary of the Interior, and under the following heads:

Attendance at meetings.

Topographic surveys.

Topographic surveys: For topographic surveys in various portions of the United States, \$450,000, of which amount not to exceed \$275,000 may be expended for personal services in the District of Columbia: *Provided*, That no part of this appropriation shall be expended in cooperation with States or municipalities except upon the basis of the State or municipality bearing all of the expense incident thereto in excess of such an amount as is necessary for the Geological Survey to perform its share of standard topographic surveys, such share of the Geological Survey in no case exceeding 50 per centum of the cost of the survey: *Provided further*, That \$254,000 of this amount shall be available only for such cooperation with States or municipalities;

Provisos.
Cooperation with States, etc., restricted.

Sum for cooperation.

Geologic surveys.

Geologic surveys: For geologic surveys in the various portions of the United States and chemical and physical researches relative thereto, \$300,000, of which not to exceed \$265,000 may be expended for personal services in the District of Columbia;

Volcanologic surveys.

Volcanologic surveys: For volcanologic surveys, measurements, and observatories in Hawaii, including subordinate stations elsewhere, \$12,500;

Alaska mineral resources.

For continuation of the investigation of the mineral resources of Alaska, \$30,000, to be available immediately, of which amount not to exceed \$15,000 may be expended for personal services in the District of Columbia;

Water supply.
Stream gaging investigations.

Gaging streams: For gaging streams and determining the water supply of the United States, the investigation of underground currents and artesian wells, and the preparation of reports upon the best methods of utilizing the water resources, \$500,000; for operation and maintenance of the Lees Ferry, Arizona, gaging station and other base gaging stations in the Colorado River drainage, \$40,000; in all, \$540,000, of which amount not to exceed \$125,000 may be expended for personal services in the District of Columbia: *Provided*, That no part of this appropriation shall be expended in cooperation with States or municipalities except upon the basis of the State or municipality bearing all of the expense incident thereto

Gaging stations.

Provisos.
Cooperation with States, etc.

in excess of such an amount as is necessary for the Geological Survey to perform its share of general water-resource investigations, such share of the Geological Survey in no case exceeding 50 per centum of the cost of the investigation: *Provided further*, That \$400,000 of this amount shall be available only for such cooperation with States or municipalities;

Amount for cooperation.

Classification of lands: For the examination and classification of lands with respect to mineral character, water resources, and agricultural utility as required by the public land laws and for related administrative operations; for the preparation and publication of land classification maps and reports; for engineering supervision of power permits and grants under the jurisdiction of the Secretary of the Interior; and for performance of work of the Federal Power Commission, \$100,000, of which amount not to exceed \$75,000 may be expended for personal services in the District of Columbia;

Classifying lands as to mineral character.

Printing and binding, and so forth: For printing and binding, \$110,000; for preparation of illustrations, \$15,000; and for engraving and printing geologic and topographic maps, \$85,000; in all, \$210,000;

Printing and binding.

Mineral leasing: For the enforcement of the provisions of the Acts of October 20, 1914 (U. S. C., title 48, sec. 435), October 2, 1917 (U. S. C., title 30, sec. 141), February 25, 1920 (U. S. C., title 30, sec. 181), and March 4, 1921 (U. S. C., title 48, sec. 444), and other Acts relating to the mining and recovery of minerals on Indian and public lands and naval petroleum reserves; and for every other expense incident thereto, including supplies, equipment, expenses of travel and subsistence, the construction, maintenance, and repair of necessary camp buildings and appurtenances thereto, \$225,000, of which amount not to exceed \$40,000 may be expended for personal services in the District of Columbia;

Nonmetallic mineral mining Act.
Enforcing provisions.
Vol. 38, p. 741; Vol. 40, p. 297; Vol. 41, pp. 437, 1363.
U. S. C., pp. 903, 904, 1595, 1596.

During the fiscal year 1934 the head of any department or independent establishment of the Government having funds available for scientific and technical investigations and requiring cooperative work by the Geological Survey on scientific and technical investigations within the scope of the functions of that bureau and which it is unable to perform within the limits of its appropriations may, with the approval of the Secretary of the Interior, transfer to the Geological Survey such sums as may be necessary to carry on such investigations. The Secretary of the Treasury shall transfer on the books of the Treasury Department any sums which may be authorized hereunder, and such amounts shall be placed to the credit of the Geological Survey for the performance of work for the department or establishment from which the transfer is made: *Provided*, That any sums transferred by any department or independent establishment of the Government to the Geological Survey for cooperative work in connection with this appropriation may be expended in the same manner as sums appropriated herein may be expended: *Provided further*, That any funds herein appropriated for the Geological Survey for cooperative work may be utilized prior to July 1, 1933, as required to enable the Geological Survey to continue its cooperative work pending reimbursement from cooperative agencies, the amount so utilized to be repaid to the appropriation from which advanced;

Scientific investigation with departments, etc., by the bureau.

Credit of funds.

Provisos.
Transfer of funds.

Cooperative work.

During the fiscal year 1934, upon the request of the Secretary of the Interior, the Secretary of War or the Secretary of the Navy is authorized to furnish aerial photographs required for mapping projects, in so far as the furnishing of such photographs will be economical to the Federal Government and does not conflict with military or naval operations or the other parts of the regular train-

Aerial photographs.
Authorized, for aviators.

Reimbursement. ing program of the Army, Navy, and Marine Corps flying services, and the Secretary of the Interior is authorized to reimburse the War or Navy Department for the cost of making the photographs, such cost to be confined to the actual cost of gasoline, oil, film, paper, chemicals, and the labor performed in developing the photographic negatives and the printing of copies of photographs, and the per diem expenses of the personnel authorized by law, together with such incidental expenses as care and minor repairs to plane and transportation of personnel to and from projects, and the War Department or the Navy Department, on request of the Department of the Interior, is authorized to furnish copies to any State, county, or municipal agency cooperating with the Federal Government in the mapping project for which the photographs were taken. In the event that the Director of the Geological Survey deems it advantageous to the Government, the Geological Survey is authorized to contract with civilian aerial photographic concerns for the furnishing of such photographs;

Contracts with civilians. Appropriations herein made shall be available for payment of the costs of packing, crating, and transportation (including drayage) of personal effects of employees upon permanent change of station, under regulations to be prescribed by the Secretary of the Interior;

Transfer of effects of employees. Total, United States Geological Survey, \$1,992,500.

NATIONAL PARK SERVICE

National Park Service. Salaries: For the Director of the National Park Service and other personal services in the District of Columbia, including accounting services in checking and verifying the accounts and records of the various operators, licensees, and permittees conducting utilities and other enterprises within the national parks and monuments, and including the services of specialists and experts for investigations and examinations of lands to determine their suitability for national park and national monument purposes and members of the commission appointed under the provisions of the Act of February 21, 1925 (43 Stat., p. 959): *Provided*, That such specialists and experts may be employed for temporary service at rates to be fixed by the Secretary of the Interior to correspond to those established by the Classification Act of 1923, as amended, and without reference to the Civil Service Act of January 16, 1883, \$160,000, of which amount not to exceed \$25,100 may be expended for the services of field employees engaged in examination of lands and in developing the educational work of the National Park Service.

Director, and office personnel. General expenses: For every expenditure requisite for and incident to the authorized work of the office of the Director of the National Park Service not herein provided for, including traveling expenses, telegrams, photographic supplies, prints, and motion-picture films, necessary expenses of attendance at meetings concerned with the work of the National Park Service when authorized by the Secretary of the Interior, and necessary expenses of field employees engaged in examination of lands and in developing the educational work of the National Park Service, \$25,000: *Provided*, That necessary expenses of field employees in attendance at such meetings, when authorized by the Secretary, shall be paid from the various park and monument appropriations.

Accounting services. Acadia, Me. Acadia National Park, Maine: For administration, protection, and maintenance, including \$3,000 for George B. Dorr as superintendent, \$3,000 for temporary clerical services for investigation of

Specialists, experts, etc. Vol. 43, p. 959. *Proviso*. Employment without reference to Classification Act. Vol. 42, p. 1488; Vol. 45, p. 776; Vol. 46, p. 1003. U. S. C., p. 65; Supp. VI, p. 31. Vol. 22, p. 403.

Administrative expenses. *Proviso*. Field employees' expenses.

titles and preparation of abstracts thereof of lands donated to the United States for inclusion in the Acadia National Park, and not exceeding \$1,800 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$54,200; for the construction of physical improvements, \$800; in all, \$55,000.

Bryce Canyon National Park, Utah: For administration, protection, and maintenance, including not exceeding \$300 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with the general park work, \$11,390; for construction of an equipment shed, \$2,400; in all, \$13,790.

Bryce Canyon, Utah.

Carlsbad Caverns National Park, New Mexico: For administration, protection, and maintenance, including not exceeding \$800 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$68,330.

Carlsbad Caverns,
N. Mex.

Crater Lake National Park, Oregon: For administration, protection, and maintenance, including not exceeding \$800 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$53,670; for construction of physical improvements, \$8,000, including \$2,000 for extension of electric system and \$6,000 for extension and improvement of water system; in all, \$61,670.

Crater Lake, Oreg.

General Grant National Park, California: For administration, protection, and maintenance, including not exceeding \$400 for the maintenance, operation, and repair of a motor-driven passenger-carrying vehicle, \$15,000.

General Grant, Calif.

Glacier National Park, Montana: For administration, protection, and maintenance, including necessary repairs to the roads from Glacier Park Station through the Blackfeet Indian Reservation to the various points in the boundary line of the Glacier National Park and the international boundary, including not exceeding \$750 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$191,300; for construction of physical improvements, \$8,700, including not exceeding \$4,000 for a ranger station, \$1,500 for a road maintenance camp, \$1,200 for two snowshoe cabins, and \$2,000 for two camp-tender cabins; in all, \$200,000.

Glacier, Mont.

Grand Canyon National Park, Arizona: For administration, protection, and maintenance, including not exceeding \$1,000 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$128,890; for construction of physical improvements, \$7,000, including not exceeding \$3,000 for laborers' cabins and \$4,000 for camp-ground development; in all, \$135,890.

Grand Canyon, Ariz.

Grand Teton National Park, Wyoming: For administration, protection, and maintenance, including not exceeding \$1,500 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$20,000.

Grand Teton, Wyo.

Proposed Great Smoky Mountains National Park, North Carolina and Tennessee: For administration and protection of the portion of the area of such proposed park the title of which has been vested

Great Smoky Moun-
tains, N. C.-Tenn.

Vol. 44, p. 616.
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in the United States under the provisions of section 3 of the Act of May 22, 1926 (U. S. C., title 16, sec. 403b), including not to exceed \$300 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for use in connection with such work, \$28,430.

Hawaii.

Hawaii National Park: For administration, protection, and maintenance, including not exceeding \$800 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$36,770; for construction of physical improvements, \$9,500, of which \$4,400 shall be available for employees' quarters and \$2,400 for comfort stations; in all, \$46,270.

Hot Springs, Ark.

Hot Springs National Park, Arkansas: For administration, protection, maintenance, and improvement including not exceeding \$700 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$74,180; for construction of physical improvements, \$8,500; in all, \$82,680.

Lassen, Calif.

Lassen Volcanic National Park, California: For administration, protection, and maintenance, including not exceeding \$1,000 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$25,000; for construction of physical improvements, \$1,500; in all, \$26,500.

Mesa Verde, Colo.

Mesa Verde National Park, Colorado: For administration, protection, and maintenance, including not exceeding \$700 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$50,700.

Mount McKinley,
Alaska.

Mount McKinley National Park, Alaska: For administration, protection, and maintenance, \$28,480.

Mount Rainier,
Wash.

Mount Rainier National Park, Washington: For administration, protection, and maintenance, including not exceeding \$1,500 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$132,050; for construction of physical improvements, \$10,000, including not exceeding \$6,000 for comfort stations, \$2,000 for cold-storage plant, and \$2,000 for campground development; in all, \$142,050.

Platt, Okla.

Platt National Park, Oklahoma: For administration, protection, and maintenance, including not exceeding \$300 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$21,520; for construction of physical improvements, \$7,000, including not exceeding \$3,000 for the construction of buildings; in all, \$28,520.

Rocky Mountain,
Colo.

Rocky Mountain National Park, Colorado: For administration, protection, and maintenance, including not exceeding \$1,600 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$93,190; for construction of a bunk house, \$3,000; in all, \$96,190.

Sequoia, Calif.

Sequoia National Park, California: For administration, protection, and maintenance, including not exceeding \$1,200 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$108,900; for construction of physical improvements, \$2,600, including not exceeding \$2,200 for a comfort station; in all, \$111,500.

Wind Cave National Park, South Dakota: For administration, protection, and maintenance, including not exceeding \$250 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$18,160.

Wind Cave, S. Dak.

Yellowstone National Park, Wyoming: For administration, protection, and maintenance, including not exceeding \$6,825 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, not exceeding \$8,400 for maintenance of the road in the national forest leading out of the park from the east boundary, not exceeding \$7,500 for maintenance of the road in the national forest leading out of the park from the south boundary, and including feed for buffalo and other animals and salaries of buffalo keepers, \$450,100; for construction of physical improvements \$14,400, including not exceeding \$9,000 for extension of water and sewer systems, and not exceeding \$2,400 for a comfort station and \$3,000 for camp-ground development; in all, \$464,500.

Yellowstone, Wyo.

Yosemite National Park, California: For administration, protection, and maintenance, including not exceeding \$1,800 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, not exceeding \$2,000 for maintenance of the road in the Stanislaus National Forest connecting the Tioga Road with the Hetch Hetchy Road near Mather Station, and including necessary expenses of a comprehensive study of the problems relating to the use and enjoyment of the Yosemite National Park and the preservation of its natural features, \$313,400; for construction of physical improvements, \$20,100, including not exceeding \$14,700 for the construction of buildings, of which not exceeding \$1,800 shall be available for a garage, \$3,300 for a comfort station, \$3,700 for a heating plant, \$1,500 for an addition to a cabin, and \$4,400 for a ranger station; in all, \$333,500.

Yosemite, Calif.

Zion National Park, Utah: For administration, protection, and maintenance, including not exceeding \$1,150 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, \$40,940; for construction of a checking station, employees' quarters, and water system at the east entrance, \$6,500; in all, \$47,440.

Zion, Utah.

National monuments: For administration, protection, maintenance, and preservation of national monuments, including not exceeding \$2,100 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the custodians and employees in connection with general monument work, \$78,760; for construction of physical improvements, \$10,300, including not exceeding \$1,200 for a checking station, \$3,300 for two equipment sheds, and \$2,000 for a comfort station; in all, \$89,060.

National monuments.
Administration, etc.

Colonial National Monument, Virginia: For administration, protection, maintenance, and improvement, including not exceeding \$675 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general monument work, \$52,030.

Colonial, Va.

George Washington Birthplace National Monument, Wakefield, Virginia: For administration, protection, maintenance, and improvement, including not exceeding \$400 for the maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the custodian and employees in connection with general monu-

George Washington
Birthplace, Va.

ment work, \$18,250; for construction of physical improvements, \$3,000; in all, \$21,250.

Emergency recon-
struction, etc.

Emergency reconstruction and fighting forest fires in national parks: For reconstruction, replacement, and repair of roads, trails, bridges, buildings, and other physical improvements and of equipment in national parks or national monuments that are damaged or destroyed by flood, fire, storm, or other unavoidable causes during the fiscal year 1934, and for fighting or emergency prevention of forest fires in national parks or other areas administered by the National Park Service, or fires that endanger such areas, \$50,000, and in addition thereto the unexpended balance for this purpose for the fiscal year 1933 is continued available during the fiscal year 1934, together with not to exceed \$100,000 to be transferred upon the approval of the Secretary of the Interior from the various appropriations for national parks and national monuments herein contained, any such diversions of appropriations to be reported to Congress in the annual Budget: *Provided*, That the allotment of these funds to the various national parks or areas administered by the National Park Service as may be required for fire-fighting purposes shall be made by the Secretary of the Interior, and then only after the obligation for the expenditure has been incurred.

Balance available.
Ante, p. 125.
Transfer of funds.

Proviso.
Allotment for fire
fighting.

Forest insect control,
fire prevention, etc.

Forest protection and fire prevention: For the control and the prevention of spread of forest insects and tree diseases, including necessary personnel and equipment for such work, \$70,000; for fire-prevention measures, including necessary personnel and fire-prevention equipment, \$68,400; and for fire-prevention improvements within national parks and national monuments, \$8,600, including not exceeding \$3,800 for a storehouse and \$1,600 for a lookout station; in all, \$147,000.

Commissioners' sala-
ries.

For salaries of commissioners in Crater Lake, Glacier, Hawaii, Lassen Volcanic, Mesa Verde, Mount Rainier, Rocky Mountain, Sequoia and General Grant, Yellowstone, and Yosemite National Parks, \$18,150, which shall be in lieu of all fees and compensation heretofore authorized.

Sums immediately
available.

The foregoing amounts for the National Park Service available for construction of physical improvements, for tree-disease and insect-control work, for fire-prevention measures, and for the purchase of equipment, shall be immediately available for such purposes.

Lectures.

Appropriations made for the national parks and national monuments shall be available for the giving of educational lectures therein.

Roads and trails,
Construction, etc., of
in parks and monu-
ments.

Construction, and so forth, of roads and trails: For the construction, reconstruction, and improvement of roads and trails, inclusive of necessary bridges, in national parks and monuments under the jurisdiction of the Department of the Interior, including the roads from Glacier Park Station through the Blackfeet Indian Reservation to various points in the boundary line of the Glacier National Park and the international boundary, and areas to be established as national parks under the Act of May 22, 1926 (U. S. C. title 16, sec. 403), and for the replacement of a road at Felsgate Creek on the Navy mine depot in connection with the Colonial National Monument Parkway, Virginia, at a cost of not to exceed \$20,000, to be immediately available and remain available until expended, \$2,435,700, a part of the amount of the contractual authorization of \$2,500,000 contained in the Act making appropriations for the Department of the Interior for the fiscal year 1933: *Provided*, That not to exceed \$23,000 of the amount herein appropriated may be

Special authoriza-
tions.

Vol. 44, p. 616.
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Contractual authori-
zation.

Provisos.
Services in the Dis-
trict.

expended for personal services in the District of Columbia during the fiscal year 1934.

OFFICE OF EDUCATION

Office of Education.

SALARIES

For the Commissioner of Education and other personal services in the District of Columbia, \$250,000.

Commissioner, and office personnel.

GENERAL EXPENSES

General expenses.

For necessary traveling expenses of the commissioner and employees acting under his direction, including attendance at meetings of educational associations, societies, and other organizations; for compensation, not to exceed \$500, of employees in field service; for purchase, distribution, and exchange of educational documents, motion-picture films, and lantern slides; collection, exchange, and cataloguing of educational apparatus and appliances, articles of school furniture and models of school buildings illustrative of foreign and domestic systems and methods of education, and repairing the same; and other expenses not herein provided for, \$20,000.

Travel, attendance at meetings, etc.

The unexpended balance of the appropriation for the investigation of teacher training, contained in the Interior Department Appropriation Act for the fiscal year 1933, shall remain available for the fiscal year 1934 for the purpose of editing and printing the reports prepared under the provisions of those appropriations, including the payment of salaries in the District of Columbia and elsewhere.

Reports on teacher training.
Sums available.
Ante, p. 127.

GOVERNMENT IN THE TERRITORIES

Government in the Territories.

TERRITORY OF ALASKA

Alaska.

Salaries of the governor and of the secretary, \$14,140.

Governor and secretary.
Incidental and contingent expenses.

For incidental and contingent expenses of the offices of the governor and of the secretary of the Territory, clerk hire, not to exceed \$7,870; janitor service for the governor's office and the executive mansion, not to exceed \$2,750; traveling expenses of the governor while absent from the capital on official business and of the secretary of the Territory while traveling on official business under direction of the governor; repair and preservation of governor's house and furniture; for care of grounds and purchase of necessary equipment; stationery, lights, water, and fuel; in all, \$16,520, to be expended under the direction of the governor.

Reindeer for Alaska: For support of reindeer stations in Alaska and instruction in the care and management of reindeer, including salaries of necessary employees in Alaska, traveling expenses of employees, including expenses of new appointees from Seattle, Washington, to their posts of duty in Alaska, and expenses of packing, crating, and transportation (including drayage) of personal effects of employees upon permanent change of station within Alaska, under regulations to be prescribed by the Secretary of the Interior, purchase, erection, and repair of cabins for supervisors, herders, and apprentices, equipment, and all other necessary miscellaneous expenses, \$32,400, to be available immediately.

Reindeer.

Insane of Alaska: For care and custody of persons legally adjudged insane in Alaska, including compensation of medical supervisor detailed from Public Health Service, transportation, burial, and other expenses, \$161,600: *Provided*, That authority is granted to the Secretary of the Interior to pay from this appropriation to

Care of insane.

Provisos.
Payments.

the Sanitarium Company, of Portland, Oregon, or to other contracting institution or institutions, not to exceed \$564 per capita per annum for the care and maintenance of Alaskan insane patients during the fiscal year 1934: *Provided further*, That so much of this sum as may be required shall be available for all necessary expenses in ascertaining the residence of inmates and in returning those who are not legal residents of Alaska to their legal residence or to their friends, and the Secretary of the Interior shall, so soon as practicable, return to their places of residence or to their friends all inmates not residents of Alaska at the time they became insane, and the commitment papers for any person hereafter adjudged insane shall include a statement by the committing authority as to the legal residence of such person.

Return, etc., of persons not Alaskan residents.

Suppressing liquor traffic.

Traffic in intoxicating liquors: For suppression of the traffic in intoxicating liquors among the natives of Alaska, to be expended under the direction of the Secretary of the Interior, \$11,370.

Roads, bridges, trails, etc.

For the construction, repair, and maintenance of roads, tramways, ferries, bridges, and trails, Territory of Alaska, to be expended under the provisions of Public Resolution Numbered 218, approved June 30, 1932, \$466,300; for repair and maintenance of Government wharf at Juneau, Alaska, \$3,000; in all, \$469,300, to be immediately available.

Ante, p. 446.

Government wharf.

Alaska Railroad. Maintenance, etc.

The Alaska Railroad: For every expenditure requisite for and incident to the authorized work of the Alaska Railroad, including maintenance, operation, and improvements of railroads in Alaska; maintenance and operation of river steamers and other boats on the Yukon River and its tributaries in Alaska; operation and maintenance of ocean-going or coastwise vessels by ownership, charter, or arrangement with other branches of the Government service, for the purpose of providing additional facilities for the transportation of freight, passengers, or mail, when deemed necessary, for the benefit and development of industries and travel affecting territory tributary to the Alaska Railroad; stores for resale; payment of claims for losses and damages arising from operations including claims of employees of the railroad for loss and damage resulting from wreck or accident on the railroad, not due to negligence of the claimant, limited to clothing and other necessary personal effects used in connection with his duties and not exceeding \$100 in value; payment of amounts due connecting lines under traffic agreements; payment of compensation and expenses as authorized by section 42 of the Injury Compensation Act approved September 7, 1916 (U. S. C., title 5, sec. 793), to be reimbursed as therein provided, \$250,000, in addition to all amounts received by the Alaska Railroad during the fiscal year 1934, to continue available until expended: *Provided*, That not to exceed \$5,500 of this fund shall be available for personal services in the District of Columbia during the fiscal year 1934, and no one other than the general manager of said railroad shall be paid an annual salary out of this fund of more than \$5,500: *Provided further*, That not to exceed \$10,000 of such fund shall be available for printing and binding: *Provided further*, That \$100,000 of such fund shall be available only for such capital expenditures as are chargeable to capital account under accounting regulations prescribed by the Interstate Commerce Commission, which amount shall be available immediately.

Operation, etc., of vessels.

Additional facilities for freight transportation.

Vol. 39, p. 750.
U. S. C., p. 81.

Provisos.
Services in the District.

Printing and binding.
Capital account of expenditures.

TERRITORY OF HAWAII

Hawaii.

Salaries of the governor and of the secretary, \$14,320.

For contingent expenses, to be expended by the governor for stationery, postage, and incidentals, \$1,000; private secretary to the governor; temporary clerk hire, \$500; for traveling expenses of the governor while absent from the capital on official business, \$1,500; in all, \$5,850.

Governor and secretary.
Contingent expenses.

TEMPORARY GOVERNMENT FOR THE VIRGIN ISLANDS

Virgin Islands.

For salaries of the governor, judge of the district court, and employees incident to the execution of the Act of March 3, 1917 (U. S. C., title 48, sec. 1391), traveling expenses of officers and employees while absent from place of duty on official business, necessary janitor service, care of Federal grounds, repair and preservation of Federal buildings and furniture, purchase of equipment, stationery, lights, water, and other necessary miscellaneous expenses, including not to exceed \$4,000 for purchase, including exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles, and not to exceed \$4,000 for personal services, household equipment and furnishings, fuel, ice, and electricity necessary in the operation of Government House at Saint Thomas and Government House at Saint Croix; \$134,750.

Governor, judge, etc.
Vol. 39, p. 1132.
U. S. C., p. 1643.

Miscellaneous expenses.

For salaries and expenses of the agricultural experiment station and the vocational school in the Virgin Islands, including technical personnel, clerks, and other persons; scientific investigations of plants and plant industries and diseases of animals; demonstrations in practical farming; official traveling expenses; fixtures, apparatus, and supplies; clearing and fencing of land; and other necessary expenses, including not to exceed \$2,000 for purchase, including exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles, \$25,000.

Agricultural experiment stations.

For defraying the deficits in the treasuries of the municipal governments because of the excess of current expenses over current revenues for the fiscal year 1934, municipality of Saint Thomas and Saint John, \$98,500, and municipality of Saint Croix, \$98,500; in all, \$197,000: *Provided*, That the amount herein appropriated for each municipal government shall be expended only if an equivalent amount is raised by municipal revenues and applied to the operating costs of the respective government, except that for the fiscal year 1934 the contribution to either municipal government shall not be less than \$90,000: *Provided further*, That should the revenues of the municipality of Saint Thomas and Saint John, during the fiscal year 1934, exceed \$98,500, and/or the revenues of the municipality of Saint Croix exceed \$98,500, such excess revenues may be expended for municipal improvements and operating costs of the municipalities under such rules and regulations as the President may prescribe.

Deficits of municipal governments.

Provisos.
Division of deficit.

Excess revenues for municipal improvements.

For such projects for the further development of agriculture and industry, and for promoting the general welfare of the islands as may be approved by the President, including the acquisition by purchase, condemnation, or otherwise, of land and the construction of buildings for use in administering the affairs of the islands; the purchase of land for sale as homesteads to citizens of the Virgin Islands; and the making of loans for the construction of buildings, for the purchase of farming implements and equipment, and for other expenses incident to the cultivation of land purchased for resale as homesteads, \$15,000, and in addition thereto the unex-

Further development projects.

Acquisition of land.

Loans for building construction.

pended balance of the appropriation for the temporary government for the Virgin Islands contained in the Interior Department Appropriation Act, fiscal year 1933.

SAINT ELIZABETHS HOSPITAL

Saint Elizabeths Hospital.

Maintenance, etc.

For support, clothing, and treatment in Saint Elizabeths Hospital for the Insane of insane persons from the Army, Navy, Marine Corps, and Coast Guard, insane inmates of the National Home for Disabled Volunteer Soldiers, persons charged with or convicted of crimes against the United States who are insane, all persons who have become insane since their entry into the military and naval service of the United States, insane civilians in the quartermaster service of the Army, insane persons transferred from the Canal Zone who have been admitted to the hospital and who are indigent, American citizens legally adjudged insane in the Dominion of Canada whose legal residence in one of the States, Territories, or the District of Columbia it has been impossible to establish, insane beneficiaries of the United States Employees' Compensation Commission, and insane beneficiaries of the United States Veterans' Administration, including not exceeding \$27,000 for the purchase, exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles for the use of the superintendent, purchasing agent, and general hospital business, and including not to exceed \$200,000 for repairs and improvements to buildings and grounds, \$1,116,700, including maintenance and operation of necessary facilities for feeding employees and others (at not less than cost), and the proceeds therefrom shall reimburse the appropriation for the institution; and not exceeding \$1,500 of this sum may be expended in the removal of patients to their friends, not exceeding \$1,500 in the purchase of such books, periodicals, and newspapers, as may be required for the purposes of the hospital and for the medical library, and not exceeding \$1,500 for the actual and necessary expenses incurred in the apprehension and return to the hospital of escaped patients: *Provided*, That so much of this sum as may be required shall be available for all necessary expenses in ascertaining the residence of inmates who are not or who cease to be properly chargeable to Federal maintenance in the institution and in returning them to such places of residence: *Provided further*, That no part of this appropriation shall be expended for the purchase of oleomargarine or butter substitutes except for cooking purposes: *Provided further*, That during the fiscal year 1934 the District of Columbia, or any branch of the Government requiring Saint Elizabeths Hospital to care for patients for which they are responsible, shall pay by check to the superintendent, upon his written request, either in advance or at the end of each month, all or part of the estimated or actual cost of such maintenance, as the case may be, and bills rendered by the superintendent of Saint Elizabeths Hospital in accordance herewith shall not be subject to audit or certification in advance of payment; proper adjustments on the basis of the actual cost of the care of patients paid for in advance shall be made monthly or quarterly, as may be agreed upon between the superintendent of Saint Elizabeths Hospital and the District of Columbia government, department, or establishments concerned. All sums paid to the superintendent of Saint Elizabeths Hospital for the care of patients that he is authorized by law to receive shall be deposited to the credit on the books of the Treasury Department of the appropriation made for the care and maintenance of the patients at Saint

Insane citizens in Canada.

Vehicles.

Improvement of buildings, etc.

Return of escaped patients.

Provision. Returning inmates who are not Federal charges.

Purchase of butter substitutes.

Patients in the District.

Credit of sums paid for patients.

Elizabeths Hospital for the year in which the support, clothing, and treatment is provided, and be subject to requisition by the disbursing agent of Saint Elizabeths Hospital, upon the approval of the Secretary of the Interior: *Provided further*, That there shall be available for replacement of boilers and remodeling of the power plant, including preparation of plans and specifications, advertising for proposals, and not to exceed \$11,000 for necessary traveling expenses and personal services without reference to the Classification Act of 1923, as amended, or civil-service rules and regulations, \$250,000, from funds accrued, or which may accrue, prior to July 1, 1934, under the Act approved February 2, 1909 (U. S. C., title 24, sec. 165), such portions of funds as have accrued under said Act to be immediately available for this use.

For beginning the construction and equipment of a female receiving building, including not to exceed \$15,000 for preparation of plans and specifications and advertising for proposals, there is hereby made available not to exceed \$250,000 of the unexpended balance of the appropriation of \$750,000 for completing the construction and equipment of the male receiving building contained in the Interior Department Appropriation Act for the fiscal year 1932; and the Secretary of the Interior is authorized to enter into contract, or contracts, for such construction and equipment at a cost not to exceed \$750,000.

COLUMBIA INSTITUTION FOR THE DEAF

For support of the institution, including salaries and incidental expenses, books and illustrative apparatus, and general repairs and improvements, \$122,200.

HOWARD UNIVERSITY

Salaries: For payment in full or in part of the salaries of the officers, professors, teachers, and other regular employees of the university, the balance to be paid from privately contributed funds, \$412,500, of which sum not less than \$2,200 shall be used for normal instruction;

General expenses: For equipment, supplies, apparatus, furniture, cases and shelving, stationery, ice, repairs to buildings and grounds, and for other necessary expenses, including reimbursement to the appropriation for Freedman's Hospital of actual cost of heat and light furnished, \$220,000;

For construction and completion of a heat, light, and power plant, at Howard University, \$460,000, to be immediately available.

Total, Howard University, \$1,092,500.

FREEDMAN'S HOSPITAL

For officers and employees and compensation for all other professional and other services that may be required and expressly approved by the Secretary of the Interior, \$199,270; for subsistence, fuel and light, clothing, to include white duck suits and white canvas shoes for the use of internes, and rubber surgical gloves, bedding, forage, medicine, medical and surgical supplies, surgical instruments, electric lights, repairs, replacement of X-ray apparatus, furniture, including not exceeding \$300 for the purchase of books, periodicals, and newspapers; and not to exceed \$1,200 for the special instruction of pupil nurses, and other absolutely necessary expenses, \$76,860; in all, for Freedmen's Hospital, \$276,130, of which amount one-half

Repairs, etc.

Personal services.
Vol. 42, p. 1488; Vol. 45, p. 776; Vol. 46, p. 1008.
U. S. C., p. 65; Supp. VI, p. 31.
U. S. C., p. 679; Supp. VI, p. 375.

Female receiving building.

Sum available.
Vol. 46, p. 324.

Contracts.

Columbia Institution for the Deaf.

Maintenance.

Howard University.

Salaries.

General expenses.

Power, etc., plant.
Construction, etc.

Freedmen's Hospital.

Salaries.

Contingent expenses.

Division of expenses.

shall be chargeable to the District of Columbia and paid in like manner as other appropriations of the District of Columbia are paid.

Field work appropriations available for work animals, etc.

SEC. 2. Appropriations herein made for field work under the General Land Office, the Bureau of Indian Affairs, the Bureau of Reclamation, the Geological Survey, and the National Park Service shall be available for the hire, with or without personal services, of work animals and animal-drawn and motor-propelled vehicles and equipment.

Approved, February 17, 1933.

[CHAPTER 103.]

AN ACT

To amend section 812 of the Code of Law for the District of Columbia.

February 18, 1933.
[S. 4694.]
[Public, No. 362.]

District of Columbia Code amendment.
Vol. 31, p. 1322, amended.

Kidnaping, abducting, etc.

Punishment for.
Scope.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 812 of the Act entitled "An Act to establish a Code of Law for the District of Columbia," approved March 3, 1901, as amended (D. C. Code, title 6, sec. 36), is amended to read as follows:

"SEC. 812. Whoever shall be guilty of, or of aiding or abetting in, seizing, confining, inveigling, enticing, decoying, kidnaping, abducting, concealing, or carrying away any individual, by any means whatsoever, and holding or detaining, or with the intent to hold or detain, such individual for ransom or reward, shall, upon conviction thereof, be punished by imprisonment for life or for such term as the court in its discretion may determine. This section shall be held to have been violated if either the seizing, confining, inveigling, enticing, decoying, kidnaping, abducting, concealing, carrying away, holding, or detaining occurs in the District of Columbia. If two or more individuals enter into any agreement or conspiracy to do any act or acts which would constitute a violation of the provisions of this section, and one or more of such individuals do any act to effect the object of such agreement or conspiracy, each such individual shall be deemed to have violated the provisions of this section."

Approved, February 18, 1933.

[CHAPTER 106.]

AN ACT

To amend an Act entitled "An Act to incorporate the trustees of the Female Orphan Asylum in Georgetown, and the Washington City Orphan Asylum in the District of Columbia," approved May 24, 1828, as amended by Act of June 23, 1874.

February 20, 1933.
[S. 4673.]
[Public, No. 363.]

Orphan asylums, D. C.
Limitation on incomes of certain, removed.

Vol. 6, p. 381; Vol. 18, p. 618, amended.
Ante, p. 87.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled "An Act to incorporate the trustees of the Female Orphan Asylum in Georgetown, and the Washington City Orphan Asylum in the District of Columbia," approved May 24, 1828, as amended by Act of June 23, 1874 (relating to the amount of annual income from property belonging to the trustees of either of said corporations), is amended by striking out "to a sum not exceeding \$25,000 per annum" and inserting in lieu thereof "and such clear annual income of each of said corporations shall be applied to and for the purposes for which it was incorporated."

Approved, February 20, 1933.

[CHAPTER 107.]

AN ACT

To amend section 98 of the Judicial Code, as amended.

February 20, 1933.
[H. R. 6456.]
[Public, No. 364.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso in the fifth paragraph of section 98 of the Judicial Code, as amended (U. S. C., title 28, sec. 179), is hereby amended to read as follows: "Provided, That the cities of Winston-Salem and Rockingham shall each provide and furnish at its own expense a suitable and convenient place for holding the district court until Federal buildings containing quarters for the court are erected at such places."

North Carolina middle judicial district. Vol. 44, p. 1340; U. S. C., Supp. VI, p. 608, amended.
Proviso.
Quarters for district court at Winston-Salem and Rockingham.

Approved, February 20, 1933.

[CHAPTER 109.]

AN ACT

To amend the Penal Code of the Canal Zone.

February 21, 1933.
[H. R. 7519.]
[Public, No. 365.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Criminal Code of the Canal Zone.

"SECTION 1. That this Act shall hereafter be known as the 'Criminal Code of the Canal Zone.'"

SEC. 2. That section 4 of the Penal Code of the Canal Zone is hereby repealed.

Sections repealed.

SEC. 3. That section 6 of the Penal Code of the Canal Zone is hereby repealed.

SEC. 4. That section 14 of the Penal Code is hereby amended to read as follows:

"SEC. 14. As to all offenses included in this code, a felony is a crime which is punishable with death or by imprisonment in the penitentiary. Every other crime is a misdemeanor. When a crime punishable by imprisonment in the penitentiary is also punishable by fine or imprisonment in jail, in the discretion of the court, it shall be deemed a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the penitentiary.

"Felony" and "misdemeanor" defined.

"As to all offenses against the general laws of the United States applicable to the Canal Zone, a felony is a crime which may be punished by death or imprisonment for a term exceeding one year, and all other such offenses shall be deemed misdemeanors."

SEC. 5. That section 15 of the Penal Code is hereby amended to read as follows:

"SEC. 15. Except in cases where a different punishment is prescribed by law, every offense declared to be a felony is punishable by imprisonment in the penitentiary not exceeding five years or by a fine not exceeding \$5,000 or by both such fine and imprisonment."

Punishment for.

SEC. 6. That section 16 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 16. Except in cases where a different punishment is prescribed by law, every offense declared to be a misdemeanor is punishable by imprisonment in jail not exceeding thirty days or by a fine not exceeding \$100, or by both."

SEC. 7. That section 20 of the Penal Code of the Canal Zone is hereby repealed.

SEC. 8. That Title II of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 23 a new section numbered 23a to read as follows:

Probation after conviction in trial court.

"SEC. 23a. Any trial court of the Canal Zone, in exercise of its jurisdiction of criminal actions, when it shall appear to the satisfaction of the court that the ends of justice and the best interests of the public, as well as the defendant, will be subserved thereby, shall have power, after conviction or after a plea of guilty for any crime or offense not punishable by death or life imprisonment, to suspend the imposition or execution of sentence and to place the defendant upon probation for such period and upon such terms and conditions as the court deems best; or the court may impose a fine and may also place the defendant upon probation in the manner aforesaid. The court may revoke or modify any condition of probation, or may change the period of probation. The period of probation, together with any extension thereof, shall not exceed five years in the district court, or one year in a magistrate court.

Discretionary revocation by court.

Period of probation.

Payments by defendant during probationary status.

Restitution for loss, etc.

"While on probation the defendant may be required to pay in one or several sums a fine imposed at the time of being placed on probation and may also be required to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which conviction was had, and may also be required to provide for the support of any person or persons for whose support he is legally responsible."

SEC. 9. That section 26 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Confinement after sentence of imprisonment.

"SEC. 26. A sentence of imprisonment in jail, when imposed, may be executed by confinement in any jail of the Canal Zone."

SEC. 10. That section 29 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Determination of period.

"SEC. 29. Whenever any person is declared punishable for a crime by imprisonment in the penitentiary for a term not less than any specified number of years, and no limit of the duration of such imprisonment is declared, the court authorized to pronounce judgment upon such conviction may, in its discretion, sentence such offender to imprisonment for any number of years not less than that prescribed."

Persons liable to prosecution, etc.

SEC. 11. That subdivision 2 of section 34 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"2. All who commit any offense without the Canal Zone which, if committed within the Canal Zone, would be larceny, robbery, or embezzlement under the laws of the Canal Zone, and bring the property stolen or embezzled, or any part of it, or are found with it, or any part of it, within the Canal Zone."

Consideration of intoxication by jury when intent, etc., essential element.

SEC. 12. That section 37 of the Penal Code is hereby amended by adding, after the word "court" in sentence two, the words "or jury"

SEC. 13. That Title III of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 43 a new section numbered 43a to read as follows:

Postal penal laws, etc., of United States extended to Canal Zone.

"SEC. 43a. The Postal Laws and Regulations of the United States, not locally inapplicable, which define crimes against the Postal Service, and prescribe punishments therefor, are hereby extended to the Canal Zone and shall be enforceable in the courts of the Canal Zone in the manner and form prescribed for other criminal cases by the Canal Zone laws."

Conviction of attempt to commit crime.

SEC. 14. That the word "intent" in section 44 of the Penal Code is hereby amended to read "attempt."

SEC. 15. That section 49 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Right of self defense.

"SEC. 49. The right of self-defense in no case extends to the infliction of more harm than is necessary for the purpose of defense."

SEC. 16. That the word "magistrate" in sections 58, 59, and 60 shall hereafter be deemed to refer to the magistrates authorized by section 7 of the Panama Canal Act, approved August 24, 1912, as amended.

"Magistrate," use of word.
Vol. 37, p. 564.

SEC. 16a. That Title VIII of the Penal Code of the Canal Zone is hereby amended by inserting therein, preceding section 75, a new section numbered 74a, to read, as follows:

"SEC. 74a. The words 'executive office' as used in this title shall be construed to mean such offices as are occupied and administered by the Governor of the Panama Canal and the heads of the various departments or divisions of the Panama Canal and the Panama Railroad Company, and the words 'executive officer' to mean the Governor of the Panama Canal and the heads of the various departments or divisions of the Panama Canal and the Panama Railroad Company."

"Executive office,"
"executive officer" construed.

SEC. 17. That section 79 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 79. Every executive or ministerial officer who knowingly asks or receives any emolument, gratuity or reward, or any promise thereof, excepting such as may be authorized by law, for doing any official act, is guilty of a felony."

Receiving, etc., unauthorized rewards by officials a felony.

SEC. 17a. That section 80 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 80. No officer or agent of any corporation, joint-stock company, or association, and no member or agent of any firm, or person directly or indirectly interested in the pecuniary profits or contracts of such corporation, joint-stock company, association, or firm, shall be employed or shall act as an officer or agent of the United States, the Panama Canal, or the Panama Railroad Company, for the transaction of business with such corporation, joint-stock company, association, or firm. Whoever shall violate the provisions of this section shall be fined not more than \$2,000 and imprisoned in the penitentiary not more than two years."

Interested persons prohibited to act as government agents.

SEC. 18. That section 83 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 83. Every public officer who, for any gratuity, or reward, appoints another person to a public office, or permits another person to exercise or discharge any of the duties of his office, is guilty of a felony, and in addition thereto forfeits his office, and is forever disqualified from holding any office in the Government of the Canal Zone."

Punishment for violations.

Appointments to public office for gratuity a felony.

Forfeiture of office.

SEC. 19. That section 89, section 90, section 91, section 92, and section 93 of the Penal Code of the Canal Zone, defining under Title IX crimes against the legislative power, are hereby repealed.

Repeal of obsolete sections.
Crimes against legislative power.

SEC. 20. That section 94 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 94. Every person who gives or offers to give a bribe to any judicial officer, juror, referee, arbitrator, or umpire, or to any person who may be authorized by law to hear or determine any question or controversy, with intent to influence his vote, opinion, or decision upon any matter or question which is brought before him for a decision, is punishable by imprisonment in the penitentiary not more than ten years."

Bribing judicial officers.

Punishment for.

SEC. 21. That section 95 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 95. Every judicial officer, juror, referee, arbitrator, or umpire, and every person authorized by law to hear or determine any question or controversy, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his vote,

Punishment of judicial officer receiving, etc., bribe.

opinion, or decision upon any matter or question which is or may be brought before him for decision, shall be influenced thereby, is punishable by imprisonment in the penitentiary not more than ten years."

SEC. 22. That section 96 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Receiving unauthor-
ized reward, etc., by
judicial officer a felony.

"SEC. 96. Every judicial officer who asks or receives any emolument, gratuity, or reward, or any promise thereof, except such as may be authorized by law, for doing an official act, is guilty of a felony."

SEC. 23. That section 98 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Attempts to influence
jurors.

"SEC. 98. Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator, or umpire, or appointed a referee, in respect to his verdict in, or decision of any cause, or proceeding, pending, or about to be brought before him, either:

"1. By means of any communication, oral or written, had with him except in the regular course of proceedings;

"2. By means of any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings;

"3. By means of any threat, intimidation, persuasion, or entreaty;

or,
"4. By means of any promise, or assurance of any pecuniary or other advantage;

Punishment for.

"Is punishable by a fine not exceeding \$5,000, or by imprisonment in the penitentiary not exceeding five years."

SEC. 24. That section 99 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Corrupt conduct of
judicial officers and
jurors.

"SEC. 99. Every juror, or person drawn or summoned as a juror, or chosen arbitrator or umpire, or appointed referee, who either:

"1. Makes any promise or agreement to give a verdict or decision for or against any party; or,

"2. Willfully and corruptly permits any communication to be made to him, or receives any book, paper, instrument, or information relating to any cause or matter pending before him, except according to the regular course of proceedings, is punishable by fine not exceeding \$5,000, or by imprisonment in the penitentiary not exceeding five years."

Punishment for.

SEC. 25. That section 102 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Punishment of per-
sons not referred to.

"SEC. 102. Every person, not an officer referred to in the preceding section, who is guilty of any of the acts specified in that section, is punishable by imprisonment either in the penitentiary not exceeding five years, or in jail not exceeding one year, or by a fine not exceeding \$1,000, or both such fine and imprisonment."

SEC. 26. That Chapter II of Title X of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 103 a new section numbered 103a to read as follows:

Adding names, etc.,
to jury lists a felony.

"SEC. 103a. Every person who adds any names to the list of persons selected to serve as jurors, either by placing the same in the jury-box, or otherwise, or extracts any name therefrom, or destroys the jury-box or any of the pieces of paper containing the names of jurors, or mutilates or defaces such names so that the same can not be read, or changes such names on the pieces of paper, except in cases allowed by law, is guilty of a felony."

SEC. 27. That Chapter II of Title X of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 103a a new section numbered 103b, to read as follows:

"SEC. 103b. Every officer or person required by law to certify to the list of persons selected as jurors who maliciously, corruptly, or willfully certifies to a false or incorrect list, or a list containing other names than those selected, or who, being required by law to write down the names placed on the certified lists on separate pieces of paper, does not write down and place in the jury box the same names that are on the certified list, and no more and no less than are on such list, is guilty of a felony." Falsifying jury lists,
etc.

SEC. 28. That Chapter III of Title X of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 104 a new section numbered 104a to read as follows:

"SEC. 104a. Any person who, in any affidavit taken before any person authorized to administer oaths, swears, affirms, declares, deposes, or certifies that he will testify, declare, depose, or certify before any competent tribunal, officer, or person, in any case then pending or thereafter to be instituted, in any particular manner, or to any particular fact, and in such affidavit willfully and contrary to such oath states as true any material matter which he knows to be false, is guilty of perjury. In any prosecution under this section, the subsequent testimony of such person, in any action involving the matters in such affidavit contained, which is contrary to any of the matters in such affidavit contained, shall be prima facie evidence that the matters in such affidavit were false." Perjury.
False affidavits.

SEC. 29. That section 110 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 110. Perjury is punishable by imprisonment in the penitentiary for a term not exceeding ten years." Subsequent testimony
of affiant to deter-
mine.

SEC. 30. That section 113 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 113. Every person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any witness, or person about to be called as a witness upon any trial, proceeding, inquiry, or investigation whatever, authorized by law, with intent to affect the testimony of such witness, is guilty of a felony." Punishment for.

SEC. 31. That section 115 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 115. Every person who, knowing that any book, paper, record, instrument in writing or other matter or thing, is about to be produced in evidence upon any trial, inquiry, or investigation whatever authorized by law, willfully destroys or conceals the same, with intent thereby to prevent it from being produced, is guilty of a felony." Falsifying evidence
to deceive witness a
felony.

SEC. 32. That section 116 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 116. Every person who willfully prevents or dissuades any person who is or may become a witness from attending upon any trial, proceeding or inquiry, authorized by law, is guilty of a felony." Destroying evidence.

SEC. 33. That section 122 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 122. Every officer, warden or jailer, or guard who is guilty of willful inhumanity toward any prisoner under his care or in his custody, is punishable by imprisonment in jail not exceeding one year, or by a fine not exceeding \$2,000, or by both such fine and imprisonment, and by removal from office." Preventing, etc., at-
tendance of witness.

SEC. 34. That section 123 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Inhuman treatment
of prisoner.

Resisting public officer in discharge of duty.

"SEC. 123. Every person who willfully resists, delays, or obstructs any public officer in the discharge, or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by fine not exceeding \$5,000, or imprisonment in jail not exceeding one year, or by both such fine and imprisonment."

SEC. 35. That section 124 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Assaults, etc., by public officer.

"SEC. 124. Every public officer who, under color of authority, without lawful necessity, assaults, wrongs, oppresses, or beats any person, is guilty of a felony."

SEC. 36. That section 127 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Removal of property by debtor in fraud of creditors.

"SEC. 127. Every debtor who fraudulently removes his property or effects beyond the jurisdiction of the courts, or fraudulently sells, conveys, assigns, or conceals his property, with intent to defraud, hinder, or delay his creditors of their rights, claims, or demands, is punishable by imprisonment in the penitentiary not exceeding one year, or by a fine not exceeding \$5,000, or by both."

Punishment for.

SEC. 37. That section 131 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Contempt of court.

"SEC. 131. A person guilty of misbehavior in the presence of or so near a court, judge, or magistrate as to obstruct the administration of justice, including the refusal of a person present in court to be sworn as a witness or to answer as a witness when lawfully required, shall be guilty of contempt, which the court may punish summarily, by imprisonment in jail not exceeding ten days, or by fine not exceeding \$100, or by both such fine and imprisonment."

Punishment for.

SEC. 38. That the Penal Code of the Canal Zone is hereby amended by inserting section 131a, to read as follows:

Offenses punishable as contempt of court.

"SEC. 131a. A person guilty of any of the following acts may be punished as for contempt:

"1. Disobedience of or resistance to a lawful writ, process, order, judgment, or command of the district or a magistrate's court, or injunction granted by the district court or judge;

"2. Misbehavior of an officer of a court in the performance of his official duties, or in his official transactions;

"3. A failure to obey a subpoena duly served;

"4. The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him."

SEC. 39. That the Penal Code of the Canal Zone is hereby amended by inserting section 131b, to read as follows:

Determination of guilt.

"SEC. 131b. The court shall determine whether the accused is guilty of contempt, and, if he be adjudged guilty, he may be fined not exceeding \$100, or imprisoned not more than ten days, or both. If the contempt consists in the violation of an injunction, the person guilty of such contempt may also be ordered to make complete restitution to the party injured by such violation."

Violation of injunction.

SEC. 40. That section 132 of the Penal Code of the Canal Zone is hereby amended to read as follows:

False certificates by public officer.

"SEC. 132. Every public officer authorized by law to make or give any certificate or other writing, who makes and delivers as true any such certificate or writing containing statements which he knows to be false, is guilty of a felony."

SEC. 41. That section 133 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Disclosing fact that presentment, etc., made.

"SEC. 133. Every district attorney, clerk, judge, or other officer, who, except by issuing or in executing a warrant of arrest, willfully discloses the facts of a presentment or information having been made

for a felony, until the defendant has been arrested, is guilty of a felony.”

SEC. 42. That section 135 of the Penal Code of the Canal Zone is hereby amended to read as follows:

“SEC. 135. Every captain, master of a vessel, or other person, who willfully imports, brings, or sends, or causes or procures to be brought or sent into the Canal Zone, any person who is a foreign convict of any crime which, if committed within the Canal Zone, would be punishable as a felony, or who is delivered or sent to him from any prison or place of confinement in any place without the Canal Zone, is guilty of a felony, and every person so landing shall also be guilty of a felony.”

Importing foreign convicts.

SEC. 43. That section 136 of the Penal Code of the Canal Zone is hereby amended by adding after the word “imprisonment,” in subsection 3 thereof, the words “in the penitentiary.”

Punishment for attempting to rescue prisoner.

SEC. 44. That section 137 of the Penal Code of the Canal Zone is hereby amended to read as follows:

“SEC. 137. Every person who willfully injures or destroys, or takes or attempts to take, or assists any person in taking or attempting to take, from the custody of any officer or person, any personal property which such officer or person has in charge under any process of law, is guilty of a felony.”

Destroying, etc., property held under process of law.

SEC. 45. That Chapter V of Title X of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 141 a new section numbered 141a to read as follows:

“SEC. 141a. Any person who willfully assists any person legally confined in a hospital of the Government of the Canal Zone to escape, or in an attempt to escape therefrom, is guilty of a misdemeanor.”

Assisting escape of person legally confined in hospital.

SEC. 46. That section 142 of the Penal Code of the Canal Zone is hereby amended to read as follows:

“SEC. 142. Every officer or person to whom a writ of habeas corpus may be directed who, after service thereof, neglects or refuses to obey the command thereof, is guilty of a felony.”

Habeas corpus. Refusal to obey, a felony.

SEC. 47. That section 143 of the Penal Code of the Canal Zone is hereby amended to read as follows:

“SEC. 143. Every person who, either solely or as a member of a court, knowingly and unlawfully recommit, imprisons, or restrains of his liberty, for the same cause, any person who has been discharged upon a writ of habeas corpus, is guilty of a felony.”

Recommitting person discharged upon.

SEC. 48. That section 144 of the Penal Code of the Canal Zone is hereby amended to read as follows:

“SEC. 144. Every person having in his custody, or under his restraint or power, any person for whose relief a writ of habeas corpus has been issued, who, with intent to elude the service of such writ, or to avoid the effect thereof, transfers such person to the custody of another, or places him under the power or control of another, or conceals or changes the place of confinement or restraint, or removes him without the jurisdiction of the court or judge issuing the writ, is guilty of a felony.”

Concealing persons entitled to benefits of.

SEC. 49. That chapter 5 of Title X of the Penal Code of the Canal Zone is hereby amended by adding thereto the following sections:

“145a. Every attorney who, whether as attorney or as counselor, either—

Attorneys.

“1. Is guilty of any deceit or collusion, or consents or any party; ¹ or

Misconduct of.

“2. Willfully delays his client's suit with a view to his own gain; or

¹ So in original.

"3. Willfully receives any money or allowance for or on account of any money which he has not laid out or to any deceit or collusion, with intent to deceive the court become answerable for, is guilty of a felony.

Buying evidence of debt, etc., by.

"145b. Every attorney who, either directly or indirectly, buys or is interested in buying any evidence of debt or thing in action, with intent to bring suit thereon, is guilty of a misdemeanor.

Who may advertise as attorney.

"145c. Any person other than one regularly admitted to the bar of the district court of the Canal Zone who advertises or represents himself as practicing or entitled to practice law in any court of the Canal Zone, other than for himself, is guilty of a misdemeanor."

SEC. 50. That section 148 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Murder.
Degrees of.

"SEC. 148. Murder which is perpetrated by means of poison, lying in wait, torture, or by other willful, deliberate, or premeditated act or acts, or which is committed in the perpetration or attempt to perpetrate arson, rape, robbery, burglary or mayhem, is murder of the first degree, and all other kinds of murders are of the second degree."

SEC. 50a. That section 162 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Kidnapping.

"SEC. 162. Kidnapping is punishable by imprisonment in the penitentiary not more than fifty years."

SEC. 50b. That section 163 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Child stealing.
Punishment for.

"SEC. 163. Every person who maliciously, forcibly or fraudulently takes or entices away any child under the age of twelve years, with intent to detain and conceal such child from its parent, guardian, or other person having the lawful charge of such child, is punishable by imprisonment in the penitentiary for not more than fifty years."

SEC. 50c. That section 164 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Attempts to kill.
Administering poisons.

"SEC. 164. Every person who, with intent to kill, administers, or causes or procures to be administered to another, any poison or other noxious or destructive substance or liquid, but by which death is not caused, is punishable by imprisonment in the penitentiary not more than twenty years."

SEC. 50d. That section 165 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Assaults.

"SEC. 165. Every person who assaults another with intent to commit murder is punishable by imprisonment in the penitentiary not more than twenty years."

SEC. 50e. That section 166 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Train wrecking.

"SEC. 166. Every person who shall unlawfully throw out a switch, remove a rail, or place any obstruction on any railroad, tramway, or electric railway, with the intent of derailing any passenger, freight, or other car, or who shall unlawfully board any passenger train with intent of robbing the same, or who shall unlawfully place any dynamite or any other explosive material or any obstruction on the track of any railroad, tramway, or electric railway, with the intent of blowing up or derailing any passenger, freight, or other car, or who shall unlawfully set fire to any railroad, tramway, or electric railway, bridge or trestle, over which any passenger, freight or other car must pass, with intent of wrecking said car, upon conviction thereof shall be adjudged guilty of a felony, and shall be punishable by imprisonment in the penitentiary for not more than forty years."

Punishment for.

SEC. 51. That section 167 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 167. Every physician who, in a state of intoxication, does any act as such physician to another person by which the life of such other person is endangered, is guilty of a felony."

Physicians.
Liability when in-
toxicated.

SEC. 51a. That section 168 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 168. Every person who willfully mingles any poison with any food, drink, or medicine, with intent that the same shall be taken by any human being, to his injury, and every person who willfully poisons any spring, well, or reservoir of water, is punishable by imprisonment in the penitentiary for a term not more than twenty years."

Poisoning of food,
medicine, etc.

SEC. 51b. That section 169 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 169. Every person who assaults another with intent to commit rape, the infamous crime against nature, mayhem, robbery or grand larceny, is punishable by imprisonment in the penitentiary not more than fourteen years."

Assault with intent
to commit rape, etc.

SEC. 51c. That section 182 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 182. Every person who willfully and maliciously places or throws, or causes to be placed or thrown, upon the person of another any vitriol, corrosive acid, or caustic chemical of any nature with the intent to injure the flesh or disfigure the body of such person is punishable by imprisonment in the penitentiary not more than fourteen years."

Assault with disfig-
uring acids, chemicals,
etc.

SEC. 52. That section 188 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 188. False imprisonment is punishable by fine not exceeding \$5,000, or by imprisonment in the penitentiary not more than one year, or both."

False imprisonment.

SEC. 53. That section 190 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 190. Every person who willfully and with a malicious intent to injure another publishes or procures to be published any libel is punishable by a fine not exceeding \$5,000, or imprisonment in the penitentiary not exceeding one year."

Libel.

SEC. 54. That section 192 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 192. In all criminal prosecutions for libel the truth may be given in evidence to the jury, and if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends the party shall be acquitted."

Truth as defense in
evidence.

SEC. 55. That section 198 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 198. Every person who threatens another to publish a libel concerning him, or any parent, husband, wife, or child of such person or member of his family, and every person who offers to prevent the publication of any libel upon another person, with intent to extort any money or other valuable consideration from any person, is guilty of a felony."

Threatening to pub-
lish libel.

Offering to prevent
publication, with in-
tent to extort money.

SEC. 56. That section 204 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 204. Rape is punishable by imprisonment in the penitentiary not more than fifty years, except where the offense is under subdivision one of section 201 of the Penal Code, in which case the punishment shall be either by imprisonment in jail for not more than one year or in the penitentiary for not more than fifty years, and in such case the jury shall recommend by their verdict whether the

Rape.
Punishment for.

punishment shall be by imprisonment in jail or in the penitentiary; provided that when the defendant pleads guilty of an offense under subdivision one of section 201 of the Penal Code the punishment shall be in the discretion of the trial court, either by imprisonment in jail for not more than one year or in the penitentiary for not more than fifty years."

SEC. 56a. That section 205 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Abduction of women.

"SEC. 205. Every person who takes any woman unlawfully, against her will, and by force, menace, or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the penitentiary not more than fourteen years."

SEC. 56b. That section 211 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Administering drugs, etc., with intent to procure miscarriage.

"SEC. 211. Every person who provides, supplies, or administers to any pregnant woman, or procures any such woman to take any medicine, drug or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, is punishable by imprisonment in the penitentiary not more than five years."

SEC. 56c. That section 212 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Attempting to procure miscarriage.

"SEC. 212. Every woman who solicits of any person any medicine, drug, or substance whatever, and takes the same, or who submits to any operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless the same is necessary to preserve her life, is punishable by imprisonment in the penitentiary not more than five years."

SEC. 56d. That section 218 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Bigamy.

"SEC. 218. Bigamy is punishable as a felony."

SEC. 57. That section 220 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Incest. Punishment for.

"SEC. 220. Persons being within the degrees of consanguinity within which marriages are declared by this section to be incestuous, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the penitentiary not exceeding ten years. Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, or aunts and nephews, are incestuous, whether the relationship is legitimate or illegitimate."

"Incest" defined.

SEC. 58. That section 221 and section 222 of the Penal Code of the Canal Zone are hereby repealed.

Sections repealed. Solemnizing marriages forbidden by law; making false return.

SEC. 59. That chapter V of title XII of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 223 a new section numbered 223a to read as follows:

Crimes against children.

"SEC. 223a. Any person who shall willfully and lewdly commit any lewd or lascivious act other than the acts constituting other crimes provided for in this code upon or with the body, or any part or member thereof, of a child under the age of thirteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the penitentiary for a term not exceeding ten years."

Punishment for.

SEC. 60. That section 227 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 227. Every person who shall bury or inter, or cause to be buried or interred, the dead body of any human being, or any human remains, in any place other than in a cemetery or place of burial now existing under the laws of the Canal Zone, and in which interments have been made or that is now or may hereafter be established or organized, except with the permission of the Governor of the Panama Canal, shall be guilty of a misdemeanor."

Interments in other than designated cemetery.

SEC. 61. That section 229 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 229. Every person who is authorized or enjoined to arrest any person for a violation of subdivision 3 of the preceding section is equally authorized and enjoined to seize any obscene or indecent writing, paper, book, picture, print, or figure found in possession or under the control of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken."

Obscene books, writings. Seizure of.

SEC. 62. That section 230 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 230. The magistrate to whom any obscene or indecent writing, paper, book, picture, print, or figure is delivered, pursuant to the foregoing section, must, upon the examination of the accused, or if the examination is delayed or prevented, without awaiting such examination, determine the character of such writing, paper, book, picture, print, or figure, and if he finds it to be obscene or indecent, he must deliver one copy to the district attorney."

Delivery to district attorney.

SEC. 63. That section 235 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 235. Whoever, through invitation or device, prevails upon any person to visit any room, building, or other places kept for the purposes of prostitution, is guilty of a misdemeanor; and upon conviction thereof shall be imprisoned in jail not exceeding six months, or fined not exceeding \$500, or be punished by both such fine and imprisonment."

Prevailing upon person to visit place kept for prostitution.

SEC. 64. That sections 236 to 241, inclusive, of the Penal Code of the Canal Zone, are hereby repealed.

Section repealed. Pawnbrokers.

SEC. 65. That section 243 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 243. Every member of a partnership who commits any fraud upon the other members in the affairs of the partnership is punishable by imprisonment in the penitentiary for not more than one year."

Fraud upon other partnership members.

SEC. 66. That section 244 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 244. Every person guilty of any harsh, cruel, or unkind treatment of, or any neglect of duty toward any idiot, lunatic, or insane person, is guilty of a felony."

Cruel treatment of lunatics, etc.

SEC. 67. That section 245 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 245. Every person who makes, issues, or puts in circulation any bill, check, ticket, certificate, promissory note, or the paper of any bank, to circulate as money, except as authorized by the laws of the United States or the Canal Zone, is guilty of a felony."

Making, etc., fictitious bills, etc.

SEC. 67a. That section 248 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 248. Every person having charge of any steam boiler or steam engine, or other apparatus for generating or employing steam used in any manufactory, or on any railroad, or in any vessel, or in any kind of mechanical work, who willfully or from ignorance or neglect, creates, or allows to be created, such an undue quantity of

Mismanagement of steam boiler.

steam as to burst or break the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human being is produced, is punishable by imprisonment in the penitentiary for not more than ten years."

SEC. 67b. That section 250 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Collision on rail-
roads.
Punishment for neg-
ligently causing.

"SEC. 250. Every conductor, engineer, brakeman, switchman, or other person having charge, wholly or in part, of any railroad car, locomotive, or train, which is used as a common carrier, who willfully or negligently suffers or causes the same to collide with another car, locomotive, or train, or with any other object or thing whereby the death of a human being is produced, is punishable by imprisonment in the penitentiary not more than ten years."

SEC. 68. That Title XIII of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 250 a new section numbered 250a to read as follows:

Collision of vehicles.
Duties of drivers.

"SEC. 250a. Whenever an automobile, motor cycle, or other motor vehicle, or any vehicle whatsoever, regardless of the power by which the same may be propelled or drawn, strikes any person, or collides with any vehicle containing a person, the driver of, and all persons in, such automobile, motor cycle, or other motor vehicle, or other vehicle, who have or assume authority over such driver, shall immediately cause such automobile, motor cycle, or other motor vehicle, or other vehicle, to stop and shall render to the person struck, or to the occupants of the vehicle collided with, all necessary assistance including the carrying of such person or occupant to a physician or surgeon for medical or surgical treatment, if such treatment be required, or if such carrying is requested by the person struck or the occupant of the vehicle struck; and such driver, and person having or assuming authority over such driver, shall either remain at the scene of the accident until the arrival of the police authorities, or shall communicate without delay to the nearest police authorities a full report of the accident.

Punishment for vio-
lation.

"Any person violating any of the provisions of this section is punishable by imprisonment in the penitentiary not exceeding five years or in jail not exceeding one year, or by fine not exceeding \$5,000, or by both such fine and imprisonment."

SEC. 69. That Title XIII of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 250a a new section numbered 250b to read as follows:

Driving motor ve-
hicle while intoxicated.

"SEC. 250b. Any person operating or driving an automobile, motorcycle or other motor vehicle who becomes or is intoxicated while so engaged in operating or driving such automobile, motorcycle or other motor vehicle shall be guilty of a misdemeanor."

SEC. 70. That Title XIII of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 250b a new section numbered 250c to read as follows:

Intoxicated driver of
motor vehicle commit-
ting negligent acts.

"SEC. 250c. Any person operating or driving an automobile, motorcycle or other motor vehicle who becomes or is intoxicated while so engaged in operating or driving such automobile, motorcycle or other motor vehicle, and who by reason of such intoxication does any act, or neglects any duty imposed by law, which act or neglect of duty causes the death of, or bodily injury to, any person, shall be punishable by imprisonment in the penitentiary not exceeding ten years, or in jail not exceeding one year, or by fine not exceeding \$500, or by both such fine and imprisonment."

SEC. 71. That section 255 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 255. Every person who makes or keeps on the zone or transports on or across the zone more than five pounds of gunpowder, nitroglycerine, or other highly explosive substance without a permit from the governor so to do, is guilty of a misdemeanor."

Transporting explosives.

SEC. 72. That section 258 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 258. Any person who places in bales, bags, boxes, barrels, or other packages of sugar, tobacco, coffee, rice, or other goods usually sold in bales, bags, boxes, barrels, or other packages, by weight or otherwise, and conceals therein anything whatever for the purposes of increasing the weight or measurement of such bales, bags, boxes, barrels, or other packages, with intent thereby to sell the goods therein, or to enable another to sell the same for an increased weight or measurement, is guilty of a misdemeanor."

Placing extraneous materials in containers, etc., to increase salable weight.

SEC. 73. That section 269 of the Penal Code of the Canal Zone is hereby repealed.

Section repealed.
Sale of intoxicating liquors to habitual drunkard.

SEC. 74. That section 270 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 270. If the owner of a ferocious, vicious, or mischievous animal, knowing its propensities, willfully suffers it to go at large, or keeps it without ordinary care, and such animal, while so at large, or while not kept with ordinary care, kills any human being who has taken all the precautions which the circumstances permitted, or which a reasonable person would ordinarily take in the same situation, such owner is guilty of a felony."

Allowing ferocious, etc., animal to go at large.

Deaths caused by.

SEC. 75. That Title XIII of the Penal Code of the Canal Zone is hereby amended by inserting therein a new section numbered 270a to read as follows:

"SEC. 270a. If the owner of a ferocious, vicious, or mischievous animal, knowing its propensities, willfully suffers it to go at large, or keeps it without ordinary care, and such animal, while so at large, or while not kept with ordinary care, attacks, bites or maims any human being who has taken all the precautions which the circumstances permitted, or which a reasonable person would ordinarily take in the same situation, such owner is punishable by imprisonment in jail not exceeding one year, or by fine not exceeding \$500, or both."

Other injuries.

SEC. 76. That section 276 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 276. Every person who brings into the Canal Zone any cattle, horses, mules, or asses, after the governor has made proclamation holding in quarantine, for the purpose of inspection for contagious or infectious diseases, such animals, and allows the same or any of them to leave the place of their first arrival in the Canal Zone until they have been examined by the health department, and a certificate has been obtained therefrom that such animals are free from disease, or permits any such animals to run at large, or to be removed, or to escape, before such certificate has been received, is punishable by a fine not exceeding \$500."

Importing quarantined animals.

SEC. 77. That section 279 of the Penal Code of the Canal Zone is hereby repealed.

SEC. 78. That section 282 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 282. Every person who participates in any riot is punishable by imprisonment in the penitentiary not exceeding two years, or by fine not exceeding \$2,000, or both."

Participating in riots.

SEC. 79. That section 283 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 283. Whenever two or more persons, assembled and acting together, make any attempt or advance toward the commission of an

"Rout" construed.

act which would be a riot if actually committed, such assembly is a rout."

Participating in rout. SEC. 80. That section 285 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 285. Every person who participates in any rout or unlawful assembly is guilty of a misdemeanor."

SEC. 81. That section 286 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Refusing to disperse upon lawful warning.

"SEC. 286. Every person remaining present at the place of any riot, rout, or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor."

SEC. 82. That section 293a of the Penal Code of the Canal Zone, as added by the Executive order of January 9, 1908, is hereby amended to read as follows:

Vagrancy.

"SEC. 293a. Every vagrant or person found within the Canal Zone without legitimate business or visible means of support; and

"2. Every mendicant or habitual beggar found within the Canal Zone; and

"3. Every person found within or loitering about any laborers' camp, mess house, quarters, or other Canal Zone building, or any railroad car, or station, or other building of the Panama Railroad Company, or any dwelling or other building owned by any private person without due and proper authority and permission so to be; or peddling goods or merchandise about any laborers' camp or mess house during hours when laborers are ordinarily employed at work, or in or about places where groups of men are at work; and

"4. Every person found in any public place in such a state of intoxication as to disturb others, or unable, by reason of his condition, to care for his own safety or the safety of others; shall, upon conviction thereof, be punished by a fine of not to exceed \$25, or by imprisonment in jail not to exceed thirty days, or by both such fine and imprisonment."

Punishment for.

SEC. 82a. That the last paragraph of section 294 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"Is punishable by imprisonment in the penitentiary for not more than ten years, and is disqualified from holding any office in the Canal Zone."

Crimes against the revenue of the Canal Zone.

Punishment for.

SEC. 83. That section 295 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Failing to account, etc., for collected revenues.

"SEC. 295. Any employee of the United States, the Panama Canal, or the Panama Railroad Company, who collects or receives public moneys:

"1. Who fails, fully and promptly, to account for any and all public funds, fines, internal revenue stamps, licenses, receipts, books, documents, records, papers, or any other form of public property; or,

"2. Who is guilty of any extortion or willful oppression under color of law; or,

"3. Who, knowingly, demands other or greater sums than are authorized by law, or receives any fee, compensation or award, except as herein provided for the performance of any duty; or,

"4. Who willfully neglects to perform any of the duties enjoined upon him by laws; or,

"5. Who conspires or colludes with any person to defraud the public revenues; or,

"6. Who makes opportunities for any person to defraud the public revenues; or,

"7. Who does, or omits to do, any act with intent to enable any other person to defraud the public revenues; or,

"8. Who, negligently or designedly, permits any violation of the law by any person; or,

"9. Who makes or signs any false entry in any book, or makes or signs any false certificate or return in any case where he is required by law to make any entry, certificate or return; or,

"10. Who, having knowledge or information of the violation of any provision of the laws respecting public revenues by any person, or of fraud committed by any person against the public revenues, fails to report in writing such violation or fraud to the designated authority; or

"11. Who demands, accepts, or attempts to collect, directly or indirectly, as payment, gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of the laws respecting public revenues; or

"12. Who shall divulge or make known, in any manner whatsoever not provided by law, to any persons, the accounts, condition of business affairs, or manner of conducting the same of any person, association, or corporation whose books, accounts, and business operations may have been investigated in the discharge of their duties, shall be dismissed from office and shall be guilty of a felony, and, upon conviction, shall be fined not more than \$2,000, or be imprisoned in the penitentiary not more than five years, or both, at the discretion of the court. For the purpose of this section, all funds, moneys, and properties of the Panama Railroad Company shall be deemed public funds."

Punishment for.

SEC. 84. That section 297 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 297. The phrase 'public moneys,' as used in the preceding sections, includes all bonds and evidences of indebtedness, and all moneys belonging to the United States, the government of the Canal Zone, the Panama Canal, or the Panama Railroad Company, and all moneys, bonds, and evidences of indebtedness received or held by Canal Zone or Panama Railroad officers or employees in their official capacity."

"Public moneys" construed.

SEC. 85. That section 298 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 298. If any clerk, marshal, or other officer, who receives any fine or forfeiture or other moneys, refuses or neglects to pay over the same according to law, and within thirty days after the receipt thereof, he is punishable by imprisonment in jail not exceeding six months, or by a fine not exceeding \$500, or by both."

Officer failing to pay over fines, etc.

SEC. 86. That sections 299, 300, 301, and 302 of the Penal Code of the Canal Zone are hereby repealed.

Sections repealed. Tax collections.

SEC. 87. That section 305 of the Penal Code of the Canal Zone is hereby repealed.

SEC. 88. That section 306 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 306. Arson is the willful and malicious burning of a building with intent to destroy it."

"Arson" defined.

SEC. 88a. That section 311 of the Penal Code of the Canal Zone is hereby repealed.

Section repealed. Ownership of building set on fire.

SEC. 89. That section 324 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 324. Forgery is punishable by imprisonment in the penitentiary for a term not exceeding fourteen years."

Forgery.

SEC. 90. That section 325 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Forging telegraph,
etc., messages.

"SEC. 325. Every person who knowingly and willfully sends by telegraph or telephone to any person a false or forged message, purporting to be from a telegraph or telephone office, or from any other person, or who willfully delivers or causes to be delivered to any person any such message falsely purporting to have been received by telegraph or telephone, or who furnishes, or conspires to furnish, or causes to be furnished to any agent, operator, or employee, to be sent by telegraph or telephone, or to be delivered, any such message, knowing the same to be false or forged, with the intent to deceive, injure, or defraud another, is punishable by imprisonment in the penitentiary not exceeding five years, or in jail not exceeding one year, or by fine not exceeding \$5,000, or by both such fine and imprisonment."

SEC. 91. That section 326 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Passing or receiving
forged notes.

"SEC. 326. Every person who has in his possession, or receives from another person, any forged promissory note or bank bill, or bills for payment of money or property, with the intention to pass the same or to permit, cause, or procure the same to be uttered or passed, with the intention to defraud any person, knowing the same to be forged or counterfeited, or has or keeps in his possession any blank or unfinished note or bill made in the form or similitude of any promissory note or bill for payment of money or property, made to be issued by any incorporated bank or banking company, with intention to fill up and complete such blank and unfinished note or bill, or to permit, or cause, or procure the same to be filled up and completed, in order to utter or pass the same, or to permit, or cause, or procure the same to be uttered or passed, or to defraud any person, is punishable by a fine of not more than \$1,000 or by imprisonment at hard labor in the penitentiary not more than five years, or by both."

SEC. 91a. That section 327 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Making, uttering,
etc., fictitious bills, etc.

"SEC. 327. Every person who makes, passes, utters, or publishes, with the intention to defraud any other person, or who, with the like intention, attempts to pass, utter, or publish, or who has in his possession, with like intent to utter, pass, or publish, any fictitious bill, note, or check, purporting to be the bill, note, or check or other instrument in writing for the payment of money or property of some bank, corporation, copartnership, or individual, when, in fact, there is no such bank, corporation, copartnership, or individual in existence, knowing the bill, note, check, or instrument in writing to be fictitious, is punishable by imprisonment in the penitentiary for not more than five years."

SEC. 92. That Chapter IV of Title XVI of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 327 a new section numbered 327a to read as follows:

Issuing bank check,
etc., with intent to
defraud.

"SEC. 327a. Every person who for himself or as the agent or representative of another or as an officer of a corporation, willfully, with intent to defraud, makes or draws or utters or delivers to another person any check or draft on a bank, banker, or depository for the payment of money, knowing at the time of such making, drawing, uttering, or delivery, that he or his principal or the corporation of which he is an officer has not sufficient funds in, or credit with such bank, banker, or depository, to meet such check or draft in full upon its presentation, is punishable by imprisonment in jail for not more than one year or in the penitentiary for not more than fourteen years.

Punishment for.

"Credit" construed.

The word 'credit' as herein used shall be construed to be an arrange-

ment or understanding with the bank or depository for the payment of such check or draft."

SEC. 92a. That section 329 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 329. Counterfeiting is punishable by imprisonment in the penitentiary for not more than five years."

Counterfeiting.

SEC. 92b. That section 330 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 330. Every person who has in his possession, or receives from any other person, any counterfeit gold or silver coin of the species current in the Canal Zone, or any counterfeit gold dust, gold or silver bullion, or bars, lumps, pieces, or nuggets, with the intention to sell, utter, put off, or pass the same, or permits, causes, or procures the same to be sold, uttered, or passed, with intention to defraud any person, knowing the same to be counterfeit, is punishable by imprisonment in the penitentiary not more than five years."

Possessing or receiving counterfeit coins, bullion, etc.

SEC. 93. That section 336 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 336. That every person who, within the Canal Zone, shall have in his possession any such false, forged or counterfeited bond, certificate, obligation, security, Treasury note, bill, promise to pay, bank note, or bill issued by a bank or other corporation of the United States, State, or Territory thereof, or any foreign country, with intent to utter, pass, or put off the same, or to deliver the same to any other person with intent that the same may thereafter be uttered, passed, or put off as true, or who shall knowingly deliver the same to any other person, with such intent, shall, upon conviction thereof as aforesaid, be punished by a fine of not more than \$1,000, or by imprisonment at hard labor in the penitentiary not more than five years, or by both."

Possessing counterfeited bond, etc.

SEC. 94. That section 339 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 339. Every person who, for the purpose of restoring to its original appearance and nominal value in whole or in part, removes, conceals, fills up, or obliterates the cuts, marks, punch holes, or other evidence of cancellation, from any ticket, check, order, coupon, receipt for fare, or pass, issued by any railroad company, or any lessee or manager thereof, canceled in whole or in part, with intent to dispose of by sale or gift, or to circulate the same, or with intent to defraud the railroad company, or lessees thereof, or any other person, or who, with like intent to defraud, offers for sale, or in payment of fare on the railroad of the company, such ticket, check, order, coupon, or pass, knowing the same to have been so restored, in whole or in part, is punishable by imprisonment in jail not exceeding six months or by fine not exceeding \$1,000, or by both imprisonment and fine."

Restoring canceled railroad tickets.

SEC. 94a. That the Penal Code of the Canal Zone is hereby amended by inserting after section 339 thereof, a new section numbered 339a, reading as follows:

"SEC. 339a. Every person who, with intent to defraud, alters any clubhouse, commissary, or restaurant check, ticket, coupon, or other evidence of a transaction with such clubhouse, commissary, or restaurant, is guilty of a misdemeanor punishable by imprisonment in jail not exceeding six months or by fine not exceeding \$1,000, or by both such fine and imprisonment."

Altering clubhouse, etc., check.

SEC. 95. That section 345 of the Penal Code of the Canal Zone is hereby repealed.

Section repealed. Larceny after severance from real property.

SEC. 96. That section 352 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Receiving property stolen in another country, etc.

"SEC. 352. Every person who, in any country or State of the United States, embezzles or steals the property of another, or receives such property, knowing it to have been embezzled or stolen, and brings the same into the Canal Zone, may be convicted and punished in the same manner as if such embezzlement, larceny, or receiving had been committed in the Canal Zone."

SEC. 97. That Chapter V of Title XVI of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 354 a new section numbered 354a to read as follows:

Taking motor vehicle, etc., temporarily.

"SEC. 354a. Any person who shall, without the permission of the owner thereof, take any automobile, bicycle, motor cycle, or other vehicle, for the purpose of temporarily using or operating the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$200, or by imprisonment in jail not exceeding three months, or by both such fine and imprisonment."

SEC. 98. That Chapter V of Title XVI of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 354a a new section numbered 354b to read as follows:

Unlawful use of automobile.

"SEC. 354b. Every owner or manager of an automobile garage, or agent or employee of such owner or manager, or any other person, having the care, custody, or possession of any automobile, who takes, hires, runs, drives, or uses such automobile, or who takes or removes therefrom any part thereof, without the owner's consent, is punishable by a fine not exceeding \$1,000, or by imprisonment in jail not exceeding one year, or by both such fine and imprisonment."

SEC. 98a. That section 355 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Keeping property saved from fire.

"SEC. 355. Every person who saves from fire, or from a building endangered by fire, any property, and for two days thereafter corruptly neglects to notify the owner thereof, is punishable by imprisonment in the penitentiary not more than ten years."

SEC. 99. That section 359 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Embezzlement. Appropriation by trustee of trust property to own use.

"SEC. 359. Every officer of the government of the Canal Zone, and every deputy, clerk, or servant of any such officer, and every officer, director, trustee, clerk, servant, attorney, or agent of any association, society, or corporation (public or private), and any other person who fraudulently appropriates to any use or purpose not in the due and lawful execution of his trust, any property which he has in his possession or under his control by virtue of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose, is guilty of embezzlement."

SEC. 100. That section 366 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Intention to restore as defense.

"SEC. 366. The fact that the accused intended to restore the property embezzled is no ground of defense or of mitigation of punishment, if it has not been restored before a complaint has been laid before a magistrate or an information has been filed before the district court, charging the commission of the offense."

SEC. 101. That section 367 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Actual restoration a ground for mitigation of punishment.

"SEC. 367. Whenever, prior to any complaint laid before a magistrate or an information filed in the district court, charging the commission of embezzlement, the person accused voluntarily and actually restored or tendered restoration of the property alleged to have been embezzled, or any part thereof, such fact is not a ground of defense, but it authorizes the court to mitigate punishment, in its discretion."

SEC. 101a. That section 383 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 383. Every person who, after once selling, bartering, or disposing of any property, real or personal, or any interest therein, or after executing any bond or agreement for the sale of any of such property, again willfully and with intent to defraud previous or subsequent purchasers, sells, barter, or disposes of the same property, or any part thereof, or interest therein, or willfully and with intent to defraud previous or subsequent purchasers, executes any bond or agreement to sell, barter, or dispose of the same property, or any part thereof, or interest therein, to any other person for a valuable consideration, is punishable by imprisonment in the penitentiary not more than ten years."

Subsequent sales with intent to deceive prior vendee, etc.

SEC. 102. That section 386 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 386. Every commission merchant, broker, agent, factor, or consignee, who shall willfully and corruptly make, or cause to be made, to the principal or consignor of such commission merchant, agent, broker, factor, or consignee, a false statement concerning the price obtained for or the quality or quantity of any property consigned or intrusted to such commission merchant, agent, broker, factor, or consignee, for sale, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding \$500, or imprisonment in jail not exceeding six months, or by both such fine and imprisonment."

False statements by factors, etc.

SEC. 102a. That the Penal Code of the Canal Zone is hereby amended by adding thereto, after section 389, a new section reading as follows:

"SEC. 389a. Every person who, after mortgaging any personal property, during the existence of such mortgage, with intent to defraud the mortgagee, his representative or assigns, takes, drives, carries away, or otherwise removes or permits the taking, driving, or carrying away, or other removal of the mortgaged property, or any part thereof from the Canal Zone, without the written consent of the mortgagee; or who sells, transfers, or in any manner further incumbers the said mortgaged property, or any part thereof, or causes the same to be sold, transferred, or further incumbered, is guilty of larceny and is punishable accordingly; unless at or before the time of making such sale, transfer, or incumbrance, such mortgagor informs the person to whom such sale, transfer, or incumbrance is made, of the existence of the prior mortgage, and also informs the prior mortgagee of the intended sale, transfer, or incumbrance, in writing, by giving the name and place of residence of the party to whom the sale, transfer, or incumbrance is to be made."

Removing mortgaged personal property.

SEC. 102b. That section 390 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 390. Every person who willfully burns or in any other manner injures or destroys any property which is at the time insured against loss or damage by fire, or by any other casualty, with intent to defraud or prejudice the insurer, whether the same be the property of or in the possession of such person, or of any other, is punishable by imprisonment in the penitentiary not more than ten years."

Willfully destroying property to defraud insurer.

SEC. 102c. That section 401 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 401. Every director, officer, or agent of any corporation or joint-stock association who knowingly receives or possesses himself of any property of such corporation or association otherwise than in payment of a just demand, and who, with intent to defraud, omits

Books, accounts, etc. of corporations, etc. Frauds in keeping.

to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of such corporations or associations, and every director, officer, agent, or member of any corporation or joint-stock association, who, with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings, or securities belonging to such corporation or association, or makes, or concurs in making, any false entries, or omits, or concurs in omitting, to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in the penitentiary not more than ten years or a fine not exceeding \$500, or by both such fine and imprisonment."

SEC. 103. That Chapter XIII of Title XVI of the Penal Code of the Canal Zone is hereby amended by inserting therein after section 420 a new section numbered 420a to read as follows:

Highways.
Throwing glass, etc.,
upon.

"SEC. 420a. Any person who throws or deposits any glass bottle, glass, nails, tacks, hoops, wire, cans or any other substance likely to injure any person, animal, or vehicle upon any public highway in the Canal Zone shall be guilty of a misdemeanor."

Section repealed.
Killing birds within
public parks.
Trespasses to prop-
erty.

SEC. 104. That section 424 of the Penal Code of the Canal Zone is hereby repealed.

SEC. 105. That subsections 4, 5, and 6, of section 426 of the Penal Code of the Canal Zone are hereby amended to read as follows:

"Every person who willfully commits any trespass by either—

"4. Digging, taking, or carrying away from any lot situated within the Canal Zone, without the license of the owner or legal occupant thereof, any earth, soil or stone; or,

"5. Digging, taking, or carrying away from any land in the Canal Zone, recognized or established as a street, alley, avenue or park, without the license of the proper authorities, any earth, soil or stone; or

"6. Putting up, affixing, fastening, printing, or painting upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention thereto, is guilty of a misdemeanor."

SEC. 106. That section 431 of the Penal Code of the Canal Zone is hereby amended to read as follows:

Destroying irriga-
tion, etc., construction.

"SEC. 431. Every person who willfully and maliciously cuts, breaks, injures, or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp and overflowed tide or marsh land, or to store or conduct water for agricultural or other purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them, or willfully or maliciously makes, or causes to be made, any aperture in such dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure, with intent to injure or destroy the same, or draws up, cuts, or injures any piles fixed in the ground for the purpose of securing any seabank, or sea-walls, or any dock, quay, or jetty, lock, or sea-wall, is guilty of a felony, and upon conviction, punishable by a fine not exceeding \$1,000, or by imprisonment in the penitentiary not exceeding two years, or by both."

Section repealed.
Throwing ballast
overboard in port.
Mooring to buoy.

SEC. 107. That section 434 of the Penal Code of the Canal Zone is hereby repealed.

SEC. 108. That section 435 of the Penal Code of the Canal Zone is hereby repealed.

SEC. 109. That section 436 of the Penal Code of the Canal Zone, as amended by the Executive order of April 24, 1908, is hereby amended to read as follows:

"SEC. 436. Every person who willfully injures, defaces, or removes any signal, monument, building, or appurtenance thereto, placed, erected, or used by persons engaged in the United States Coast and Geodetic Survey, the Military Survey of the United States Army, the Hydrographic Office of the United States Navy, or any other Government surveys, or the Panama Canal, or any public service company within the Canal Zone, knowing the same to be a boundary or survey monument, is guilty of a felony."

Defacing Federal, etc., monuments, etc.

SEC. 110. That section 438 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 438. Every person who maliciously mutilates, tears, defaces, obliterates, or destroys any written instrument, the property of another, the false making of which would be forgery, is punishable by imprisonment in the penitentiary for a term not exceeding five years."

Mutilating written instruments.

SEC. 111. That section 440 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 440. Every person, not the owner thereof, who willfully injures, disfigures, or destroys any monument, work of art, or useful or ornamental improvement within the limits of the Canal Zone, or any shade tree or ornamental plant growing therein, whether situated upon private grounds or on any street, sidewalk, or public park, or place, is guilty of a misdemeanor."

Disfiguring works of art, etc.

SEC. 112. That section 444 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 444. Every person who, by means of any machine, instrument, or contrivance, or in any other manner, willfully and fraudulently reads, or attempts to read, any message, or to learn the contents thereof, whilst the same is being sent over any telegraph line, or willfully and fraudulently, or clandestinely learns, or attempts to learn, the contents or meaning of any message while the same is in any telegraph or cable office, or is being received thereat or sent therefrom, or who uses or attempts to use, or communicates to others, any information so obtained, is punishable by imprisonment in the penitentiary for not more than five years, or by fine of not to exceed \$5,000, or both."

Fraudulent reading of messages over telegraph lines.

SEC. 113. That section 445 of the Penal Code of the Canal Zone is hereby amended to read as follows:

"SEC. 445. Every person who, by the payment or promise of any bribe, inducement, or reward, procures, or attempts to procure, any telegraph or cable agent, operator, or employee to disclose any private message, or the contents, purport, substance, or meaning thereof, or offers to any such agent, operator, or employee any bribe, compensation or reward for the disclosure of any private information received by him by reason of his trust as such agent, operator or employee, or uses, or attempts to use, any such information so obtained, is punishable by imprisonment in the penitentiary for not more than five years, or by fine of not more than \$5,000, or both."

Bribing cable agents, etc., to obtain disclosure of contents of messages.

SEC. 114. That the first subdivision of section 461 of the Penal Code of the Canal Zone, defining the word "willfully," is hereby amended to read as follows:

"First. The word 'willfully,' when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage."

"Willfully" construed.

SEC. 115. Nothing contained in this Act shall apply to an offense committed prior to the time when this Act takes effect. Such an

Saving clause.

offense shall be punished according to the provisions of law existing when it was committed in the same manner as if this Act had not been passed.

Approved, February 21, 1933.

[CHAPTER 110.]

AN ACT

An Act to amend the Code of Criminal Procedure for the Canal Zone.

February 21, 1933.
[H. R. 7520.]
[Public, No. 366.]

Code of Criminal
Procedure, Canal Zone.
Amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Jury trials.

"SEC. 2. No person can be convicted of a public offense unless by the verdict of a jury, accepted and recorded by the court, or upon a plea of guilty, or upon a judgment of the district court, a jury having been waived, or upon the judgment of a magistrate's court."

Waiver.

SEC. 2. That section 3 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Prosecution by in-
formation signed by
district attorney.

"SEC. 3. Every offense of which the district court has original jurisdiction must be prosecuted by information signed by the district attorney, or in the case of his absence by an assistant district attorney. The information must state that it is based upon due investigation of the facts relating to the crime charged therein, and on the sworn testimony of one or more witnesses."

SEC. 2a. That the Code of Criminal Procedure for the Canal Zone is hereby amended by adding a new section numbered 3a, reading as follows:

"District attorney"
to include assistant.

"SEC. 3a. Wherever the designation 'district attorney' appears in this code, such designation shall include an assistant district attorney: *Provided, however,* That this section shall only apply during the absence or disability of the district attorney or during a vacancy in the office of district attorney."

Proviso.
Application.

SEC. 3. That section 8 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Jurisdiction over
offense.

"SEC. 8. The jurisdiction of an offense triable either in the district or magistrates' courts shall be in the division or subdivision where the offense has been committed."

SEC. 4. That section 9 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Offenses committed
within Canal Zone.

"SEC. 9. Every person is liable to punishment by the law of the Canal Zone, or by the laws of the United States which are made applicable to the Canal Zone, for an offense committed by him therein."

SEC. 5. That section 11 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Rights of defendant.

"SEC. 11. In a criminal action, the defendant is entitled—

"1. To a speedy and public trial.

"2. To be allowed counsel as in civil actions, or to appear and defend in person and with counsel.

"3. To produce witnesses on his behalf and to be confronted with the witnesses against him, in the presence of the court, except that where the charge has been preliminarily examined before a committing magistrate and the testimony taken down by question and answer in the presence of the defendant, who has, either in person or by counsel, cross-examined or had an opportunity to cross-examine the witness; or where the testimony of a witness on the

part of the Government, who is unable to give security for his appearance, has been taken conditionally in the like manner in the presence of the defendant, who has, either in person or by counsel, cross-examined or had an opportunity to cross-examine the witness, the deposition of such witness may be read, upon its being satisfactorily shown to the court that he is dead or insane, or can not with due diligence be found within the Canal Zone; and except also that in the case of offenses hereafter committed the testimony on behalf of the Government or the defendant of a witness deceased, insane, out of jurisdiction, or who can not, with due diligence, be found within the Canal Zone, given on a former trial of the action in the presence of the defendant who has, either in person or by counsel, cross-examined or had an opportunity to cross-examine the witness, may be admitted."

SEC. 6. That section 12 of the code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 12. The magistrates and the district attorney shall have power to issue warrants for the arrest of persons charged with public offenses."

Warrants, power to issue.

SEC. 7. That section 14 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 14. One magistrate may conduct the proceedings of the magistrate of the other subdivision upon inability to act, sickness, or any other cause. In such cases the proper entry of the proceedings of such magistrate so acting shall be made in the docket of the magistrate for whom he so acts."

SEC. 7a. That section 18 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 18. Before a magistrate shall issue a warrant in any case, a complaint must be made by affidavit of the complaining witness, clearly charging therein the offense committed, and such affidavit must be signed by said complaining witness."

Complaint by affidavit before issue of warrant.

SEC. 8. That section 19 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 19. Every affidavit shall contain as particularly as can be done the nature of the offense charged and the particulars as to the time, place, person, and property, so as to enable the defendant to understand the nature and character of such offense."

Contents.

SEC. 9. That section 20 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 20. After a complaint has been made charging that an offense has been committed against the laws of the Canal Zone, and the magistrate before whom such complaint was made is satisfied that the complaint charges an offense, he shall forthwith issue a warrant of arrest for the offending party, directed to any peace officer, commanding the said peace officer to forthwith arrest the offender and bring him before the said magistrate."

Issue of warrant of arrest.

SEC. 11. That the Code of Criminal Procedure for the Canal Zone be amended by inserting therein, following section 21, a new section numbered 21a, to read as follows:

"SEC. 21a. The warrant must specify the name of the defendant, or, if it is unknown to the magistrate, the defendant may be designated therein by any name. It must also state the time of issuing it, and the place where it is issued, and be signed by the magistrate, with his name and office. The warrant must be directed to and executed by a peace officer."

Contents of warrant.

Execution of.

SEC. 12. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 21a, a new section numbered 21b, to read as follows:

Peace officers; who are.

"SEC. 21b. The following are peace officers: The marshal and deputy marshals of the Canal Zone, constables of the magistrate courts, and all officers and members of the police force of the Canal Zone."

SEC. 13. That section 22 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Admission to bail.

"SEC. 22. In the event that the offense charged against the person be triable in the magistrate's court, the defendant may be admitted to bail upon executing a bond in a sum to be fixed by the magistrate not exceeding \$500. Such bond shall be in favor of the 'Government of the Canal Zone' upon condition that the defendant shall be and appear before said magistrate at a certain date therein mentioned; said bond shall be signed by the defendant and two or more good and sufficient sureties. The date of the appearance shall not be later than three days from the signing of the bond. Should the defendant fail to enter into such bond, the said magistrate shall commit him to jail awaiting trial."

Bond.

SEC. 14. That section 23 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Subpoenas. Issue of.

"SEC. 23. Whenever a person arrested charged with an offense cognizable by a magistrate is placed on trial, he shall give the names of his witnesses, if he has any, and their places of abode; and the magistrate shall forthwith issue subpoenas for the same to testify in said cause. The subpoenas shall state the day, hour, and place of trial."

SEC. 15. That section 24 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Pleadings of defendant.

"SEC. 24. When a defendant is put upon trial in a magistrate's court, the magistrate shall read the complaint to the defendant, whereupon the defendant may plead to the same, which plea shall be 'guilty' or 'not guilty'. Should the defendant refuse to answer or plead to the same, the magistrate shall enter a plea of not guilty. Should the defendant plead guilty, the magistrate shall, after hearing testimony to determine the gravity of the offense, within twenty-four hours thereafter render his decision as to the amount of punishment to be inflicted."

SEC. 16. That section 25 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Proceedings if plea "not guilty."

"SEC. 25. After having heard the charge, if the defendant plead 'not guilty', the proceedings shall be as follows:

"First. The witnesses for the prosecution shall be examined under oath. The oath shall be as follows: 'You do solemnly swear before Almighty God that you will tell the truth, the whole truth, and nothing but the truth, in the matter now pending before me.'

Examination of witnesses.

"Second. The witnesses for the defendant, including the defendant himself if he wishes to testify, shall be examined under oath; if the defendant does not testify, that fact can not be used against him.

Rebuttal.

"Third. Witnesses for the prosecution may be called to testify in rebuttal only of testimony given by the defendant or his witnesses.

Consideration of evidence.

"Fourth. The court shall then consider the evidence, and within twenty-four hours thereafter render his decision. The trial must be had and a decision rendered in the presence of the defendant. When a decision is in favor of the defendant by acquitting him of the charge, he shall be at once released. Should the decision be that the defendant is guilty, the court shall, within the time limit, fine or commit the defendant to jail, or both, as the case may be."

SEC. 17. That section 26 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 26. A private person who has arrested another for the commission of an offense must without unnecessary delay, take the person arrested before a magistrate or deliver him to a peace officer."

Arrests by private persons.

SEC. 18. That section 30 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 30. If the offense charged is bailable and the defendant is arrested in another division or subdivision, the officer must, upon being required by the defendant, take him before the magistrate in that subdivision who may admit the defendant to bail to answer before the magistrate issuing the warrant within a reasonable time."

Admission of defendant to bail.

SEC. 19. That section 32 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 32. If, on the admission of the defendant to bail, the bail is not forthwith given, the officer must take the defendant before the magistrate who issued the warrant or to whom it is made returnable."

When bail not given forthwith.

SEC. 20. That section 33 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 33. When a magistrate orders the defendant to be held to answer, after preliminary investigation in cases triable in the district court, he must make out a commitment signed by him, with his name and office, and deliver it, with the defendant, to the officer to whom he is committed, or if that officer is not present, to a peace officer, who must deliver the defendant to the proper custody, together with the commitment."

Commitment, when defendant held to answer.

SEC. 21. That section 40 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 40. Any attorney at law entitled to practice in the courts of the Canal Zone may, at the request of a prisoner, after his arrest, visit the person so arrested."

Counsel of person under arrest.

SEC. 22. That section 41 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 41. Whenever any person is charged, other than by information direct, with an offense not triable before the magistrate, the said magistrate shall hold a preliminary hearing, and if the magistrate be satisfied that the offense has been committed, and there exists probable cause that the defendant has committed the same, he shall remand the defendant to jail, or admit him to bail, as the case may be, for his appearance before the district court to answer said charge. If there be no evidence that an offense has been committed, or no probable cause showing the defendant's connection therewith, he shall be discharged."

Preliminary hearing before magistrate.

When probable cause established.

SEC. 23. That section 44 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 44. An appeal from the judgment of a magistrate's court may be taken by the defendant by giving notice in open court of his intention so to do at the time the judgment is rendered. Upon the perfection of such an appeal the magistrate shall forthwith transmit the warrant and the complaint to the clerk of the district court."

Appeals. Notice in open court.

Perfection of.

SEC. 24. That section 50 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 50. When a judgment is rendered against a defendant that he pay a fine and the cost of said proceeding, should he fail to do so at once, the magistrate shall commit him to jail, to be confined one day for each \$1 fine and costs remaining unpaid: *Provided, however,* That such imprisonment shall not exceed thirty days in any case."

Commitment in default of payment of fine.

Proviso. Period limited.

SEC. 25. That the second and third subsections of section 52 of the Code of Criminal Procedure for the Canal Zone are hereby amended to read, respectively, as follows:

Magistrates.
Powers.

"SEC. 52. * * *

"Second. To enforce order in the proceedings before him.

"Third. To provide for the orderly conduct of proceedings before him."

SEC. 26. That section 59 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Duties.
Papers relating to
criminal matters.

"SEC. 59. It shall be the duty of magistrates to keep all papers relating to criminal matters in which preliminary examination has been held in good order and on file in their offices for a term not to exceed two days, and within said time to deliver to the district attorney a transcript of all proceedings had in such cases and all papers relating to such cases, including original complaint and warrant, affidavits, and the names of the witnesses. The district attorney shall return all such papers to the magistrate in every case where the district attorney does not file an information."

SEC. 27. That section 60 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Undertakings, etc.,
deposited.

"SEC. 60. It shall be the duty of the magistrates, after the filing of an information by the district attorney, to turn over to the clerk of the district court all undertakings or moneys deposited in lieu thereof with the magistrate for appearance in the district court."

SEC. 28. That section 62 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Information.

"SEC. 62. The first pleading on part of the government in all criminal matters within the original jurisdiction of the district court is the information."

SEC. 29. That section 64 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Filing of.

"SEC. 64. All informations must be filed with the clerk of the district court."

SEC. 30. That section 67 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Form.

"SEC. 67. It may be substantially in the following form:

"In the district court in and for the division of _____, Canal Zone.

"The government of the Canal Zone against _____: Information.

"_____, district attorney for the Canal Zone, comes into the district court for the said division, and for the government of the Canal Zone gives the court here to be informed and to understand that: on the _____ day of _____ A. D. 19____, in the division aforesaid, did then and there (here set forth the act or omission charged as an offense) and so did then and there commit the offense of (here state the character of the offense committed, whether it be murder, arson, larceny, or the like, or designating it as a felony or misdemeanor) contrary to the law in such case made and provided and against the peace and dignity of the government of the Canal Zone.

"This information is based upon due investigation of the facts relating to the crime charged therein, and on the sworn testimony of one or more witnesses, and I believe there is just cause for the filing of this information.

"Signed this _____ day of _____, A. D. 19____

"District Attorney."

SEC. 30a. That sections 68 and 69 of the Code of Criminal Procedure for the Canal Zone are hereby repealed.

Sections repealed.
Issue of bench warrants.

SEC. 31. That the word "directed" in section 70 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read "direct."

Information must be direct.

SEC. 32. That subdivision 2 of section 77 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:
"2. That the information be signed and filed by the district attorney of the Canal Zone."

Signing of.

SEC. 33. That the Code of Criminal Procedure for the Canal Zone be amended by inserting therein, following section 86, a new section numbered 86a, to read as follows:

"SEC. 86a. In charging in an information the fact of a previous conviction of felony, or of an attempt to commit an offense which, if perpetrated, would have been a felony, or of petit larceny, it is sufficient to state, 'That the defendant, before the commission of the offense charged in this information, was in (giving the title of the court in which the conviction was had) convicted of a felony (or attempt, and so forth, or of petit larceny).' If more than one previous conviction is charged, the date of the judgment upon each conviction must be stated, but not more than two previous convictions must be charged in any one information."

Previous conviction of felony, etc.

Including statement of.

SEC. 34. That section 90 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 90. The district attorney shall have power to issue subpoenas for witnesses."

Power of district attorney to subpoena witnesses.

SEC. 35. That section 92 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 92. When a defendant has been committed as provided in sections 33 and 41, the district attorney may, within twenty days thereafter, issue subpoenas for witnesses and examine such witnesses under oath as to the offense charged. Such examination shall be conducted in private."

Examination of, after preliminary hearing.

SEC. 36. That section 93 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 93. If, after investigation, it appears either that no public offense has been committed, or that there is not sufficient cause to believe the defendant guilty, the district attorney must, within such twenty-day period, order that the defendant be discharged, and shall file with the committing magistrate the original proceedings indorsed thereon as follows: 'There being no sufficient cause to believe the within named, A. B., to be guilty of an offense, I order his discharge.'"

Discharge of defendant if no public offense committed, etc.

Indorsement on original proceedings.

SEC. 37. That section 94 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 94. If, however, it appears from the examination that a public offense has been committed, and that there is sufficient cause to believe the defendant guilty thereof, the district attorney shall, within such twenty-day period, file an information against such person in the division of the district court in which the offense is triable, charging the defendant with such offense."

Information filed, if otherwise.

SEC. 38. That section 97 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 97. All offenses triable in the magistrates' courts, when appealed to the district court, shall be tried de novo on the original complaint and warrant: *Provided, however,* That the complaint may be amended in the district court as to matters of form or substance where the rights of the defendant are not substantially prejudiced thereby; but the amended complaint may not charge a crime different

Trial de novo.

Proviso. Amendments.

from that charged or sought to be charged, in the original complaint."

SEC. 38a. That section 103 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Criminal docket.
Clerk of district court
to keep.

"SEC. 103. A docket must be kept by the clerk of the district court denominated a criminal docket, in which he shall enter each criminal action and whatever proceedings are had therein, and a statement of the costs. The clerk shall at the end of each month turn over to the collector of the Panama Canal all the government revenues collected or paid to him of whatever character or nature."

Deposit of govern-
ment revenues.

SEC. 39. That section 105 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Other duties of clerk.

"SEC. 105. The clerk shall perform such other duties as may from time to time be assigned him by the judge of said court."

SEC. 40. That section 113 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Arrest.
When offense a fel-
ony.
Misdemeanor.

"SEC. 113. If the offense charged is a felony, the arrest may be made on any day and at any time of day or night. If it is a misdemeanor, the arrest can not be made at night, except upon direction of a magistrate by indorsement on the warrant, or except when the offense is committed in the presence of the arresting officer."

SEC. 41. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 114, a new section numbered 114a, to read as follows:

Execution of war-
rant.

"SEC. 114a. A warrant of arrest may be executed in either division or subdivision of the Canal Zone."

SEC. 42. That section 116 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Arrest of person re-
sisting or about to flee.

"SEC. 116. If a person about to be arrested either flees or forcibly resists, after he has been informed of the intention of the arresting officer to place him under arrest, the officer may use all reasonable means to effect the arrest."

SEC. 43. That section 119 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Right to take weap-
ons from person ar-
rested.

"SEC. 119. Any person making an arrest may take from the person arrested all dangerous weapons which he may have about his person."

SEC. 44. That section 125 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Arraignment for fel-
ony; presence of de-
fendant required.
Misdemeanor.

"SEC. 125. The defendant must be personally present on arraignment for felony. If the offense be a misdemeanor, he need not be arraigned, but when the trial begins the clerk shall read the information."

SEC. 45. That section 129 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Form of bench war-
rant.

"SEC. 129. The bench warrant upon the information must be substantially in the following form:

In the district court of the Canal Zone Division of
The government of the Canal Zone.

BENCH WARRANT

To the MARSHAL OR ANY PEACE OFFICER OF THE CANAL ZONE:

An information having been filed on the _____ day of _____ A. D. _____, in the _____ division of the district court of the Canal Zone, charging _____ with the crime of _____, you are

(designating it generally)

therefore commanded forthwith to arrest the above-named and bring him before the court (or if the information has been sent to the other division, that division must be named as the place to bring the defendant) to answer said information; or if the court

be not in session, that you deliver him into the custody of the warden of said district.

Given under my hand, with the seal of the court affixed, this day of _____, A. D. _____.

By order of the Court.

[SEAL]

Clerk of the Court."

SEC. 46. That section 134 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 134. If the defendant appears for arraignment without counsel, he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel. If he desires and is unable to employ counsel, the court may assign counsel to defend him."

Right of defendant appearing for arraignment to have counsel.

SEC. 47. That section 138 of the Code of Criminal Procedure for the Canal Zone as amended by Executive order of August 16, 1910, is hereby amended to read as follows:

"SEC. 138. When the information is not subscribed by the district attorney, it must be set aside by the court in which the defendant is arraigned, upon his motion."

Motion to set aside information not subscribed.

SEC. 48. That section 140 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 140. The motion must be heard at the time it is made, unless, for cause, the court postpones the hearing to another time. If the motion is denied, the defendant must immediately answer the information either by demurring or pleading thereto. If the motion is granted, the court must order that the defendant, if in custody, be discharged therefrom; or, if admitted to bail, that his bail be exonerated; or, if he has deposited money instead of bail, that the same be refunded to him, unless it directs that an information be filed by the district attorney."

Hearing of motion. When denied.

Granted.

SEC. 49. That section 150 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 150. An information may be amended by the district attorney without leave of court, at any time before the defendant pleads. Such amendment may be made at any time thereafter, in the discretion of the court, where it can be done without prejudice to the substantial rights of the defendant. If a demurrer is allowed, the judgment is final upon the information demurred to, and is a bar to another prosecution for the same offense, unless the court, being of the opinion that the objection on which the demurrer is sustained may be avoided in a new information, directs a new information to be filed."

Amendment of information.

Demurrer if allowed, bar to subsequent prosecution for same offense.

SEC. 50. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 163, a new section numbered 163a, to read as follows:

"SEC. 163a. When a defendant who is charged in the information with having suffered a previous conviction, pleads either guilty or not guilty of the offense for which he is informed against, he must be asked whether he has suffered such previous conviction. If he answers that he has, his answer must be entered by the clerk in the minutes of the court, and must, unless withdrawn by consent of the court, be conclusive of the fact of his having suffered such previous conviction in all subsequent proceedings. If he answers that he has not, his answer must be entered by the clerk in the minutes of the court, and the question whether or not he has suffered such previous conviction must be tried by the court or jury which tries the issue upon the plea of not guilty, or in case of a plea of guilty, by the court

Previous convictions charged in information.

Ante, p. 885.

or a jury impaneled for that purpose. The refusal of the defendant to answer is equivalent to a denial that he has suffered such previous conviction. In case the defendant pleads not guilty, and answers that he has suffered the previous conviction, the charge of the previous conviction must not be read to the court or jury, nor alluded to on the trial."

SEC. 51. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 169, a new section numbered 169a, to read as follows:

"SEC. 169a. The court may also order the removal of the action from one division to the other upon the agreement of the parties."

SEC. 52. That section 170 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 170. An issue of fact arises:

"1. Upon a plea of not guilty.

"2. Upon a plea of a former conviction or acquittal of the same offense.

"3. Upon a plea of once in jeopardy."

SEC. 53. That section 171 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 171. Issues of fact in criminal cases within the original jurisdiction of the district court of the Canal Zone must be tried by jury, unless a trial by jury be waived."

SEC. 54. That section 175 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 175. After his plea the defendant is entitled to at least two days to prepare for trial."

SEC. 55. That chapter I of title VII of the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, before section 177, new sections numbering 176a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, oo, p, q, r, s, t, u, v, w, x, y, and z, reading as follows:

"SEC. 176a. A challenge is an objection made to the trial jurors, and is of two kinds:

"1. To the panel;

"2. To an individual juror."

"SEC. 176b. When several defendants are tried together they can not sever their challenges, but must join therein."

"SEC. 176c. The panel is a list of jurors to serve for a particular period or for the trial of a particular action."

"SEC. 176d. A challenge to the panel is an objection made to all the jurors returned, and may be taken by either party."

"SEC. 176e. A challenge to the panel can be founded only on a material departure from the forms prescribed in respect to the drawing and return of the jury, or on the intentional omission of the marshal to summon one or more of the jurors drawn."

"SEC. 176f. A challenge to the panel must be taken before a juror is sworn and must be in writing or be noted by the reporter, and must plainly and distinctly state the facts constituting the ground of challenge."

"SEC. 176g. If the sufficiency of the facts alleged as ground of the challenge is denied, the adverse party may except to the challenge. The exception need not be in writing, but must be entered on the minutes of the court, or of the reporter, and thereupon the court must proceed to try the sufficiency of the challenge, assuming the facts alleged therein to be true."

"SEC. 176h. If on exception the court finds the challenge sufficient, it may, if justice requires it, permit the party excepting to withdraw his exception and to deny the facts alleged in the challenge. If

Removal of action upon agreement of parties.

Mode of trial.

Issues of fact.

Tried by jury in criminal cases.

Right of defendant to prepare.

"Challenge" defined.

Several defendants can not sever.

"Panel" defined.

"Challenge to panel" defined.

When can be founded.

When and how taken.

Exceptions to, when sufficiency denied.

Denial allowed if exception overruled.

exception is allowed, the court may, in like manner, permit an amendment of the challenge."

"SEC. 176i. If the challenge is denied, the denial may be oral, and must be entered on the minutes of the court, or of the reporter, and the court must proceed to try the question of fact; and upon such trial, the officers, whether judicial or ministerial, whose irregularity is complained of, as well as any other persons, may be examined to prove or disprove the facts alleged as the ground of the challenge."

"SEC. 176j. When the panel is formed from persons whose names are not drawn as jurors, a challenge may be taken to the panel on account of any bias of the officer who summoned them, which would be good ground of challenge to a juror. Such challenge must be made in the same form, and determined in the same manner, as if made to a juror."

"SEC. 176k. If, either upon an exception to the challenge or a denial of the facts, the challenge is allowed, the court must discharge the jury so far as the trial in question is concerned. If it is disallowed, the court must direct the jury to be impaneled."

"SEC. 176l. Before a juror is called, the defendant must be informed by the court, or under its direction, that if he intends to challenge an individual juror he must do so when the juror appears, and before he is sworn."

"SEC. 176m. A challenge to an individual juror is either—

"1. Peremptory; or

"2. For cause."

"SEC. 176n. It must be taken when the juror appears, and before he is sworn to try the cause; but the court may for cause permit it to be taken after the juror is sworn, and before the jury is completed."

"SEC. 176o. A peremptory challenge can be taken by either party, and may be oral. It is an objection to a juror for which no reason need be given, but upon which the court must exclude him."

"SEC. 176oo. Upon a trial by jury, each side shall be entitled to six peremptory challenges. A waiver of a challenge by either party shall preclude such party, except by consent of court, from thereafter challenging peremptorily any juror then in the jury box, and the remaining challenges of such party shall be limited to jurors thereafter called."

"SEC. 176p. A challenge for cause may be taken by either party. It is an objection to a particular juror, and is either—

"1. General—that the juror is disqualified from serving in any case; or

"2. Particular—that he is disqualified from serving in the action on trial."

"SEC. 176q. General causes of challenge are:

"1. A conviction for felony;

"2. A want of any of the qualifications prescribed by law to render a person a competent juror;

"3. Unsoundness of mind, or such defect in the faculties of the mind or organs of the body as to render him incapable of performing the duties of a juror."

"SEC. 176r. Particular causes of challenge are of two kinds:

"First. For such a bias as, when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and which is known in this code as implied bias.

"Second. For the existence of a state of mind on the part of the juror in reference to the case, or to either of the parties, which will prevent him from acting with entire impartiality and without prejudice to the substantial rights of either party, which is known in this code as actual bias."

Amendment.

Trial of denial.

Examinations during trial.

Challenge when jurors summoned but not drawn.

Discharge of jury when challenge allowed.

Impaneled, when disallowed.

Defendant to be informed of right to challenge.

Kinds of challenges to juror.

When taken.

General causes of challenge.

Particular causes.

Challenges for im-
plied bias.

"SEC. 176s. A challenge for implied bias may be taken for all or any of the following causes, and for no other:

"1. Consanguinity or affinity within the fourth degree to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant.

"2. Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged or on whose complaint the prosecution was instituted, or in his employment on wages.

"3. Being a party adverse to the defendant in a civil action, or having complained against or been accused by him in a criminal prosecution.

"4. Having served on a trial jury which has tried another person for the offense charged.

"5. Having been one of a jury formerly sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict after the case was submitted to it.

"6. Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

"7. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty; in which case he must neither be permitted nor compelled to serve as a juror."

Exemption not cause
of.

"SEC. 176t. An exemption from service on a jury is not a cause of challenge, but the privilege of the person exempted."

Stating causes of.

"SEC. 176u. In a challenge for implied bias, one or more of the causes stated in section 176s must be alleged. In a challenge for actual bias, the cause stated in the second subdivision of section 176r must be alleged; but no person shall be disqualified as a juror by reason of having formed or expressed an opinion upon the matter or cause to be submitted to such jury, founded upon public rumor, statements in public journals, or common notoriety; provided it appear to the court, upon his declaration, under oath or otherwise, that he can and will, notwithstanding such an opinion, act impartially and fairly upon the matters to be submitted to him. The challenge may be oral, but must be entered in the minutes of the court or of the reporter."

Exceptions to chal-
lenge and denial.

"SEC. 176v. The adverse party may except to the challenge in the same manner as to a challenge to the panel, and the same proceedings must be had thereon as are prescribed in section 176g, except that if the exception be allowed the juror must be excluded. The adverse party may also orally deny the facts alleged as the ground of challenge."

Trial of.

"SEC. 176w. If the facts are denied, the challenge must be tried by the court."

Examination of chal-
lenged juror.

"SEC. 176x. Upon the trial of a challenge to an individual juror, the juror challenged may be examined as a witness to prove or disprove the challenge and must answer every question pertinent to the inquiry."

Rules governing ad-
missibility of evidence.

"SEC. 176y. Other witnesses may also be examined on either side, and the rules of evidence applicable to the trial of other issues govern the admission or exclusion of evidence on the trial of the challenge."

Decision.

"SEC. 176z. The court must allow or disallow the challenge, and its decision must be entered in the minutes of the court."

Rebutting testimony.

SEC. 56. That the word "respectfully" in subsection 3 of section 177 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read "respectively."

SEC. 57. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 184, a new section numbered 184a, to read as follows:

"SEC. 184a. The rules of evidence in civil actions are applicable also to criminal actions, except as otherwise provided in this code."

Rules of evidence.

SEC. 58. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 184a, a new section numbered 184b, to read as follows:

"SEC. 184b. Perjury must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances."

Perjury, how proved.

SEC. 59. That section 199 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 199. When, in the opinion of the court, it is proper that the jury should view the place in which the offense is charged to have been committed, or in which any other material fact occurred, it may order the jury to be conducted in a body, in the custody of the marshal, to the place, which must be shown to them by a person appointed by the court for that purpose; and the marshal must be sworn to suffer no person to speak or communicate with the jury, nor to do so himself, on any subject connected with the trial, and to return them into court without unnecessary delay or at a specified time."

Viewing of premises by jury.

SEC. 60. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202, a new section numbered 202a, to read as follows:

"SEC. 202a. When the jury have agreed upon their verdict they must be conducted into court by the officer having them in charge. When the jury appear they must be asked by the court, or clerk, whether they have agreed upon their verdict, and if the foreman answers in the affirmative, they must, on being required, declare the same."

Return of jury when agreement on verdict reached.

SEC. 61. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202a, a new section numbered 202b, to read as follows:

"SEC. 202b. The jury may render a general verdict, or, when they are in doubt as to the legal effects of the facts proved, they may, except upon a trial for libel, find a special verdict."

Verdict. General or special.

SEC. 62. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202b, a new section numbered 202c, to read as follows:

"SEC. 202c. A special verdict is that by which the jury find the facts only, leaving the judgment to the court. It must present the conclusions of fact as established by the evidence, and not the evidence to prove them, and these conclusions of fact must be so presented as that nothing remains to the court but to draw conclusions of law upon them."

"Special verdict" defined.

SEC. 63. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202c, a new section numbered 202d, to read as follows:

"SEC. 202d. The special verdict must be reduced to writing by the jury, or in their presence entered upon the minutes of the court, read to the jury and agreed to by them, before they are discharged."

Reduced to writing.

SEC. 64. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202d, a new section numbered 202e, to read as follows:

"SEC. 202e. The special verdict need not be in any particular form, but is sufficient if it present intelligibly the facts found by the jury."

Form.

SEC. 65. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202e, a new section numbered 202f, to read as follows:

Judgment upon.

“SEC. 202f. The court must give judgment upon the special verdict as follows:

“1. If the plea is not guilty, and the facts prove the defendant guilty of the offense charged in the information, or of any other offense of which he could be convicted under that information, judgment must be given accordingly. But if otherwise, judgment of acquittal must be given.

“2. If the plea is a former conviction or acquittal of the same offense, the court must give judgment of acquittal or conviction, as the facts prove or fail to prove the former conviction or acquittal.”

SEC. 66. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202f, a new section numbered 202g, to read as follows:

New trial to be ordered if defective.

“SEC. 202g. If the jury do not, in a special verdict, pronounce affirmatively or negatively on the facts necessary to enable the court to give judgment, or if they find the evidence of facts merely, and not the conclusions of fact, from the evidence, as established to their satisfaction, the court must order a new trial.”

SEC. 67. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202g, a new section numbered 202h, to read as follows:

Reconsideration by jury.

“SEC. 202h. When there is a verdict of conviction, in which it appears to the court that the jury have mistaken the law, the court may explain the reason for that opinion and direct the jury to reconsider their verdict, and if, after the reconsideration, they return the same verdict, it must be entered; but when there is a verdict of acquittal, the court can not require the jury to reconsider it. If the jury render a verdict which is neither general nor special, the court may direct them to reconsider it, and it can not be recorded until it is rendered in some form from which it can be clearly understood that the intent of the jury is either to render a general verdict or to find the facts specially and to leave the judgment to the court.”

SEC. 68. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202h, a new section numbered 202i, to read as follows:

Judgment on informal verdict.

“SEC. 202i. If the jury persist in finding an informal verdict, from which, however, it can be clearly understood that their intention is to find in favor of the defendant upon the issue, it must be entered in the terms in which it is found, and the court must give judgment of acquittal. But no judgment of conviction can be given unless the jury expressly find against the defendant upon the issue, or judgment is given against him on a special verdict.”

SEC. 69. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202i, a new section numbered 202j, to read as follows:

Polling of jury.

“SEC. 202j. When a verdict is rendered, and before it is recorded, the jury may be polled, at the request of either party, in which case they must be severally asked whether it is their verdict, and if anyone answer in the negative, the jury must be sent out for further deliberation.”

SEC. 70. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202j, a new section numbered 202k, to read as follows:

Recording verdict.

“SEC. 202k. When the verdict given is such as the court may receive, the clerk must immediately record it in full upon the minutes, read it to the jury, and inquire of them whether it is their verdict. If any juror disagree, the fact must be entered upon the minutes and the jury again sent out; but if no disagreement is

expressed, the verdict is complete, and the jury must be discharged from the case."

SEC. 71. That section 206 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 206. Whenever the fact of a previous conviction of another offense is charged in an information, the court or jury, if it finds a verdict of guilty of the offense with which he is charged, must also, unless the answer of the defendant admits the charge, find whether or not he has suffered such previous conviction. The verdict of the court or jury upon a charge of a previous conviction may be: 'The charge of previous conviction is true,' or 'The charge of previous conviction is not true.'"

Previous convictions.
Jury to find on, when charged in information and denied.

SEC. 72. That section 207 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 207. The court or jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged, or of an attempt to commit the offense."

Conviction for lesser offense, or attempt.

SEC. 73. That section 208 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 208. On an information against several, if the court or jury can not agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the others may be retired."

Verdict as to some defendants.

Retirement as to others.

SEC. 74. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 209, a new section numbered 209a, to read as follows:

"SEC. 209a. The court may, without regard to the consent or objection of parties, direct the jury, in case they should agree, to sign the verdict, place it in an envelope, and return it into open court, or may direct the marshal to permit the jury, upon agreement, to sign and seal their verdict and return it into open court the following morning, or, upon the jury's coming into court to report agreement, counsel being absent, may instruct the jury to seal their verdict and return it into court on the following day."

Signing and sealing of verdict.

SEC. 75. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 209a, a new section numbered 209b, to read as follows:

"SEC. 209b. All criminal cases in the district court in which a jury is had, shall be tried by a jury of twelve, all of whom must concur to render a verdict."

Number of jurors. Criminal cases.

SEC. 76. That section 210 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 210. An exception is an objection upon a matter of law to a decision made by a court, tribunal, judge, or other judicial officer in an action or proceeding. Except as provided in section 212, the exception must be taken at the time the decision is made. Rulings of the court upon minor discretionary matters, such as adjournments, postponements of trials, and the like, shall not be subject to exception."

"Exception" defined.

When taken.

Rulings on minor discretionary matters.

SEC. 77. That section 212 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 212. The verdict of the jury, the final decision in an action or proceeding, an interlocutory order or decision finally determining the rights of the parties or some of them, an order or decision from which an appeal may be taken, an order sustaining or overruling a demurrer, granting or refusing a motion to set aside an information, a motion in arrest of judgment, a motion for a new trial, making or refusing to make an order after judgment affecting any substantial

What deemed to have been excepted to.

rights of the parties, refusing to grant a change of the place of trial, allowing or refusing to allow an amendment to a pleading, striking out a pleading or a portion thereof, an order made upon ex parte application, an order or decision made in the absence of a party, and instructions given or refused, are deemed to have been excepted to."

SEC. 78. That section 214 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Bill of exceptions.
Preparation, de-
livery, etc.

"SEC. 214. Where a party desires to have the exceptions settled in a bill of exceptions, the draft of a bill must be prepared by him and presented, upon notice of at least two days to the adverse party, to the judge for settlement within ten days after the announcement of the verdict, unless further time is granted by the judge, or within that period the draft must be delivered to the clerk of the court for the judge. When received by the clerk, he must deliver it to the judge, or transmit it to him at the earliest period practicable. When settled, the bill must be signed by the judge and filed with the clerk of the court. If the judge in any case refuses to allow an exception in accordance with the facts, the party desiring the bill settled may apply by petition to the United States Circuit Court of Appeals for the Fifth Circuit to prove the same. The application may be made in the mode and manner and under such regulations as that court may prescribe; and the bill, when proven, must be certified by the court as correct, and filed with the clerk of the court in which the action was tried, and when so filed, it has the same force and effect as if settled by the judge who tried the cause. If the judge who presided at the trial ceases to hold office before the bill is tendered or settled, he may nevertheless settle such bill, or the party may, as provided in this section, apply to the Circuit Court of Appeals for the Fifth Circuit to prove the same."

SEC. 79. That section 215 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Contents and form.

"SEC. 215. A bill of exceptions must contain only so much of the evidence as may be necessary to present clearly the questions of law involved in the rulings to which exceptions are reserved, and such evidence as is embraced therein shall be set forth in condensed and narrative form, save as a proper understanding of the questions presented may require that parts of it be set forth otherwise."

SEC. 80. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 215, a new section numbered 215a, to read as follows:

Matter not to be in-
cluded.

"SEC. 215a. No bill of exceptions shall be allowed which shall contain the charge of the court at large to the jury, upon any general exception to the whole of such charge. But the party excepting shall be required to state distinctly the several matters of law in such charge to which he excepts; and those matters of law, and those only, shall be inserted in the bill of exceptions and allowed by the court."

SEC. 81. That section 219 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Motion for new trial.
When may be made.

"SEC. 219. A motion for a new trial shall be made only after verdict of the jury or decision by the court, and before judgment. Such motion shall be filed within five days after verdict of the jury or decision by the court, unless, for good cause shown, the court or judge, within such five-day period, extends such time. Such motion shall be in writing and must set out specifically the grounds upon which the same is made. When a ground of a motion is the insufficiency of the evidence to justify the verdict or decision, the motion must specify the particulars in which the evidence is alleged to be insufficient. If a ground of the motion be error in law occurring

Writing, etc.

at the trial and excepted to by the moving party, the motion must specify the particular errors upon which the party will rely, and in the case of a question as to the admissibility of evidence the question, objection or motion, ruling, and exception thereto must be fully set out. Such motion shall be heard and determined as speedily as possible after the same is filed."

SEC. 82. That section 237 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 237. A judgment that the defendant pay a fine and costs may also direct that he be imprisoned until the fine and costs be satisfied. But the judgment must specify the extent of the imprisonment, which must not exceed one day for every dollar of the fine and costs, nor extend in any case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he has been convicted."

Imprisonment until fine paid.

SEC. 84. That subsection 1 of section 241 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Papers to be filed.

"SEC. 241. * * *

1. The information, and a copy of the minutes of the plea or demurrer."

SEC. 84a. That section 242 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Papers filed when judgment upon conviction rendered.

"SEC. 242. When a judgment, other than death, has been pronounced, the clerk shall forthwith furnish a mittimus to the officer whose duty it is to execute the judgment, and no other warrant or authority is necessary to justify or require its execution."

Execution of judgment other than of death.

SEC. 85. That section 243 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 243. If the judgment is for a fine and costs alone, execution may be issued thereon attaching the property of the defendant."

Attachments.

SEC. 86. That section 244 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 244. If the judgment is for imprisonment, or a fine and costs and imprisonment until they be paid, the defendant must forthwith be committed to the custody of the proper officer, and by him detained until the judgment is complied with."

Imprisonment.

SEC. 87. That section 289 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 289. After conviction of an offense not punishable with death, a defendant who has appealed may be admitted to bail—

Admission to bail, when not judgment of death.

"1. As a matter of right, when the appeal is from a judgment imposing a fine only.

"2. As a matter of right, when the appeal is from a judgment imposing imprisonment in cases of misdemeanor.

"3. As a matter of discretion in all other cases."

SEC. 88. That section 290 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 290. If the offense is bailable, the defendant may be admitted to bail before conviction—

Bailable offenses, before conviction.

"1. For his appearance before a magistrate for trial or for preliminary investigation in cases triable in the district court.

"2. To appear at the court to which the magistrate is required to return the complaint and warrant, upon the defendant being held to answer after investigation.

"3. After the information is filed either before the bench warrant is issued for his arrest, or upon any order of the court committing him, or enlarging the amount of bail, or upon his being surrendered

by his bail, to answer the information in the court in which it is found or to which it may be transferred for trial.

"And after conviction, and upon appeal—

Upon appeal.

"4. If the appeal is from a judgment imposing a fine only, on the undertaking of bail that he will pay the same, or such part of it as the appellate court may direct, if the judgment is affirmed or modified, or the appeal is dismissed.

"5. If judgment of imprisonment has been given, that he will surrender himself in execution of the judgment, upon its being affirmed or modified, or that in case the judgment be reversed and the cause be remanded for a new trial, that he will appear in the court to which said cause may be remanded, and submit himself to the orders and process thereof."

SEC. 88-A. That the Code of Criminal Procedure for the Canal Zone is hereby amended by adding after section 291 thereof a section reading as follows:

Deposit of bond,
when arrest in misde-
meanor case.

"SEC. 291a. When an arrest is made, either with or without a warrant, in a misdemeanor case triable in a magistrate's court, and for any reason the officer making the arrest is unable to take the offender forthwith before a magistrate, he may take such offender forthwith to the nearest police station and the officer in charge thereof may accept bond, or a cash deposit in lieu thereof, in a sum not exceeding \$500, to secure the appearance of the offender before the magistrate having jurisdiction of the case, and the offender shall then be released from custody, and the bond, or cash deposit in lieu thereof, shall be delivered to the magistrate having jurisdiction of the case, and a receipt for such bond or deposit shall be given to such officer by said magistrate.

Disposition of money
deposit.
Post, p. 897.

"When a money deposit is made in lieu of bail bond the deposit shall be held and disposed of in accordance with the provisions of sections 305, 306, 307, 310, and 311."

SEC. 89. That section 293 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Form of undertaking
when held to answer
after preliminary hear-
ing.

"SEC. 293. Bail upon being held to answer after a preliminary investigation is a written undertaking, executed by two sufficient sureties (with or without the defendant, in the discretion of the court or magistrate), and acknowledged before the court or magistrate in substantially the following form:

"An order having been made on the — day of — A. D. 19—, by — (as the officer may be), that — be held to answer upon a charge of (stating briefly the nature of the offense) upon which he has been admitted to bail in the sum of — dollars; we, — and — of — (stating their place of residence and occupation), hereby undertake that the above-named —, will appear and answer any information growing out of the charge above mentioned, in whatever court it may be prosecuted, and will at all times hold himself amenable to the order and process of the court, and if convicted, will appear for judgment, and render himself in execution thereof; or, if he fails to perform either of these conditions, that we will pay to the Government of the Canal Zone, the sum of — dollars (inserting the sum in which the defendant is admitted to bail)."

Qualifications of sure-
ties.
Residence.

SEC. 90. That subdivision 1 of section 294 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"1. Each of them must be a resident of the Canal Zone."

SEC. 91. That section 297 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Continuance of bail
for appearance in dis-
trict court, etc.

"SEC. 297. The bail fixed by a magistrate under sections 292 to 296 upon holding the defendant to answer for an offense triable in

the district court, shall be construed to continue so as to require the defendant to appear and answer the information filed in the district court and to at all times render himself amenable to the orders and process of the court, and if convicted to appear for judgment and render himself in execution thereof."

SEC. 92. That section 302 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 302. After the filing of an information, the court in which the charge is pending, may fix, or, upon good cause shown, either increase or reduce the amount of bail. If the amount be increased, the court may order the defendant to be committed to actual custody, unless he give bail in such increased amount. If application be made by the defendant for a reduction of the amount, notice of the application must be served on the district attorney."

Increasing, etc.,
amount of bail when
information filed.

SEC. 93. That section 304 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 304. The sureties must possess the qualifications, and the bail must be put in, in all respects as provided in sections 292 to 296 except that the undertaking must be conditioned as prescribed in section 290 for undertakings of bail on appeal."

Additional require-
ments.

SEC. 94. That section 305 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 305. The defendant in a criminal proceeding may make a cash deposit in lieu of a bail bond and a certificate of deposit shall be issued to the defendant in each case by the magistrate or clerk of the district court as the case may be."

Cash deposit in lieu
of bail bond.

SEC. 95. That section 307 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 307. When money has been deposited, if it remains on deposit at the time of a judgment for the payment of a fine, the magistrate, or the clerk of the district court under the direction of the court, as the case may be, must apply the money in satisfaction thereof, and after satisfying the fine and costs, must refund the surplus, if any, to the defendant. If the defendant be not found within a period of two years from the date of the judgment, the magistrate or the clerk of the district court, as the case may be, shall turn over such surplus to the collector of the Panama Canal to be accounted for by him in the same manner as fines are accounted for."

Application of, in
satisfaction of fine.

Refund or deposit of
balance.

SEC. 96. That section 313 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 313. If, by reason of the neglect of the defendant to appear, money deposited instead of bail is forfeited, and the forfeiture is not discharged or remitted, the magistrate, or the clerk of the district court, as the case may be, with whom it is deposited must pay over the same to the collector of the Panama Canal in the manner prescribed for the paying over of other funds."

Forfeiture of deposit
on failure to appear.

SEC. 97. That section 315 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 315. The court to which the magistrate commits the defendant, or in which an information or appeal is pending, or to which a judgment on appeal is remitted to be carried into effect, may, by an order entered upon its minutes, direct the arrest of the defendant and his commitment to the officer to whose custody he was committed at the time of giving bail, and his detention until legally discharged, in the following cases:

Recommitment of de-
fendant after bail given.

"1. When, by reason of his failure to appear, he has incurred a forfeiture of his bail, or of money deposited instead thereof.

In what cases had.

"2. When it satisfactorily appears to the court that his bail, or either of them, are dead or insufficient, or have removed from the Canal Zone."

SEC. 98. That section 320 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 320. When the defendant is admitted to bail, the bail may be taken by any magistrate."

SEC. 99. That section 322 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 322. The process by which the attendance of a witness before a court or magistrate is required is a subpoena. It may be signed and issued by:

"1. A magistrate before whom a complaint is made, for witnesses in the Canal Zone, either on behalf of the Government or of the defendant.

"2. The judge of the district court.

"3. The clerk of the district court upon application of either the district attorney or the defendant.

"4. A magistrate or the clerk of the district court must, at any time and without charge, issue subpoenas for witnesses for the defendant upon his request."

SEC. 100. That section 323 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 323. A subpoena authorized by the preceding section must be substantially in the following form:

" 'The government of the Canal Zone:

" ' You are commanded to appear before (the district court or the magistrate) of (division or subdivision) (or as the case may be) at (naming the place) on (stating the day and hour), as a witness in a criminal action prosecuted by the government of the Canal Zone.

" ' Given under my hand this day of A. D. 19 . (Magistrate, or "By order of the court, clerk," or as the case may be). If books, papers or documents are required, a direction to the following effect must be contained in the subpoena: 'And you are required also to bring with you the following (describing intelligibly the books, papers, or documents required).'"

SEC. 101. That section 325 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 325. When a witness attends before a magistrate or court as a witness in a criminal case, upon a subpoena or in pursuance of an undertaking to testify on behalf of the prosecution, and it appears that he has come from a place more than three miles distant from the place where he is to appear, or that he is poor and unable to pay the expenses of such attendance, the court, in its discretion, if the attendance of the witness be upon a trial, by an order upon its minutes, or in any other case, the judge, at his discretion, by a written order, may direct the clerk of the court to pay the witness a reasonable sum to pay his expenses, which shall be charged against his per diem.

SEC. 102. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 328, a new section numbered 328a, to read as follows:

"SEC. 328a. The rules for determining the competency of witnesses in civil actions are applicable also to criminal actions and proceedings except as otherwise provided in this code."

SEC. 103. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 328a, a new section numbered 328b, to read as follows:

"Subpoena" defined.

Who may sign and issue.

Form of.

Witness' expenses.

Rules to determine competency of witnesses.

"SEC. 328b. Neither husband nor wife is a competent witness for or against the other in a criminal action or proceeding to which one or both are parties, except with the consent of both, or in case of criminal actions or proceedings for a crime committed by one against the person or property of the other, or in cases of criminal violence upon one by the other, or in cases of criminal actions or proceedings brought under provisions of law requiring the husband to furnish proper maintenance and support to wife and minor children and providing for punishment for abandonment of wife or minor children."

Husband and wife.

SEC. 104. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 328b, a new section numbered 328c, to read as follows:

"SEC. 328c. A defendant in a criminal action or proceeding can not be compelled to be a witness against himself; but if he offers himself as a witness, he may be cross-examined by the counsel for the government as to all matters about which he was examined in chief. His neglect or refusal to be a witness can not in any manner prejudice him nor be used against him on the trial or proceeding."

Defendant as witness.

SEC. 105. That section 329 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 329. When defendant has been held to answer a charge for a public offense either or both defendant and the government may, either before or after an information, have witnesses examined conditionally in his or its behalf, as prescribed in this chapter."

Conditional examinations.

SEC. 106. That section 330 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 330. When a material witness for the defendant, or for the Government, is about to leave the Canal Zone, or is so sick or infirm as to afford reasonable grounds for apprehension that he will be unable to attend the trial, the defendant or the Government may apply for an order that the witness be examined conditionally."

When may be had.

SEC. 107. That section 331 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 331. The application must be made upon affidavit stating:

Application for.

"1. The nature of the offense charged;

"2. The state of the proceedings in the action;

"3. The name and residence of the witness, and that his testimony is material to the defense or the prosecution of the action;

"4. That the witness is about to leave the Canal Zone, or is so sick or infirm as to afford reasonable grounds for apprehending that he will not be able to attend the trial.

"The application may be made to the district court or the judge thereof, and in case of his absence or inability to act may be made to a magistrate, and must be made upon three days' notice to the opposite party."

SEC. 108. That section 332 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 332. If the court, judge, or magistrate is satisfied that the examination of the witness is necessary, an order must be made that the witness be examined conditionally, at a specified time and place, and before a magistrate designated therein."

Order to issue.

SEC. 109. That section 333 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 333. The defendant has the right to be present in person and with counsel at such examination, and if the defendant is in

Right of defendant to be present in person.

custody, the officer in whose custody he is, must be informed of the time and place of such examination and must take the defendant thereto and keep him in the presence and hearing of the witness during the examination."

SEC. 110. That section 334 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 334. If, at the time and place so designated, it is shown to the satisfaction of the magistrate that the witness is not about to leave the Canal Zone, or is not sick or infirm, or that the application was made to avoid the examination of the witness on the trial, the examination can not take place."

SEC. 111. That the word "sixty" in subsection 1 of section 362 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read "twenty."

SEC. 112. That section 366 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 366. An order for the dismissal of the action, as provided in this chapter, is a bar to any other prosecution for the same offense, if it is a misdemeanor, unless such order is explicitly made for the purpose of amending the complaint in such action, in which instance such order for dismissal of the action shall not act as a bar to a prosecution upon such amended complaint; but an order for the dismissal of the action is not a bar if the offense is a felony."

SEC. 113. That section 368 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 368. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president or other head of the corporation, or to the secretary, cashier, or managing agent within the Canal Zone."

SEC. 114. That section 379 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 379. If the property stolen or embezzled is not claimed by the owner before the expiration of six months from the conviction of a person for stealing or embezzling it, the court shall order it sold on such terms and under such conditions as the court shall direct. The officer making such sale shall return the proceeds into court, whereupon the court shall order the balance of such proceeds, after deducting therefrom the expenses incurred in the preservation and sale of the property, to be delivered to the collector of the Panama Canal to be covered into the Treasury of the United States as miscellaneous receipts."

SEC. 115. That section 399 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 399. Any person who has been committed on a criminal charge may be brought before the district judge on a writ of habeas corpus."

SEC. 116. The Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 413, a new section numbered 413a, to read as follows:

"SEC. 413a. During the absence of the district judge, the powers conferred upon said judge and the jurisdiction conferred upon the district court by this chapter may be exercised by a magistrate or a magistrate's court: *Provided, however,* That the magistrate herein referred to must be one other than one who has committed the party to jail. In the event the magistrate or magistrate's court denies the

When conditions on which order for examination based do not exist.

Dismissal of actions.

Information not filed within 20 days, etc.

Order of dismissal as bar to subsequent prosecution for same offense.

If offense a felony.

Service of summons.

Sale of unclaimed stolen, etc., property, after conviction of defendant.

Writ of habeas corpus.

Jurisdiction, etc., of magistrate in absence of judge.

Proviso. Restrictions.

writ, the proceedings may be begun and proceeded with de novo before the district judge or district court upon the return of the district judge."

SEC. 117. That section 427 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 427. When the property is delivered to a court, judge, or magistrate, he must, if it was stolen or embezzled, dispose of it as provided in sections 376 to 381, inclusive. If it was taken on a warrant issued on the grounds stated in the second and third subdivisions of section 415, he must retain it in his possession, subject to the order of the court to which he is required to return the proceedings before him, or of any other court in which the offense in respect to which the property taken is triable."

Stolen, etc., property.
Disposition of.

SEC. 118. That section 447 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 447. In case in any penal institution there should not be sufficient room for the prisoners confined therein, or, in the cases of women prisoners or of prisoners under eighteen years of age, if the governor determines that the public welfare will best be subserved by their imprisonment elsewhere than at Gamboa, they shall be transferred to such penal institutions within the Canal Zone as the governor may designate.

Transfer of prisoners.

"This transfer, however, will not aggravate or affect in any way the condition of the prisoners, who will serve in accordance with the penalty to which they have been sentenced."

SEC. 119. That the following sections of the Code of Criminal Procedure for the Canal Zone be, and they are hereby, repealed: Sections 13, 29, 39, 42, 54, 55, 56, 65, 68, 69, 91, 95, 98, 99, 100, 102, 104, 106, 120, 121, 130, 132, 152, 203, 211, 238, 240, 298, 299, 300, and 301.

Sections repealed.

That the Executive order of July 28, 1925, prescribing rules of practice and procedure for the District Court of the Canal Zone, be, and it is hereby, repealed.

Repeal of Executive order, No. 4276.

SEC. 120. This Act shall apply to criminal actions and proceedings from the time it takes effect except that all such actions and proceedings theretofore commenced shall be conducted in the same manner as if this Act had not been passed.

Applicability of Act.

Approved, February 21, 1933.

[CHAPTER 113.]

AN ACT

Authorizing the acceptance of title to sites for public building projects subject to the reservation of ore and mineral rights.

February 23, 1933.
[S. 5588.]
[Public. No. 367.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title to sites and additional land for the construction thereon of public building projects authorized by the Emergency Relief and Construction Act of 1932 and subsequent Acts, may be acquired subject to the reservation of title in and the right to mine ores and minerals on such sites and land.

Public building sites.
Acceptance of title,
subject to mineral, etc.,
reservations.
Act, p. 722, amended.

Approved, February 23, 1933.

[CHAPTER 114.]

JOINT RESOLUTION

February 23, 1933.
[S. J. Res. 237.]
[Pub. Res., No. 55.]

Authorizing the erection in the Department of State Building of a memorial to the American diplomatic and consular officers who while on active duty lost their lives under heroic or tragic circumstances.

Department of State Building.
Memorial authorized in, to American diplomatic and consular officers dying under heroic, etc., circumstances.

Approval of design and site.

No Federal expense.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Director of Public Buildings and Public Parks of the National Capital be, and he is hereby, authorized to grant permission to the American Foreign Service Association for the erection of a memorial to the American diplomatic and consular officers who while on active duty lost their lives under heroic or tragic circumstances. The design of the memorial shall be approved and the site in the Department of State Building shall be chosen by the Commission of Fine Arts, and the United States shall be put to no expense in or by the erection of the said memorial.

Approved, February 23, 1933.

[CHAPTER 116.]

AN ACT

February 24, 1933.
[S. 4065.]
[Public, No. 368.]

Authorizing the packing of oleomargarine and adulterated butter in tin and other suitable packages.

Oleomargarine, etc.
Vol. 24, p. 210; Vol. 40, p. 1003, amended.
U. S. C., p. 777.

Receptacles used in packing, may include tin.

Minimum weight; branding, etc.

To be sold in original packages.

Retail sale requirements.

Punishment for violations.

Adulterated butter. Packages requirements modified.
Vol. 32, p. 195, amended.
Tin-plate added.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act entitled "An Act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886, as amended (U. S. C., title 26, secs. 543, 544), is amended to read as follows:

"SEC. 6. That all oleomargarine shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, tin-plate, or paper packages, not before used for that purpose, containing, or encased in a manufacturer's package made from any of such materials of, not less than ten pounds and marked, stamped, and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and all sales made by manufacturers of oleomargarine and wholesale dealers in oleomargarine shall be in original stamped packages. Retail dealers in oleomargarine must sell only from original stamped packages, in quantities not exceeding ten pounds, and shall pack, or cause to be packed, the oleomargarine sold by them in suitable wooden, tin-plate, or paper packages which shall be marked and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any oleomargarine in any other form than in new wooden, tin-plate, or paper packages as above described, or who packs in any package any oleomargarine in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law shall be fined for each offense not more than \$1,000, and be imprisoned not more than two years."

SEC. 2. (a) The eighth paragraph of section 4 of the Act of May 9, 1902 (32 Stat. 193, ch. 784), is amended to read as follows: "That all adulterated butter shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, tin-plate, or paper packages not before used for that purpose, containing, or encased in a manufacturer's package made from any of such materials of, not less than ten pounds, and marked, stamped, and branded as the Commissioner

of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, and all sales made by manufacturers of adulterated butter shall be in original, stamped packages.”

(b) The ninth paragraph of such section 4 is amended by adding after the word “wooden” wherever it appears in such paragraph a comma and the word “tin-plate”.

Sales, etc.

Approved, February 24, 1933.

[CHAPTER 117.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Farnam Street, Omaha, Nebraska.

February 24, 1933.
[S. 5370.]
[Public, No. 369.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Missouri River at or near Farnam Street, Omaha, Nebraska, authorized to be built by the Omaha-Council Bluffs Missouri River Bridge Board of Trustees by an Act of Congress approved June 10, 1930, heretofore extended by Acts of Congress approved February 20, 1931, and June 9, 1932, are hereby further extended one and three years, respectively, from June 10, 1933.

Missouri River.
Time extended for
bridging, at Omaha,
Nebr.
Vol. 46, pp. 544, 1192,
amended.
Ante, p. 290.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, February 24, 1933.

[CHAPTER 118.]

AN ACT

Authorizing the State of Georgia to construct, maintain, and operate a toll bridge across the Savannah River at or near Lincolnton, Georgia.

February 24, 1933.
[S. 5659.]
[Public, No. 370.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to promote interstate commerce, improve the postal service, and provide for military and other purposes, the State of Georgia be, and is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Savannah River, at a point suitable to the interests of navigation, at or near Lincolnton, Georgia, and between Lincolnton, Georgia, and McCormick, South Carolina, in accordance with the provisions of the Act entitled “An Act to regulate the construction of bridges over navigable waters,” approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

Savannah River.
Georgia may bridge,
at Lincolnton.

Construction.
Vol. 34, p. 84.

SEC. 2. There is hereby conferred upon the State of Georgia all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, maintenance, and operation of such bridge and its approaches, as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

Acquisition of real
estate, etc., for location,
approaches, etc.

Condemnation pro-
ceedings.

Tolls authorized.
Vol. 34, p. 85.

SEC. 3. The said State of Georgia is hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the Act of March 23, 1906.

Rates, applied to operation, sinking fund, etc.

SEC. 4. In fixing the rates of toll to be charged for the use of such bridge the same shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the cost of such bridge and its approaches, including reasonable interest and financing cost, as soon as possible, under reasonable charges, but within a period of not to exceed twenty years from the completion thereof. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the cost of the bridge and its approaches, the expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

Maintenance as free bridge, etc., after amortizing costs.

Record of expenditure and receipts.

Amendment.

SEC. 5. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, February 24, 1933.

[CHAPTER 119.]

AN ACT

February 24, 1933.
[S. 4020.]
[Public, No. 371.]

To give the Supreme Court of the United States authority to prescribe rules of practice and procedure with respect to proceedings in criminal cases after verdict.

Supreme Court of the United States.
Authority granted, to prescribe rules of practice and procedure in criminal cases after verdict.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Supreme Court of the United States shall have the power to prescribe, from time to time, rules of practice and procedure with respect to any or all proceedings after verdict in criminal cases in district courts of the United States, including the District Courts of Alaska, Hawaii, Puerto Rico, Canal Zone, and Virgin Islands, in the Supreme Courts of the District of Columbia, Hawaii, and Puerto Rico, in the United States Court for China, in the United States Circuit Courts of Appeals, and in the Court of Appeals of the District of Columbia.

Existing right of appeal continued.
Rules for taking appeals, preparing records, etc.
Supersedeas or bail.

SEC. 2. The right of appeal shall continue in those cases in which appeals are now authorized by law, but the rules made as herein authorized may prescribe the times for and manner of taking appeals and of preparing records and bills of exceptions and the conditions on which supersedeas or bail may be allowed.

Effective date, etc.

SEC. 3. The Supreme Court may fix the dates when such rules shall take effect and the extent to which they shall apply to proceedings then pending, and after they become effective all laws in conflict therewith shall be of no further force.

Conflicting laws void.

Approved, February 24, 1933.

[CHAPTER 120.]

JOINT RESOLUTION

Amending section 2 of the joint resolution entitled "Joint resolution authorizing the President, under certain conditions, to invite the participation of other nations in the Chicago World's Fair, providing for the admission of their exhibits, and for other purposes," approved February 5, 1929, and amending section 7 of the Act entitled "An Act to protect the copyrights and patents of foreign exhibitors at A Century of Progress (Chicago World's Fair Centennial Celebration), to be held at Chicago, Illinois, in 1933," approved July 19, 1932.

February 24, 1933.
[H. J. Res. 561.]
[Pub. Res., No. 56.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the joint resolution entitled "Joint resolution authorizing the President, under certain conditions, to invite the participation of other nations in the Chicago World's Fair, providing for the admission of their exhibits, and for other purposes," approved February 5, 1929, be, and the same hereby is, amended so as to read as follows:

A Century of Progress exposition.
Vol. 45, p. 1152,
amended.

"SEC. 2. That all articles which shall be imported from foreign countries for the purpose of exhibition at the exposition to be held by and known as A Century of Progress, in section 1 of this joint resolution called the Chicago World's Fair Centennial Celebration, or for use in constructing, installing, or maintaining foreign buildings or exhibits at the said exposition, upon which articles there shall be a tariff or customs duty, shall be admitted without payment of such tariff, customs duty, fees, or charges under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful, at any time during or within six months after the close of the said exposition, to sell any articles provided for herein, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury shall prescribe: *Provided*, That all such articles, when sold or withdrawn for consumption or use in the United States, shall be subject to the duties, if any, imposed upon such articles by the revenue laws in force at the date of their withdrawal; and on such articles, which shall have suffered diminution or deterioration from incidental handling or exposure, the duties, if payable, shall be assessed according to the appraised value at the time of withdrawal: *Provided further*, That imported articles provided for herein shall not be subject to any marking requirements of the general tariff laws, except when such articles are withdrawn for consumption or use in the United States, in which case they shall not be released from customs custody until properly marked, but no additional duty shall be assessed because such articles were not sufficiently marked when imported into the United States: *Provided further*, That articles which have been admitted without payment of duty for exhibition under any general tariff law may be accorded the privilege of transfer to and entry for exhibition at the said exposition under such regulations as the Secretary of the Treasury shall prescribe: *And provided further*, That all necessary expenses incurred, including salaries of customs officials in charge of imported articles, shall be reimbursed to the Government of the United States by A Century of Progress, also known as the Chicago World's Fair Centennial Celebration, under regulations to be prescribed by the Secretary of the Treasury."

Dutiable articles imported for exhibition, etc., purposes, admitted free under prescribed regulations.
Vol. 46, p. 684.

Sales permitted.

Provisos.
Payment of duty.

Marking requirements.

Transfer privileges.

Expenses reimbursable.

Ante, p. 705, amended.

SEC. 2. That section 7 of the Act entitled "An Act to protect the copyrights and patents of foreign exhibitors at A Century of Progress (Chicago World's Fair Centennial Celebration), to be held

at Chicago, Illinois, in 1933," approved July 19, 1932, be, and the same hereby is, amended so as to read as follows:

Incurred Federal expenses to be repaid.

"SEC. 7. All necessary expenses incurred by the United States in carrying out the provisions of this Act shall be reimbursed to the Government of the United States by A Century of Progress, also known as the Chicago World's Fair Centennial Celebration, under regulations to be prescribed by the Librarian of Congress and by the Commissioner of Patents, respectively."

Repayments to be deposited as refunds to appropriate appropriations.

SEC. 3. That the receipts from reimbursements to the Government of the United States paid by A Century of Progress, also known as the Chicago World's Fair Centennial Celebration, as provided in the joint resolution entitled "Joint resolution authorizing the President, under certain conditions, to invite the participation of other nations in the Chicago World's Fair, providing for the admission of their exhibits, and for other purposes," approved February 5, 1929, as hereby amended, and in the Act entitled "An Act to protect the copyrights and patents of foreign exhibitors at A Century of Progress (Chicago World's Fair Centennial Celebration), to be held at Chicago, Illinois, in 1933," approved July 19, 1932, as hereby amended, shall be deposited as refunds to the appropriations from which paid, instead of being covered into the Treasury as miscellaneous receipts as provided by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1908, and for other purposes," approved March 4, 1907, in the manner provided for receipts from reimbursable charges for labor, services, and other expenses connected with the customs, in section 524 of the Tariff Act of 1930.

Vol. 45, p. 1152, amended.

Ante, p. 705, amended.

Vol. 34, p. 1315.

Reimbursable customs charges. Vol. 46, p. 741.

Approved, February 24, 1933.

[CHAPTER 121.]

JOINT RESOLUTION

February 24, 1933. [S. J. Res. 243.] [Pub. Res., No. 57.]

Authorizing the President of the United States to extend a welcome to the Pan-American Medical Association which holds its convention in the United States in March, 1933.

Pan-American Medical Association. Welcome to be extended its congress at Dallas, Tex.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized on behalf of the Government of the United States to extend a welcome to the Pan-American Medical Association, which is to hold its fourth congress, being its first congress held in an English-speaking nation, at Dallas, Texas, from March 21 to March 25, 1933.

Approved, February 24, 1933.

[CHAPTER 123.]

AN ACT

February 25, 1933. [S. 4589.] [Public, No. 372.]

To authorize the Secretary of the Interior to make payment of part of the expenses incurred in securing improvements in drainage project of drainage district numbered 1, Richardson County, Nebraska, and for other purposes.

Richardson County, Nebr. Payment of part expenses, drainage district, numbered one, for enlarging channel, etc., authorized.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, with the consent of the Indians of the Sac and Fox Reservation, Nebraska, whose lands shall be benefited by the project of drainage district numbered 1, Richardson County, Nebraska, is hereby authorized to pay, from funds now or hereafter on deposit to the credit of the individuals concerned, such Indians' pro rata share of the expenses incurred by landowners interested in such project in the prosecution of a suit in equity to require the said

drainage district to enlarge the channel of its system, and to do all things necessary to accommodate the water accumulated therein and to prevent overflows thereof: *Provided*, That the amounts so paid on behalf of such Indians shall not exceed the rate of \$2 per acre for each acre of Indian land benefited nor a total of \$600.

Approved, February 25, 1933.

Proviso.
Maximum amount.

[CHAPTER 124.]

AN ACT

To authorize the Veterans' Administration or other Federal agencies to turn over to superintendents of the Indian Service amounts due Indians who are under legal disability, or to estates of such deceased Indians.

February 25, 1933.
[S. 4766.]
[Public, No. 373.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any money accruing from the Veterans' Administration or other governmental agency to incompetent adult Indians, or minor Indians, who are recognized wards of the Federal Government, for whom no legal guardians or other fiduciaries have been appointed may be paid, in the discretion of the Administrator of Veterans' Affairs, or other head of a governmental bureau or agency, having such funds for payment, to such superintendent or other bonded officer of the Indian Service as the Secretary of the Interior shall designate, for the use of such beneficiaries, or to be paid to or used for, the heirs of such deceased beneficiaries, to be handled and accounted for by him with other moneys under his control, in accordance with existing law and the regulations of the Department of the Interior.

Indian Service.
Amounts due Indians under legal disability, etc., to be paid designated superintendent for use of beneficiaries, or their heirs.

Approved, February 25, 1933.

[CHAPTER 125.]

AN ACT

Authorizing the appropriation of funds for the payment of claims to the Mexican Government under the circumstances hereinafter enumerated.

February 25, 1933.
[H. R. 13534.]
[Public, No. 374.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$15,000 for payment to the Government of Mexico for the account of the family of Emilio Cortez Rubio, and a further sum of \$15,000 for payment to the Government of Mexico for the account of the family of Manuel Gomez, as an act of grace and without reference to the question of legal liability of the United States, for the killing in or near Ardmore, Oklahoma, on June 7, 1931, of Emilio Cortez Rubio and Manuel Gomez by two deputy sheriffs of the State of Oklahoma.

Mexico.
Payment to, authorized as indemnity for the killing of Emilio Cortez Rubio and Manuel Gomez.

Approved, February 25, 1933.

[CHAPTER 126.]

JOINT RESOLUTION

Authorizing the Comptroller of the Currency to exercise with respect to national banking associations powers which State officials, may have with respect to State banks, savings banks, and/or trust companies under State laws.

February 25, 1933.
[S. J. Res. 266.]
[Pub. Res., No. 68.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, with the approval of the Secretary of the Treasury, the Comptroller of the Currency shall have and may exercise to such extent as he deems advisable with respect to any national banking association any powers which the State officials having supervision of State banks, savings

National banking associations.
Authority of Comptroller of Currency over.

banks and/or trust companies in the State in which such national banking associations are located may have with respect to such State institutions under State laws now in force or hereafter enacted: *Provided*, That nothing herein shall be construed to permit the establishment of branches of either national or State member banks or allow consolidation of either national or State member banks not allowed by existing laws.

Proviso.
Restriction.

Assessment of ex-
penses.

Expenses incurred by the Comptroller of the Currency in the exercise of such powers may be assessed by him against the banks concerned and, when so assessed, shall be paid by such banks.

Powers not impaired
hereby.

Nothing herein shall be construed to impair any power otherwise possessed by the Comptroller of the Currency, the Secretary of the Treasury or the Federal Reserve Board.

Duration.

The powers herein conferred shall terminate six months from its approval by the President; but the President of the United States may extend its force by proclamation for an additional six months.

Approved, February 25, 1933.

[CHAPTER 127.]

AN ACT

February 27, 1933.
[H. R. 7521.]
[Public, No. 375.]

To provide a new Code of Civil Procedure for the Canal Zone and to repeal the existing Code of Civil Procedure.

Code of Civil Pro-
cedure, Canal Zone.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the thirty-nine chapters hereinafter set forth shall constitute the Code of Civil Procedure for the Canal Zone.

PRELIMINARY
PROVISIONS.

CHAPTER 1.—PRELIMINARY PROVISIONS

Title.

SECTION 1. TITLE OF THIS CODE.—This code shall be known as the Code of Civil Procedure of the Canal Zone.

Effective date.

SEC. 2. WHEN THIS CODE TAKES EFFECT.—This code shall take effect on the first day of October, 1933.

Not retroactive.

SEC. 3. NOT RETROACTIVE.—No part of it is retroactive unless expressly so declared.

Rule of construction.

SEC. 4. RULE OF CONSTRUCTION OF THIS CODE.—The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this code. The code establishes the law of the Canal Zone respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed with a view to effect its objects and to promote justice.

Holidays.

SEC. 5. HOLIDAYS.—Holidays within the meaning of this code are every Sunday and such other days as are enumerated as holidays in section 7 of the Civil Code.

Computation of time.

SEC. 6. COMPUTATION OF TIME.—The time in which any Act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

Words and phrases.
Construction of.

SEC. 7. WORDS AND PHRASES.—Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in section 8, are to be construed according to such peculiar and appropriate meaning or definition.

Definition of terms.

SEC. 8. CERTAIN TERMS USED IN THIS CODE DEFINED.—Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine

and neuter; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depose"; signature or subscription includes mark, when the person can not write, his name being written near it by a person who writes his own name as a witness: *Provided*, That when a signature is by mark it must, in order that the same may be acknowledged or may serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witness thereto.

The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes both real and personal property;

2. The words "real property" are coextensive with lands, tenements, and hereditaments;

3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt;

4. The word "month" means a calendar month, unless otherwise expressed;

5. The word "will" includes codicil;

6. The word "writ" signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer; and the word "process" a writ or summons issued in the course of judicial proceedings;

7. The word "State," when applied to the different parts of the United States, includes the District of Columbia and the Territories; and the words "United States" may include the District and Territories;

8. The word "affinity," when applied to the marriage relation, signifies the connection existing in consequence of marriage between each of the married persons and the blood relatives of the other.

SEC. 9. DIVISION OF JUDICIAL REMEDIES.—Judicial remedies are divided into two classes:

1. Actions; and

2. Special proceedings.

SEC. 10. ACTION DEFINED.—An action is an ordinary proceeding in a court of justice by which one party prosecutes another for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense.

SEC. 11. SPECIAL PROCEEDINGS DEFINED.—Every other remedy is a special proceeding.

SEC. 12. CIVIL ACTIONS ARISE OUT OF OBLIGATIONS OR INJURIES.—A civil action arises out of—

1. An obligation;

2. An injury.

SEC. 13. OBLIGATION DEFINED.—An obligation is a legal duty, by which one person is bound to do or not to do a certain thing, and arises from:

1. Contract; or

2. Operation of law.

SEC. 14. DIVISION OF INJURIES.—An injury is of two kinds:

1. To the person; and

2. To property.

SEC. 15. INJURIES TO PROPERTY.—An injury to property consists in depriving its owner of the benefit of it, which is done by taking, withholding, deteriorating, or destroying it.

"Person."

"Testify"; "depose."

Provided.
Signature by mark.

"Property."

"Real property."

"Personal property."

"Month."

"Will."

"Writ"; "process."

"State."

"United States."

"Affinity."

Judicial remedies, division of.

"Action" defined.

Special proceedings.

Civil actions.

"Obligation" defined.

Division of injuries.

Injuries to property.

To person.

SEC. 16. INJURIES TO THE PERSON.—Every other injury is an injury to the person.

Prosecution of civil action.

SEC. 17. CIVIL ACTION, BY WHOM PROSECUTED.—A civil action is prosecuted by one party against another for the enforcement or protection of a right, or the redress or prevention of a wrong.

Civil and criminal remedies not merged.

SEC. 18. CIVIL AND CRIMINAL REMEDIES NOT MERGED.—When the violation of a right admits of both a civil and criminal remedy, the right to prosecute the one is not merged in the other.

COURTS OF JUSTICE, GENERAL PROVISIONS.

CHAPTER 2.—GENERAL PROVISIONS RESPECTING COURTS OF JUSTICE

Sittings, public.

SEC. 19. SITTINGS, PUBLIC.—The sittings of every court of justice shall be public, except as provided in section 20.

Sittings, private.

SEC. 20. SITTINGS, WHEN PRIVATE.—In an action for divorce, criminal conversation, seduction, or breach of promise of marriage, the court may direct the trial of any issue of fact joined therein to be private, and may exclude all persons except the officers of the court, the parties, their witnesses, and counsel: *Provided*, That in any cause the court may, in the exercise of a sound discretion, during the examination of a witness, exclude any or all other witnesses in the cause.

Proviso. Exclusion of witnesses.

Conduct of proceedings. Power of court.

SEC. 21. POWERS RESPECTING CONDUCT OF PROCEEDINGS.—Every court shall have power:

1. To preserve and enforce order in its immediate presence;
2. To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;
3. To provide for the orderly conduct of proceedings before it, or its officers;
4. To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein;
5. To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto;
6. To compel the attendance of persons to testify in an action or proceeding pending therein, in the cases and manner provided in this code;
7. To administer oaths in an action or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers and duties;
8. To amend and control its process and orders so as to make them conformable to law and justice.

District court seal.

SEC. 22. DISTRICT COURT TO HAVE SEAL.—The district court shall have a seal, which shall be kept by the clerk of the court.

To what documents affixed.

SEC. 23. SAME; TO WHAT DOCUMENTS AFFIXED.—The seal of the district court need not be affixed to any proceeding therein or document, except:

1. To a writ;
2. To the certificate of probate of a will or of the appointment of an executor, administrator, or guardian;
3. To the authentication of a copy of a record or other proceeding of the court, or of an officer thereof, or of a copy of a document on file in the office of the clerk.

District court dockets.

SEC. 24. DISTRICT COURT DOCKETS.—In addition to such dockets as may be specially provided for herein, the clerk of the district court, under the direction of the judge, must cause to be prepared,

and shall keep, such other dockets as may be required for the purposes of said court.

SEC. 25. POWERS OF DISTRICT JUDGE.—The district judge may, at chambers, grant all orders and writs which are usually granted in the first instance upon an ex parte application, and may, at chambers, hear and dispose of such orders and writs; and may also, at chambers, appoint appraisers, receive inventories and accounts to be filed, suspend the powers of executors, administrators, or guardians in the cases allowed by law, grant special letters of administration or guardianship, approve claims and bonds, and direct the issuance from the court of all writs and process necessary in the exercise of their powers in matters of probate.

District judge, powers, etc.

SEC. 26. DISQUALIFICATION OF JUDGES.—No judge or magistrate shall sit or act as such in any action or proceeding:

Disqualification of judges.

1. To which he is a party or in which he is interested;

2. When he is related to either party, or to an officer of a corporation, which is a party, or to an attorney, counsel, or agent of either party, by consanguinity or affinity within the third degree computed according to the rules of law;

3. When, in the action or proceeding, or in any previous action or proceeding involving any of the same issues, he has been attorney or counsel for any party; or when he has given advice to any party upon any matter involved in the action or proceeding; or when he has been retained or employed as attorney or counsel for any party within two years prior to the commencement of the action or proceeding;

4. When it appears from the affidavit or affidavits on file that either party can not have a fair and impartial trial before the district judge, about to try the case, by reason of the prejudice or bias of such judge. The affidavit or affidavits alleging the disqualification of the judge must be filed and served upon the adverse party or the attorney for such party at least one day before the day set for trial of such action or proceeding; provided, counteraffidavits may be filed at least one day thereafter, or such further time as the court may extend the time for filing such counteraffidavits, not exceeding five days, and for this purpose the court may continue the trial.

SEC. 27. NO JUDGE OR MAGISTRATE TO HAVE PARTNER PRACTICING LAW.—No judge or magistrate shall have a partner acting as attorney or counsel in any court of the Canal Zone.

Partner of judge practicing law, prohibited.

SEC. 28. POWERS OF DISTRICT JUDGE.—The district judge may exercise out of court all the powers expressly conferred upon the judge, as contradistinguished from the court.

Powers of district judge, out of court.

SEC. 29. POWERS OF JUDICIAL OFFICERS AS TO CONDUCT OF PROCEEDINGS.—Every judicial officer shall have power:

Powers of judicial officers, conduct of proceedings.

1. To preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of official duty;

2. To compel obedience to his lawful orders as provided in this code;

3. To compel the attendance of persons to testify in a proceeding before him, in the cases and manner provided in this code;

4. To administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and duties.

SEC. 30. TO PUNISH FOR CONTEMPT.—For the effectual exercise of the powers conferred by section 29, a judicial officer may punish for contempt in the cases provided in this code.

To punish for contempt.

Take acknowledgments and affidavits.

SEC. 31. TO TAKE ACKNOWLEDGMENTS AND AFFIDAVITS.—The district judge and the magistrates shall have power to take and certify:

1. The proof and acknowledgment of a conveyance of real property or of any other written instrument;
2. The acknowledgment of satisfaction of a judgment of any court;
3. An affidavit or deposition to be used in the Canal Zone.

CROSS REFERENCE

Post, p. 1164.

Proof and acknowledgment of instruments, see Civil Code, sections 289 et seq.

Proceedings in English.

SEC. 32. PROCEEDINGS TO BE IN ENGLISH LANGUAGE.—Every written proceeding in a court of justice in the Canal Zone shall be in the English language, and judicial proceedings shall be conducted and preserved in no other.

Means to carry jurisdiction into effect.

SEC. 33. MEANS TO CARRY JURISDICTION INTO EFFECT.—When jurisdiction is, by this code, or by any other statute, conferred on a court or judicial officer, all the means necessary to carry it into effect are also given; and in the exercise of this jurisdiction, if the course of proceeding be not specifically pointed out by this code or the statute, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of this code.

District court reports prima facie correct.

SEC. 34. REPORTS PRIMA FACIE CORRECT STATEMENTS.—The report of the official reporter, or official reporter pro tempore, of the district court, duly appointed and sworn, when transcribed and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of such testimony and proceedings.

ATTORNEYS AND COUNSELORS AT LAW.

CHAPTER 3.—ATTORNEYS AND COUNSELORS AT LAW

Admission to practice.

SEC. 35. ADMISSION TO PRACTICE.—1. Any person of good moral character who has been admitted to practice in the Supreme Court of the United States, or in the highest court of the District of Columbia, or in the highest court of any State or Territory, may be admitted, on motion in open court, to practice as an attorney of the district court.

Foreign attorneys.

2. Any person of good moral character who has been admitted to practice in the highest court of any foreign country may be admitted to practice as an attorney of the district court: *Provided, however,* That the requirements for practice in such foreign countries be a preliminary education, in addition to grade and high school education, of at least two years law course in an approved law school: *Provided further,* That such person shall have practiced law in the courts of his own or of a foreign country for a period of three years.

Prerequisites. Requirements.

Law practice.

3. Every applicant for admission shall file his application with the clerk, produce his license and satisfactory evidence that it has not been revoked, file with the clerk statements of at least three reputable persons, one of whom must be a member in good standing of the bar of the district court, attesting to the good moral character of the applicant; and, if admission is sought under subdivision 2 of this section, every applicant shall, in addition, furnish satisfactory evidence as to the requirements for practice in such foreign country and the applicant's practice for the requisite period. The motion for admission must be made in open court by a member in good standing of the bar of the district court. Such person shall upon the filing of his application pay to the clerk a fee of \$15 which fee shall be accounted for by the clerk as miscellaneous receipts.

Application for admission.

Requirements.

4. Any person of good moral character who has attained the age of twenty-one years may be admitted to the practice of law in the courts of the Canal Zone by the judge of the United States district

court thereof upon giving satisfactory evidence that he has a general education equivalent to graduation from a high school of the Canal Zone, has studied law under proper instruction for at least three years, and has passed an examination in the law to be prescribed and conducted by the judge of the district court or by a committee of the bar appointed by him for that purpose. The judge of the district court is empowered to make rules to establish the qualifications of the candidates.

SEC. 36. **CERTIFICATE OF ADMISSION.**—Upon admission of an applicant to the bar, the district court shall direct an order to be entered to that effect upon its records, and that a certificate of such admission be given to him by the clerk of the court, which certificate shall be his license. Certificate of admission.

SEC. 37. **OATHS.**—Before receiving a certificate the applicant shall take and subscribe in court the following oaths: Oaths.

1. "I, ——— recognize and accept the supreme authority of the United States of America, in the Canal Zone, and I do swear that I will obey the existing laws which rule in the Canal Zone, as well as the legal orders and decrees of the duly constituted authorities therein; that I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion. So help me God.

2. "I do solemnly swear that I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any false, groundless or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice, but will conduct myself in the office of a lawyer within the courts according to the best of my knowledge and discretion, with all good fidelity as well to the courts as to my clients. So help me God."

SEC. 38. **ROLL OF ATTORNEYS.**—The clerk of the district court shall keep a roll of attorneys admitted to practice, which roll must be signed by the person admitted before he receives his license. Roll of attorneys.

SEC. 39. **ATTORNEYS ON BONDS.**—Attorneys will not be accepted as sureties upon bonds or recognizances required to be filed in court. Attorneys on bonds.

SEC. 40. **WHO MAY CONDUCT LITIGATION.**—A person may conduct his litigation personally or by the aid of a lawyer, in either the district or magistrates' courts. Who may conduct litigation.

SEC. 41. **DUTIES.**—It is the duty of an attorney and counselor: Duties of attorneys.

1. To support the laws of the Canal Zone and the applicable laws of the United States;

2. To maintain the respect due to the courts of justice and judicial officers;

3. To counsel or maintain such actions, proceedings, or defenses only as appear to him legal or just, except the defense of a person charged with a public offense;

4. To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth, and never seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law;

5. To maintain inviolate the confidence, and at every peril to himself, to preserve the secrets of his client;

6. To abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged;

7. Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest;

8. Never to reject, for any consideration personal to himself, the cause of the defenseless or the oppressed.

Authority.

SEC. 42. AUTHORITY.—An attorney shall have authority:

1. To bind his client in any of the steps of an action or proceeding by his agreement filed with the clerk, or entered upon the minutes of the court, and not otherwise;

2. To receive money claimed by his client in an action or proceeding during the pendency thereof, or after judgment, unless a revocation of his authority is filed, and upon the payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

Change of attorney.

SEC. 43. CHANGE OF ATTORNEY.—The attorney in an action or special proceeding may be changed at any time before or after judgment or final determination, as follows:

1. Upon consent of both client and attorney, filed with the clerk, or entered upon the minutes;

2. Upon the order of the court, upon the application of either client or attorney, after notice from one to the other.

Notice of change.

SEC. 44. NOTICE OF CHANGE.—When an attorney is changed, as provided in section 43, written notice of the change and of the substitution of a new attorney, or of the appearance of the party in person, must be given to the adverse party. Until then he must recognize the former attorney.

Death or removal of attorney.

SEC. 45. DEATH OR REMOVAL OF ATTORNEY.—When an attorney dies, or is removed or suspended, or ceases to act as such, a party to an action, for whom he was acting as attorney, must, before any further proceedings are had against him, be required by the adverse party, by written notice, to appoint another attorney, or to appear in person.

Causes for removal, by court.

SEC. 46. CAUSES FOR WHICH COURT MAY REMOVE ATTORNEY.—An attorney may be removed or suspended by the district court, for any of the following causes, arising after his admission to practice:

1. His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence;

2. Willful disobedience or violation of an order of the district court requiring him to do or forbear an act connected with, or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney and counselor;

3. Corruptly or willfully and without authority appearing as attorney for a party to an action or proceeding;

4. Lending his name to be used as attorney and counselor by another person who is not an attorney and counselor;

5. For the commission of any act involving moral turpitude, dishonesty, or corruption, whether the same be committed in the course of his relations as an attorney or counselor at law, or otherwise, and whether the same shall constitute a felony or misdemeanor or not; and in the event that such act shall constitute a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disbarment or suspension from practice therefor.

Proceedings for removal or suspension.

SEC. 47. PROCEEDINGS FOR REMOVAL OR SUSPENSION.—The proceedings to remove or suspend an attorney and counselor, under the first subdivision of section 46, must be taken by the district court on the receipt of a certified copy of the record of conviction. The proceedings under any of the other subdivisions of that section may be taken by the court for the matters within its knowledge, or may be taken upon the information of another.

Accusation.

SEC. 48. ACCUSATION.—If the proceedings are upon the information of another, the accusation must be in writing.

SEC. 49. VERIFICATION OF ACCUSATION.—The accusation must state the matters charged, and be verified by the oath of some person, to the effect that the charges therein contained are true, which verification may be made upon information and belief when the accusation is presented by an organized bar association.

Verification of.

SEC. 50. CITATION OF ACCUSED BY PUBLICATION.—Upon receiving the accusation, the district court shall make an order requiring the accused to appear and answer it at a specified time, and shall cause a copy of the order and of the accusation to be served upon the accused at least five days before the day appointed in the order. If it shall appear by affidavit to the satisfaction of the court or judge that the accused resides out of the Canal Zone; or has departed from the Canal Zone; or can not, after due diligence, be found within the Canal Zone; or conceals himself to avoid the service of the order to show cause, the court or judge may direct the service of a citation to the accused, requiring him to appear and answer the accusation, to be made by publication in a newspaper of general circulation, in the Canal Zone for thirty days. Such citation must be directed to the accused, recite the date of the filing of the accusation, the name of the accuser, and the general nature of the charges against him, and require him to appear and answer the accusation at a specified time. On proof of the publication of the citation as herein required the court shall have jurisdiction to proceed to hear the accusation and render judgment with like effect as if an order to show cause and a copy of the accusation had been personally served on the accused.

Citation of accused
by publication.

SEC. 51. APPEARANCE.—The accused must appear at the time appointed in the order, and answer the accusation, unless, for sufficient cause, the court assign another day for that purpose. If he do not appear, the court may proceed and determine the accusation in his absence.

Appearance.

SEC. 52. OBJECTIONS TO ACCUSATION.—The accused may answer to the accusation either by objecting to its sufficiency or denying it.

Objections to accusa-
tion.

SEC. 53. DEMURRER.—If he object to the sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it presents intelligibly the grounds of the objection. If he deny the accusation, the denial may be oral and without oath, and must be entered upon the minutes.

Demurrer.

SEC. 54. ANSWER.—If an objection to the sufficiency of the accusation be not sustained, the accused must answer within such time as may be designated by the court.

Answer.

SEC. 55. TRIAL.—If the accused plead guilty, or refuse to answer the accusation, the court shall proceed to judgment of removal or suspension. If he deny the matters charged, the court shall, at such time as it may appoint, proceed to try the accusation.

Trial.

SEC. 56. REFERENCE TO TAKE DEPOSITIONS.—The court may, in its discretion, order a reference to a committee to take depositions in the matter.

Committee to take
depositions.

SEC. 57. JUDGMENT.—Upon the receipt of a certified copy of the record of conviction of an attorney of a crime involving moral turpitude, the district court must suspend the attorney until judgment in the case has become final. When a judgment of conviction in such case has become final the court shall order the attorney permanently disbarred. When the attorney has been found guilty of the charges made in proceedings not based upon a record of conviction, judgment shall be rendered disbarring the attorney either permanently or for a limited time, according to the gravity of the offense charged. During such suspension or disbarment the attorney shall be precluded from practicing as an attorney at law or as an attorney or agent of another in and before all courts, commissions,

Judgment.

and tribunals in the Canal Zone, and from practicing as attorney or counselor at law in any manner and from holding himself out to the public as an attorney or counselor at law. When permanently disbarred his name shall be stricken from the roll of attorneys and counselors.

Disqualified attorney as plaintiff.

SEC. 58. DISQUALIFIED ATTORNEY AS PLAINTIFF.—No person who has been an attorney and counselor shall while a judgment of disbarment or suspension is in force, appear on his own behalf as plaintiff in the prosecution of any action where the subject of said action has been assigned to him subsequent to the entry of the judgment of disbarment or suspension.

Compensation; contract for services.

SEC. 59. COMPENSATION TO BE REASONABLE; CONTRACT FOR SERVICES.—An attorney shall be entitled to have and recover from his client no more than a reasonable compensation for the services rendered, having in view the importance of the subject matter of the controversy, the extent of the services rendered, and the professional standing of the attorney. But in such cases the court shall not be bound by the opinion of attorneys as expert witnesses as to the proper compensation, but may disregard such testimony and base its conclusion on its own professional knowledge. A written contract for services shall control the amount of recovery if found by the court not to be unconscionable or unreasonable.

FORM OF CIVIL ACTIONS.

CHAPTER 4.—FORM OF CIVIL ACTIONS

Single form.

SEC. 60. ONE FORM OF CIVIL ACTION ONLY.—There is in the Canal Zone but one form of civil actions for the enforcement or protection of private rights and the redress or prevention of private wrongs.

Parties to action.

SEC. 61. PARTIES TO ACTIONS, HOW DESIGNATED.—In such action the party complaining is known as the plaintiff, and the adverse party as the defendant.

Trial of special issues not made by pleadings.

SEC. 62. SPECIAL ISSUES NOT MADE BY PLEADINGS, HOW TRIED.—A question of fact not put in issue by the pleadings may be tried by the district court or a jury therein, upon an order for the trial, stating distinctly and plainly the question of fact to be tried; and such order is the only authority necessary for a trial.

TIME OF COMMENCING CIVIL ACTIONS.

CHAPTER 5.—TIME OF COMMENCING CIVIL ACTIONS

TIME OF COMMENCING ACTIONS IN GENERAL

Commencement of.

SEC. 63. COMMENCEMENT OF CIVIL ACTIONS.—Civil actions, without exception, can only be commenced within the periods prescribed in this chapter, after the cause of action shall have accrued, unless where, in special cases, a different limitation is prescribed by statute.

CROSS REFERENCE

Post, p. 920.

Action for wrongful death must be brought within one year, see section 96.

Periods of limitation prescribed.

SEC. 64. PERIODS OF LIMITATION PRESCRIBED.—The periods prescribed for the commencement of actions are as follows:

Five years.

SEC. 65. WITHIN FIVE YEARS.—Within five years:

- 1. An action upon a judgment or decree of any court of the United States or of any State within the United States.
- 2. An action for mesne profits of real property.

Four years.

SEC. 66. WITHIN FOUR YEARS.—Within four years:

- 1. An action upon any contract, obligation or liability founded upon an instrument in writing.
- 2. An action to recover (1) upon a book account whether consisting of one or more entries; (2) upon an account stated; (3) a balance

due upon a mutual, open and current account: *Provided, however,* That where an account stated is based upon an account of one item, the time shall begin to run from the date of said item, and where an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item.

Proviso.
Accounts stated.

SEC. 67. WITHIN THREE YEARS.—Within three years:

Three years.

1. An action upon a liability created by statute, other than a penalty or forfeiture.

2. An action for trespass upon or injury to real property.

3. An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property.

4. An action for relief on the ground of fraud or mistake. The cause of action in such case not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

SEC. 68. WITHIN TWO YEARS.—Within two years:

Two years.

1. An action upon a contract, obligation, or liability not founded upon an instrument of writing, other than that mentioned in subdivision two of section 66; or an action founded upon a contract, obligation, or liability, evidenced by a certificate, or abstract or guaranty of title of real property, or by a policy of title insurance; provided, that the cause of action upon a contract, obligation, or liability, evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance shall not be deemed to have accrued until the discovery of the loss or damage suffered by the aggrieved party thereunder.

2. An action against a marshal, coroner, or constable upon a liability incurred by the doing of an act in his official capacity and in virtue of his office, or by the omission of an official duty including the nonpayment of money collected upon an execution. But this subdivision does not apply to an action for an escape.

SEC. 69. WITHIN ONE YEAR.—Within one year:

One year.

1. An action upon a statute for a penalty or forfeiture, when the action is given to an individual, or to an individual and the Government, except when the statute imposing it prescribes a different limitation.

2. An action upon a statute, or upon an undertaking in a criminal action, for a forfeiture or penalty to the Government of the Canal Zone.

3. An action for libel, slander, assault, battery, false imprisonment, seduction, or for injury to or for the death of one caused by the wrongful act or neglect of another, or by a depositor against a bank for the payment of a forged or raised check.

4. An action against the marshal or other officer for the escape of a prisoner arrested or imprisoned on civil process.

SEC. 70. ACTIONS FOR RELIEF NOT HEREINBEFORE PROVIDED FOR.—An action for relief not hereinbefore provided for must be commenced within four years after the cause of action shall have accrued.

Actions for relief not hereinbefore provided for.

SEC. 71. WHERE CAUSE OF ACTION ACCRUES ON MUTUAL ACCOUNT.—In an action brought to recover a balance due upon a mutual, open, and current account, where there have been reciprocal demands between the parties, the cause of action is deemed to have accrued from the time of the last item proved in the account on either side.

Where cause of action accrues on mutual account.

SEC. 72. NO LIMITATION TO CERTAIN ACTIONS; NOT APPLICABLE TO BANKS, ETC.—To actions brought to recover money or other property deposited with any bank, banker, trust company, building and loan association, or savings and loan society there is no limitation.

No limitation to certain actions.

Not applicable to insolvent banks, etc.

This section shall not apply to banks, bankers, trust companies, building and loan associations, and savings and loan societies which have become insolvent and are in process of liquidation and in such cases the statute of limitations shall be deemed to have commenced to run from the beginning of the process of liquidation; provided, however, nothing herein contained shall be construed so as to relieve any stockholder of any banking corporation or trust company from stockholder's liability as shall, at any time, be provided by law.

General provisions, commencing actions.

GENERAL PROVISIONS AS TO TIME OF COMMENCING ACTIONS

When commenced.

SEC. 73. WHEN AN ACTION IS COMMENCED.—An action is commenced, within the meaning of this chapter, when the complaint is filed.

Exceptions. Where defendant out of Zone.

SEC. 74. EXCEPTION, WHERE DEFENDANT IS OUT OF THE ZONE.—If, when the cause of action accrues against a person, he is out of the Canal Zone, the action may be commenced within the term herein limited, after his return to the Zone, and if, after the cause of action accrues, he departs from the Zone, the time of his absence is not part of the time limited for the commencement of the action.

Persons under disabilities. Ante, p. 916.

SEC. 75. EXCEPTION, AS TO PERSONS UNDER DISABILITIES.—If a person entitled to bring an action, mentioned in sections 63 to 72, be, at the time the cause of action accrued, either:

1. Under the age of majority; or,

2. Insane; or,

3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life; or

4. A married woman, and her husband be a necessary party with her in commencing such action;

The time of such disability is not a part of the time limited for the commencement of the action.

Where person entitled dies before limitation expires.

SEC. 76. PROVISION WHERE PERSON ENTITLED DIES BEFORE LIMITATION EXPIRES.—If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced by his representatives, after the expiration of that time, and within six months from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced against his representatives, after the expiration of that time, and within one year after the issuing of letters testamentary or of administration.

Suits by aliens, time of war deducted.

SEC. 77. IN SUITS BY ALIENS, TIME OF WAR TO BE DEDUCTED.—When a person is an alien subject, or citizen of a country at war with the United States, the time of the continuance of the war is not part of the period limited for the commencement of the action.

Where judgment reversed.

SEC. 78. PROVISION WHERE JUDGMENT HAS BEEN REVERSED.—If an action is commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on appeal, the plaintiff, or if he die and the cause of action survive, his representatives, may commence a new action within one year after the reversal.

Where action stayed by injunction.

SEC. 79. PROVISION WHERE ACTION IS STAYED BY INJUNCTION.—When the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action.

Disability must exist when right of action accrued.

SEC. 80. DISABILITY MUST EXIST WHEN RIGHT OF ACTION ACCRUED.—No person can avail himself of a disability, unless it existed when his right of action accrued.

SEC. 81. WHEN TWO OR MORE DISABILITIES EXIST, ETC.—When two or more disabilities coexist at the time the right of action accrues, the limitation does not attach until they are removed.

When two or more disabilities exist, etc.

SEC. 82. ACKNOWLEDGMENT OR NEW PROMISE MUST BE IN WRITING.—No acknowledgment or promise is sufficient evidence of a new or continuing contract, by which to take the case out of the operation of this chapter, unless the same is contained in some writing, signed by the party to be charged thereby.

Acknowledgments, etc., must be in writing.

SEC. 83. LIMITATION LAWS OF STATES OR FOREIGN COUNTRIES, EFFECTS OF.—When a cause of action has arisen in a State of the United States, or in a foreign country, and by the laws thereof an action thereon can not there be maintained against a person by reason of the lapse of time, an action thereon shall not be maintained against him in the Canal Zone, except in favor of one who has been a resident of the Zone, and who has held the cause of action from the time it accrued.

Limitation laws of States or foreign countries, effect of.

SEC. 84. EXISTING CAUSES OF ACTION NOT AFFECTED.—This chapter does not extend to actions already commenced, nor to cases where the time prescribed in any existing statute for acquiring a right or barring a remedy has fully run, but the laws now in force are applicable to such actions and cases, and are repealed subject to the provisions of this section.

Existing causes of action not affected.

SEC. 85. "ACTION" INCLUDES A SPECIAL PROCEEDING.—The word "action" as used in this chapter is to be construed, whenever it is necessary so to do, as including a special proceeding of a civil nature.

"Action" includes a special proceeding.

CHAPTER 6.—PARTIES TO CIVIL ACTIONS

PARTIES TO CIVIL ACTIONS.

SEC. 86. CIVIL ACTIONS OR SPECIAL PROCEEDINGS BETWEEN NONRESIDENTS.—No civil action or special proceeding shall be brought or proceeded with in the courts of the Canal Zone, in any case in which both of the parties, plaintiff and defendant, are alien nonresidents of the Canal Zone, and the cause of action is one which arose without the territorial limits of the Canal Zone, and the party proceeded against has no property within said territorial limits, subject to the jurisdiction of the Canal Zone courts.

Civil actions or special proceedings between nonresidents.

Neither shall any civil action or special proceeding be brought or proceeded with in the courts of the Canal Zone when both parties, plaintiff and defendant, though citizens of the United States, are found transiently within the limits of the Canal Zone, unless the cause of action is one arising within the said territorial limits, or the party proceeded against has property within the said limits, subject to the jurisdiction of the Canal Zone courts.

Transients.

This section shall not be construed to exclude from the jurisdiction of the Canal Zone courts cases between parties who have an official or business residence within the territorial limits of the Canal Zone Government, or who reside therein for the purpose of any occupation or employment, notwithstanding that they may not have acquired a permanent residence within said territorial limits.

Persons having business situs, etc.

SEC. 87. ACTION TO BE IN NAME OF PARTY IN INTEREST.—Every action must be prosecuted in the name of the real party in interest.

Action in name of party in interest.

SEC. 88. ASSIGNMENT OF THING IN ACTION NOT TO PREJUDICE DEFENSE.—In the case of an assignment of a thing in action, the action by the assignee is without prejudice to any set off, or other defense existing at the time of, or before, notice of the assignment; but this section does not apply to a negotiable promissory note or bill of exchange, transferred in good faith, and upon good consideration, before maturity.

Assignment of a thing in action not to prejudice defense.

Executor, trustee, etc., may sue without joining beneficiary.

SEC. 89. EXECUTOR, TRUSTEE, AND SO FORTH, MAY SUE WITHOUT JOINING THE PERSONS BENEFICIALLY INTERESTED.—An executor or administrator, or trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him the persons for whose benefit the action is prosecuted. A person with whom, or in whose name, a contract is made for the benefit of another, is a trustee of an express trust, within the meaning of this section.

Married women as parties.

SEC. 90. MARRIED WOMEN AS PARTIES TO ACTIONS.—A married woman may be sued without her husband being joined as a party, and may sue without her husband being joined as a party in all actions, including those for injury to her person, libel, slander, false imprisonment, or malicious prosecution, or for the recovery of her earnings.

When wife may defend.

SEC. 91. WIFE MAY DEFEND, WHEN.—If a husband and wife be sued together, the wife may defend for her own right, and if the husband neglect to defend, she may defend for his right also.

Appearance of infant, etc.

SEC. 92. APPEARANCE OF INFANT, AND SO FORTH, BY GUARDIAN; MAY COMPROMISE.—When an infant, or an insane or incompetent person is a party, he must appear either by his general guardian or by a guardian ad litem appointed by the court in which the action is pending, in each case. A guardian ad litem may be appointed in any case, when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient to represent the infant, insane, or incompetent person in the action or proceeding, notwithstanding he may have a general guardian and may have appeared by him. The general guardian or guardian ad litem so appearing for any infant, or insane or incompetent person in any suit shall have power to compromise the same and to agree to the judgment to be entered therein for or against his ward, subject to the approval of the court in which such suit is pending.

Power of guardian, etc., to compromise.

How guardian appointed.

SEC. 93. GUARDIAN, HOW APPOINTED.—When a guardian ad litem is appointed by the court, he must be appointed as follows:

1. When the infant is plaintiff, upon the application of the infant, if he be of the age of fourteen years, or if under that age, upon the application of a relative or friend of the infant.

2. When the infant is defendant, upon the application of the infant, if he be of the age of fourteen years, and apply within ten days after the service of the summons, or if under that age, or if he neglect so to apply, then upon the application of a relative or friend of the infant, or of any other party to the action.

3. When an insane or incompetent person is a party to an action or proceeding, upon the application of a relative or friend of such insane or incompetent person, or of any other party to the action or proceeding.

Suits by unmarried female for seduction.

SEC. 94. UNMARRIED FEMALE MAY SUE FOR HER OWN SEDUCTION.—An unmarried female may prosecute, as plaintiff, an action for her own seduction, and may recover therein such damages, pecuniary or exemplary, as are assessed in her favor.

Suit by father, etc.

SEC. 95. FATHERS, ETC., MAY SUE FOR SEDUCTION OF DAUGHTER, ETC.—A father, or, in case of his death or desertion of his family, the mother, may prosecute as plaintiff for seduction of the daughter, and the guardian for the seduction of the ward, though the daughter or ward be not living with or in the service of the plaintiff at the time of the seduction or afterwards, and there be no loss of service.

Actions for wrongful death.

SEC. 96. ACTIONS FOR WRONGFUL DEATH.—1. Whenever by any injury done or happening within the Canal Zone the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured (or, in the case of a married woman,

have entitled her or her husband, either individually or jointly) to maintain an action and recover damages in respect thereof, the individual who or corporation, company, or association which would have been liable if death had not ensued shall be liable to an action for damages notwithstanding the death of the person injured, and even though the death shall have been caused under such circumstances as amount in law to a felony.

2. Every action under this section shall be brought by and in the name of the personal representatives and within one year after the death of such deceased person.

3. No action shall be maintained under this section if the person suffering injury and death, or any person for him, has recovered damages on account of such injury.

4. In an action under this section the court or jury shall award such damages as it shall deem to be a fair and just compensation assessed with reference to the pecuniary injury, resulting from such death, to the surviving spouse and the children of the deceased, and if there is neither a surviving spouse nor child, then to the parents of the deceased, and if there is no parent, then to the brothers and sisters and other blood relatives dependent upon the deceased for support.

5. Damages recovered in an action under this section shall be for the exclusive benefit of the surviving spouse and other persons enumerated in subdivision 4, and shall be distributed to them, in the order named in such subdivision, according to the laws in force in the Canal Zone applicable to the distribution of estates.

6. In no case shall recovery under this section exceed the sum of \$10,000.

7. This section shall not be construed as authorizing a suit against the United States nor as modifying or repealing any other law. (Act Cong. Dec. 29, 1926, c. 19, § 7, 44 Stat. 927.)

SEC. 97. WHO MAY BE JOINED AS PLAINTIFFS.—All persons having an interest in the subject of the action, and in obtaining the relief demanded, may be joined as plaintiffs, except when otherwise provided in this chapter.

SEC. 98. WHO MAY BE JOINED AS DEFENDANTS.—Any person may be made a defendant who has or claims an interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the question involved therein. And in an action to determine the title or right of possession to real property which, at the time of the commencement of the action, is in the possession of a tenant, the landlord may be joined as a party defendant.

SEC. 99. SAME.—All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative; and judgments may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities.

SEC. 100. ORDER PREVENTING EMBARRASSMENT.—It shall not be necessary that each defendant shall be interested as to all relief prayed for, or as to every cause of action included in any proceeding against him; but the court may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest.

SEC. 101. DOUBT AS TO DEFENDANT LIABLE.—Where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, with the intent that the question as to which, if any, of the defendants is liable, and to what extent, may be determined between the parties.

Vol. 44, p. 927.

Joinder of parties.
Plaintiff.

Defendant.

Order preventing embarrassment.

When person liable in doubt.

Actions to determine conflicting claims to real property.

SEC. 102. PARTIES DEFENDANT IN AN ACTION TO DETERMINE CONFLICTING CLAIMS TO REAL PROPERTY.—In an action brought by a person out of possession of real property, to determine an adverse claim of an interest or estate therein, the person making such adverse claim and persons in possession may be joined as defendants, and if the judgment be for the plaintiff, he may have a writ for the possession of the premises, as against the defendants in the action, against whom the judgment has passed.

When parties in interest joined.

SEC. 103. PARTIES IN INTEREST, WHEN TO BE JOINED; WHEN ONE OR MORE MAY SUE OR DEFEND FOR THE WHOLE.—Of the parties to the action, those who are united in interest must be joined as plaintiffs or defendants; but if the consent of any one who should have been joined as plaintiff can not be obtained, he may be made a defendant, the reason thereof being stated in the complaint; and when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.

When one or more may sue or defend for the whole.

Suits on commercial paper, etc.

SEC. 104. PLAINTIFF MAY SUE IN ONE ACTION THE DIFFERENT PARTIES TO COMMERCIAL PAPER OR INSURANCE POLICIES.—Persons severally liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, and sureties on the same or separate instruments, may all or any of them be included in the same action, at the option of the plaintiff; and all or any of them join as plaintiffs in the same action, concerning or affecting the obligation or instrument upon which they are severally liable. Where the same person is insured by two or more insurers separately in respect to the same subject and interest, such person, or the payee under the policies, or the assignee of the cause of action, or other successor in interest of such assured or payee, may join all or any of such insurers in a single action for the recovery of a loss under the several policies, and in case of judgment a several judgment must be rendered against each of such insurers according as his liability shall appear.

By tenants in common, etc.

SEC. 105. TENANTS IN COMMON, AND SO FORTH, MAY SEVER IN BRINGING OR DEFENDING ACTIONS.—All persons holding as tenants in common, joint tenants, or coparceners, or any number less than all, may jointly or severally commence or defend any civil action or proceeding for the enforcement or protection of the rights of such party.

Action, when not abated.

SEC. 106. ACTION, WHEN NOT TO ABATE BY DEATH, MARRIAGE, OR OTHER DISABILITY; PROCEEDINGS IN SUCH CASE.—An action or proceeding does not abate by the death, or any disability of a party, or by the transfer of any interest therein, if the cause of action survive or continue. In case of the death or any disability of a party, the court, on motion, may allow the action or proceeding to be continued by or against his representative or successor in interest. In case of any other transfer of interest, the action or proceeding may be continued in the name of the original party, or the court may allow the person to whom the transfer is made to be substituted in the action or proceeding.

Substitution of defendant; conflicting claims, how made.

SEC. 107. ANOTHER PERSON MAY BE SUBSTITUTED FOR THE DEFENDANT; CONFLICTING CLAIMS, HOW MADE.—A defendant, against whom an action is pending upon a contract, or for specific personal property, may, at any time before answer, upon affidavit that a person not a party to the action makes against him, and without any collusion with him, a demand upon such contract, or for such property, upon notice to such person and the adverse party, apply to the court for an order to substitute such person in his place, and discharge him from liability to either party, on his depositing in court the amount claimed on the contract, or delivering the property or its value to

such person as the court may direct; and the court may, in its discretion, make the order. And whenever conflicting claims are or may be made upon a person for or relating to personal property, or the performance of an obligation, or any portion thereof, such person may bring an action against the conflicting claimants to compel them to interplead and litigate their several claims among themselves. The order of substitution may be made and the action of interpleader may be maintained, and the applicant or plaintiff be discharged from liability to all or any of the conflicting claimants, although their titles or claims have not a common origin, or are not identical, but are adverse to and independent of one another.

SEC. 108. INTERVENTION, WHEN IT TAKES PLACE, AND HOW MADE.—At any time before trial, any person, who has an interest in the matter in litigation, or in the success of either of the parties, or an interest against both, may intervene in the action or proceeding. An intervention takes place when a third person is permitted to become a party to an action or proceeding between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant, and is made by complaint, setting forth the grounds upon which the intervention rests, filed by leave of the court and served upon the parties to the action or proceeding who have not appeared, and upon the attorneys of the parties who have appeared, who may answer or demur to it within ten days from the service thereof, if served within the Canal Zone, or within forty days if served elsewhere.

Intervention.

SEC. 109. ASSOCIATES MAY BE SUED BY NAME OF ASSOCIATION.—When two or more persons, associated in any business, transact such business under a common name, whether it comprises the names of such persons or not, the associates may be sued by such common name, the summons in such cases being served on one or more of the associates; and the judgment in the action shall bind the joint property of all the associates, and the individual property of the party or parties served with process, in the same manner as if all had been named defendants and had been sued upon their joint liability.

Suits against business associates.

SEC. 110. COURT, WHEN TO DECIDE CONTROVERSY OR TO ORDER OTHER PARTIES TO BE BROUGHT IN.—The court may determine any controversy between parties before it, when it can be done without prejudice to the rights of others, or by saving their rights; but when a complete determination of the controversy can not be had without the presence of other parties, the court must then order them to be brought in, and to that end may order amended and supplemental pleadings, or a cross-complaint to be filed, and summons thereon to be issued and served. And when, in an action for the recovery of real or personal property, or to determine conflicting claims thereto, a person, not a party to the action, but having an interest in the subject thereof, makes application to the court to be made a party, it may order him to be brought in, by the proper amendment.

Court, when to decide controversy or to order other parties to be brought in.

CHAPTER 7.—PLACE OF TRIAL OF CIVIL ACTIONS

PLACE OF TRIAL OF CIVIL ACTIONS.

SEC. 111. PLACE OF TRIAL OF CIVIL ACTIONS IN GENERAL.—All actions not hereinafter otherwise provided for may be brought in the division or subdivision where the defendant or necessary party defendant may reside or be found, or in the division or subdivision where the plaintiff or one of the plaintiffs resides, at the election of the plaintiff, except in cases where other special provision is made in this code. In case neither the plaintiff nor the defendant resides within the

In general.

Canal Zone, and the action is brought to seize or obtain title to property of the defendant within the Canal Zone, the action shall be brought in the division or subdivision where the property which the plaintiff seeks to seize or obtain title to is situated or is found.

Actions against executors, administrators, and guardians touching the performance of their official duties, and actions for account and settlement by them, and actions for the distribution of the estates of deceased persons among the heirs and distributees, and actions for the payment of legacies, shall be brought in the division in which the will was admitted to probate, or letters of administration were granted, or the guardian was appointed.

Actions to obtain possession of real property, or to recover damages for injuries to real property, or to establish any interest or right in or to real property, shall be brought in the division where such property, or some part thereof, is situated.

And in all cases process may issue from the division of the district court in which an action or special proceedings is pending, to be in force in either division, to bring in defendants and to enforce all orders and decrees of the court.

The failure of the defendant to object to the venue of the action at the time of entering his appearance in the action shall be deemed a waiver on his part of all objections thereto, except in the case of actions against executors, administrators, and guardians, and for the distribution of estates and payment of legacies.

Actions for divorce.

Vol. 42, p. 1008.

SEC. 112. ACTIONS FOR DIVORCE.—Complaints for divorce shall be filed in the division of the district court in which the plaintiff resides. (Act Cong. Sept. 21, 1922, C. 370, § 13, 42 Stat. 1008.)

CROSS REFERENCE

Post, p. 1135.

Residence defined, see Civil Code, section 91.

Change of venue.

SEC. 113. CHANGE OF VENUE.—The district judge may order a change of venue in any civil case or special proceeding from one division of said court to the other, whenever in his opinion, in the interest of justice, such action becomes necessary. Such change of venue may be ordered upon the motion of the judge, on the application of either party or by consent of parties.

Whenever a change of venue has been ordered by the court, the clerk shall immediately make out a true transcript of all the orders made in said cause, and certify thereto under his official seal, and transmit the same with the original papers in the case to the other division of the district, and the case shall be tried therein as if it had been instituted there originally.

MANNER OF
COMMENCING
CIVIL ACTIONS.

CHAPTER 8.—MANNER OF COMMENCING CIVIL ACTIONS

CROSS REFERENCE

Ante, p. 923.

Process may issue from one division of the district court to be in force in the other, see section 111.

Complaints.

SEC. 114. ACTIONS, HOW COMMENCED.—Civil actions in the district court of the Canal Zone are commenced by filing a complaint.

Indorsement; when
summons may issue;
how waived.

SEC. 115. COMPLAINT, HOW INDORSED; WHEN SUMMONS MAY BE ISSUED, AND HOW WAIVED.—The clerk must indorse on the complaint the day, month, and year that it is filed, and at any time within one year thereafter, the plaintiff may have a summons issued, and if the action be brought against two or more defendants, who reside in different divisions, may have a summons issued for each of such divisions at the same time. But at any time within the year after the

complaint is filed, the defendant may, in writing, or by appearing and answering or demurring, waive the issuing of summons; or, if the action be brought upon a joint contract of two or more defendants, and one of them has appeared within the year, the other or others may be served or appear after the year at any time before trial.

SEC. 116. SUMMONS, HOW ISSUED, DIRECTED, AND WHAT TO CONTAIN, IN GENERAL.—The summons must be directed to the defendant, signed by the clerk, and issued under the seal of the court, and must contain:

Summons, how issued, directed, contents.

1. The names of the parties to the action, the court in which it is brought, and the division in which the complaint is filed;

2. A direction that the defendant appear and answer the complaint within ten days, if the summons is served within the Canal Zone; within forty days, if served outside of the Canal Zone;

3. A notice that, unless the defendant so appears and answers, the plaintiff will take judgment for any money or damages demanded in the complaint as arising upon contract, or will apply to the court for any other relief demanded in the complaint.

SEC. 117. ALIAS SUMMONS.—If the summons is returned without being served on any or all of the defendants, or if it has been lost, the clerk, upon the demand of the plaintiff, may issue an alias summons in the same form as the original, and within such time as the original might have been served if it had not been lost or returned.

Alias summons.

SEC. 118. SUMMONS, HOW SERVED AND RETURNED, IN GENERAL.—The summons may be served by the marshal, or by any other person over the age of eighteen, not a party to the action. A copy of the complaint must be served, with the summons, upon each of the defendants. When the summons is served by the marshal, it must be returned, with his certificate of its service and of the service of any copy of the complaint, where such copy is served, to the office of the clerk from which it issued. When it is served by any other person, it must be returned to the same place, with an affidavit of such person of its service, and of the service of a copy of the complaint, where such copy is served.

Service, return of.

SEC. 119. SERVICE OF SUMMONS, IN GENERAL.—The summons must be served by delivering a copy thereof as follows:

Service of summons.

1. If suit is against a foreign corporation, or a nonresident joint stock company or association doing business within the Canal Zone: To a managing or business agent, cashier or secretary, if such there be within the Canal Zone; or to any agent authorized to accept service for it.

2. If against a minor, under the age of fourteen years, residing within the Canal Zone: To such minor, personally, and also to his father, mother, or guardian; or if there be none within the Canal Zone, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed.

3. If against a person residing within the Canal Zone who has been judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian has been appointed: To such person, and also to his guardian.

4. In all cases where a corporation has forfeited its right to do business in the Canal Zone, by delivering a copy thereof to one of the persons who have become the trustees of the corporation and of its stockholders or members.

5. In all other cases to the defendant personally.

SEC. 120. PROCEEDINGS WHERE THERE ARE SEVERAL DEFENDANTS, AND PART ONLY ARE SERVED.—When the action is against two or more defendants jointly or severally liable on a contract, and the summons is served on one or more, but not on all of them, the plaintiff may

Proceedings against several defendants when not all are served.

proceed against the defendants served in the same manner as if they were the only defendants.

Service by publication, in general.

SEC. 121. CASES IN WHICH SERVICE OF SUMMONS MAY BE BY PUBLICATION, IN GENERAL.—Where the person on whom service is to be made resides out of the Canal Zone; or has departed from the Zone; or can not, after due diligence, be found within the Zone; or conceals himself to avoid the service of summons; or is a corporation having no officer or other person upon whom summons may be served, who, after due diligence, can be found within the Zone, and the fact appears by affidavit to the satisfaction of the court, or the judge thereof; and it also appears by such affidavit, or by the verified complaint on file, that a cause of action exists against the defendant in respect to whom the service is to be made, or that he is a necessary or proper party to the action; or when it appears by such affidavit, or by the complaint on file, that it is an action which relates to or the subject of which is real or personal property in the Zone, in which such person defendant or corporation defendant has or claims a lien or interest, actual or contingent, therein, or in which the relief demanded consists wholly or in part in excluding such person or corporation from any interest therein, such court or judge may make an order that the service be made by the publication of the summons.

CROSS REFERENCE

Post, p. 927.

Divorce actions, service by publication, see section 126.

Manner of publication.

SEC. 122. MANNER OF PUBLICATION IN GENERAL.—The order must direct the publication to be made in such newspaper or newspapers, to be designated by the judge, as is, or are most likely to give notice to the person to be served, and for such length of time as may be deemed reasonable, at least once a week for three consecutive weeks; but the last publication against a defendant residing out of the Zone, or absent therefrom, must not be less than forty days before the day on which the defendant is required to appear. In case of publication, where the residence of a nonresident or absent defendant is known, the judge must direct a copy of the summons and complaint to be forthwith deposited by the clerk in the postoffice, directed to the person to be served, at his place of residence. If the residence of the defendant is unknown, then to his last known place of residence with the request to forward if not called for in five days.

In any case where service by publication may be ordered, the court or judge, upon application of the plaintiff, shall authorize personal service upon the defendant outside of the Canal Zone. Such service shall be made by delivering to the defendant in person a true copy of the summons and the complaint, and may be made by any person not a party to or otherwise interested in the subject matter in controversy. Such service shall have only the effect of service of summons by publication. Return on such service shall be made under oath, with a notation of the time and place of service.

Proof of service, how made.

SEC. 123. PROOF OF SERVICE, HOW MADE, IN GENERAL.—Proof of the service of summons and complaint must be as follows:

1. If served by the marshal or deputy, his certificate thereof;
2. If by any other person, his affidavit thereof; or,
3. In case of publication, the certificate of the clerk of the court to which a copy of the publication shall be attached; and a certificate of the clerk showing the deposit of a copy of the summons in the post office, if the same has been deposited; or,
4. The written admission of the defendant.

In case of service otherwise than by publication, the certificate or affidavit must state the time and place of service.

CROSS REFERENCE

Proof of service in divorce actions, see section 126.

SEC. 124. WHEN JURISDICTION OF ACTION IS ACQUIRED.—From the time of the service of the summons and of a copy of the complaint in a civil action, where service of a copy of the complaint is required, or of the completion of the publication when service by publication is ordered, the court is deemed to have acquired jurisdiction of the parties, and to have control of all the subsequent proceedings. In all cases where a corporation has forfeited its right to do business in the Canal Zone, the persons who become the trustees of the corporation and of its stockholders or members may be sued in the corporate name of such corporation in like manner as if no forfeiture had occurred and from the time of service of the summons and of a copy of the complaint in a civil action, upon one of said trustees, or of the completion of the publication when service by publication is ordered, the court is deemed to have acquired jurisdiction of all said trustees, and to have control of all the subsequent proceedings. The voluntary appearance of a defendant is equivalent to personal service of the summons and copy of the complaint upon him.

When jurisdiction of action is acquired.

PROCESS IN DIVORCE ACTIONS

Process in divorce actions.

In general.

SEC. 125. PROCESS IN DIVORCE ACTIONS IN GENERAL.—The process and practice under proceedings for divorce shall be the same as in other cases in chancery except as otherwise provided in sections 112, 126, 127, 147, and 1224 of this code or in chapter 5 of the Civil Code. (Act Cong. Sept. 21, 1922, C. 370, § 16, 42 Stat. 1010; Act Cong. Dec. 29, 1926, C. 19, § 4, 44 Stat. 926.)

Post, pp. 932, 1121
1132.
Vol. 42, p. 1010; Vol.
44, p. 926.

SEC. 126. SAME; PROCESS AND SERVICE, PERSONAL AND BY PUBLICATION.—(a) Upon the filing of a complaint for divorce and the affidavit required by subdivision (b), of section 91 of the Civil Code, the clerk of the district court shall issue a summons requiring the defendant to appear and answer. If the defendant can be found in the Canal Zone, such summons shall be served by delivering to the defendant in person a true copy thereof and a copy of the complaint for divorce. If the defendant can not be found in the Canal Zone, the summons shall be returned to such clerk with an indorsement thereon showing such fact.

Process and service,
personal and by publi-
cation.
Post, p. 1135.

(b) Upon application of the plaintiff, accompanied by the affidavit required by subdivision (c), if the summons has not been served as provided in subdivision (a), the court, or the judge thereof, shall enter an order directing service of a summons by publication if it appears to the satisfaction of such court or judge—

(1) That the defendant can not be found in the Canal Zone; and
(2) That a proper cause for divorce is alleged in favor of the plaintiff; and

(3) Either (A) that the husband and wife have resided together in the Canal Zone and that the defendant has gone out of the Canal Zone and willfully refuses to return, so that process can not be personally served upon such defendant; or (B) that the marriage was celebrated in the Canal Zone and that the defendant has abandoned the plaintiff and gone out of the Canal Zone in disregard of his or her marital obligations.

(c) The plaintiff shall file, with the application for an order directing service of summons by publication, an affidavit stating the present address of the defendant, except that if such address is not known to the plaintiff such affidavit shall state the last known address of the defendant, and that, after the exercise of due diligence, the

plaintiff has been unable to ascertain such present address. Such affidavit shall contain such other information as the court, or the judge thereof, may require.

(d) Upon entry of an order directing service of a summons by publication the clerk of the court shall cause such summons to be published at least once each week for three successive weeks in the newspaper designated in such order. The court, or the judge thereof, shall designate a newspaper printed and published in the Canal Zone and of general circulation therein, or a newspaper printed in English or having an English section or edition and published in the Republic of Panama and having a general circulation in the Canal Zone, which, in the opinion of the court or judge, will be most likely to give notice to the defendant. The clerk of the court shall mail a copy of the summons and a copy of the complaint, not later than ten days after the first publication of the summons, addressed to the defendant at his or her last known place of residence. The court is authorized to adopt rules prescribing the form of such summons.

(e) The clerk of the court, after the last publication of a summons, shall make certificate that the summons has been published and that a copy of the summons and complaint has been mailed as required in subdivision (d), and a copy of such summons as published shall be attached to such certificate. Such certificate and copy shall be evidence of such publication and mailing.

(f) In any case where service by publication may be ordered the court, or the judge thereof, upon application of the plaintiff, shall authorize personal service upon the defendant outside the Canal Zone. Such service shall be made by delivering to the defendant in person a true copy of the summons and a copy of the complaint for divorce, and may be made by any person not a party to or otherwise interested in the subject matter in controversy. Such service shall have only the effect of service of summons by publication. Return of such summons shall be made with a notation of the time and place of service and the fact that the defendant served is a nonresident of the Canal Zone. Such return shall be made under oath. The cost of making such service shall be borne by the party at whose instance the same was made, except that if made by any officer authorized to serve process, the actual cost of such service shall be included as a part of the cost of the case.

(g) All the facts relating to the service of summons, whether made personally or by publication, must be established to the satisfaction of the court, or the judge thereof, before any decree is entered pursuant to a complaint for divorce. (Act Cong. Sept. 21, 1922, C. 370, § 15, 42 Stat. 1009; Act Cong. Dec. 29, 1926, C. 19, § 3, 44 Stat. 924.)

Vol. 42, p. 1009; Vol. 44, p. 924.

CROSS REFERENCES

Post, p. 1136.

Additional notice to defendant may be ordered in case of default, see section 95 of the Civil Code.

Post, p. 1137.

No judgment for alimony unless defendant is personally served or appears, see section 101 of the Civil Code.

Post, p. 1135.

Residence defined, see section 91 of the Civil Code.

Time for appearance and answer.

SEC. 127. TIME FOR APPEARANCE AND ANSWER IN SUITS FOR DIVORCE.—In no divorce proceedings shall the cause stand for trial before the expiration of the time allowed for the defendant to appear and answer. A summons issued or published under section 126 shall require the defendant to appear and answer—

(1) Within ten days after personal service thereof if such service is had in the Canal Zone;

(2) Within thirty days after personal service thereof if such service is had in the Republic of Panama;

(3) Within ninety days after personal service if such service is had outside of the Canal Zone and the Republic of Panama;

(4) Within thirty days after the first publication of summons if the defendant resides in the Canal Zone or the Republic of Panama; and

(5) Within ninety days after the first publication of summons if the defendant resides outside the Canal Zone and the Republic of Panama. (Act Cong. Sept. 21, 1922, C. 370, § 16, 42 Stat. 1010; Act Cong. Dec. 29, 1926, C. 19, § 4, 44 Stat. 926.)

Vol. 42, p. 1010; Vol. 44, p. 926.

CHAPTER 9.—PLEADINGS IN CIVIL ACTIONS

PLEADINGS IN CIVIL ACTIONS.

PLEADINGS IN GENERAL

In general.

SEC. 128. DEFINITION OF PLEADINGS.—The pleadings are the formal allegations by the parties of their respective claims and defenses, for the judgment of the court.

“Pleadings,” defined.

SEC. 129. THIS CODE PRESCRIBES THE FORM AND RULES OF PLEADINGS.—The forms of pleading in civil actions, and the rules by which the sufficiency of the pleadings is to be determined, are those prescribed in this code.

Forms and rules.

SEC. 130. WHAT PLEADINGS ARE ALLOWED.—The only pleadings allowed on the part of the plaintiff are:

What pleadings allowed.

1. The complaint;
2. The demurrer to the answer;
3. The demurrer to the cross-complaint;
4. The answer to the cross-complaint.

And on the part of the defendant:

1. The demurrer to the complaint;
2. The answer;
3. The cross-complaint;
4. The demurrer to the answer to the cross-complaint.

COMPLAINT

Complaint.

SEC. 131. COMPLAINT, FIRST PLEADING.—The first pleading on the part of the plaintiff is the complaint.

First pleading.

SEC. 132. COMPLAINT, WHAT TO CONTAIN.—The complaint must contain:

Contents.

1. The title of the action, the name of the court and division in which the action is brought, and the names of the parties to the action;

2. A statement of the facts constituting the cause of action, in ordinary and concise language;

3. A demand of the relief which the plaintiff claims. If the recovery of money or damages be demanded, the amount thereof must be stated.

SEC. 133. STATEMENT OF FACTS IN DIVORCE COMPLAINT.—In the action for divorce the complaint must set forth, among other matters, as near as can be ascertained, the following facts:

Statement of facts in divorce complaint.

- (1) The State or country in which the parties were married.
- (2) The date of marriage.
- (3) The date of separation.
- (4) The number of years from marriage to separation.
- (5) The number of children of the marriage, if any, and if none, a statement of that fact.
- (6) The ages of the minor children.

Causes of action which may be united.

SEC. 134. CAUSES OF ACTION WHICH MAY BE UNITED; CAUSES UNITED MUST BELONG TO ONE CLASS.—The plaintiff may unite several causes of action in the same complaint, where they all arise out of:

1. Contracts, express or implied;
2. Claims to recover damages for the withholding of specific real property, or for waste committed thereon, and the rents and profits of the same;
3. Claims to recover specific personal property, with or without damages for the withholding thereof;
4. Claims against a trustee by virtue of a contract or by operation of law;
5. Injuries to character;
6. Injuries to person;
7. Injuries to property;
8. Claims arising out of the same transaction, or transactions connected with the same subject of action, and not included within one of the foregoing subdivisions of this section.

Must belong to one class.

The causes of action so united must all belong to one only of these classes, and must affect all the parties to the action, and not require different places of trial, and must be separately stated; but an action for malicious arrest and prosecution, or either of them, may be united with an action for either an injury to character or to the person; provided, however, that in any action brought by the husband and wife, to recover damages caused by any injury to the wife, all consequential damages suffered or sustained by the husband alone, including loss of the services of his said wife, moneys expended and indebtedness incurred by reason of such injury to his said wife, may be alleged and recovered without separately stating such cause of action arising out of such consequential damages suffered or sustained by the husband; provided, further, that causes of action for injuries to person and injuries to property, growing out of the same tort, may be joined in the same complaint, and it is not required that they be stated separately.

Demurrer to complaint.

DEMURRER TO COMPLAINT

When defendant may demur.

SEC. 135. WHEN DEFENDANT MAY DEMUR.—The defendant may demur to the complaint within the time required in the summons to answer, when it appears upon the face thereof, either:

1. That the court has no jurisdiction of the person of the defendant, or the subject of the action;
2. That the plaintiff has not legal capacity to sue;
3. That there is another action pending between the same parties for the same cause;
4. That there is a defect or misjoinder of parties plaintiff or defendant;
5. That several causes of action have been improperly united, or not separately stated;
6. That the complaint does not state facts sufficient to constitute a cause of action;
7. That the complaint is ambiguous;
8. That the complaint is unintelligible; or,
9. That the complaint is uncertain.

Demurrer must specify grounds; may be taken in part; may answer and demur at same time.

SEC. 136. DEMURRER MUST SPECIFY GROUNDS; MAY BE TAKEN TO PART; MAY ANSWER AND DEMUR AT SAME TIME.—The demurrer must distinctly specify the grounds upon which any of the objections to the complaint are taken. Unless it does so, it may be disregarded. It may be taken to the whole complaint, or to any of the causes of action stated therein, and the defendant may demur and answer at the same time.

SEC. 137. WHAT PROCEEDINGS ARE TO BE HAD WHEN COMPLAINT IS AMENDED.—If the complaint is amended, a copy of the amendments must be filed, or the court may, in its discretion, require the complaint as amended to be filed, and a copy of the amendments or amended complaint must be served upon the defendants affected thereby. The defendant must answer the amendments, or the complaint as amended, within ten days after service thereof, or such other time as the court may direct, and judgment by default may be entered upon failure to answer, as in other cases.

Proceedings when complaint amended.

SEC. 138. OBJECTION NOT APPEARING ON COMPLAINT, MAY BE TAKEN BY ANSWER.—When any of the matters enumerated in section 135 do not appear upon the face of the complaint, the objection may be taken by answer.

Objection not appearing on complaint, may be taken by answer. *Ante*, p. 930.

SEC. 139. OBJECTIONS, WHEN DEEMED WAIVED.—If no objection be taken, either by demurrer or answer, the defendant must be deemed to have waived the same, excepting only the objection to the jurisdiction of the court, and the objection that the complaint does not state facts sufficient to constitute a cause of action.

When deemed waived.

ANSWER

Answer.

SEC. 140. ANSWER, WHAT TO CONTAIN.—The answer of the defendant shall contain:

Contents.

1. A general or specific denial of the material allegations of the complaint controverted by the defendant.

2. A statement of any new matter constituting a defense or counterclaim.

If the complaint be verified, the denial of each allegation controverted must be specific, and be made positively, or according to the information and belief of the defendant. If the defendant has no information or belief upon the subject sufficient to enable him to answer an allegation of the complaint, he may so state in his answer, and place his denial on that ground. If the complaint be not verified, a general denial is sufficient, but only puts in issue the material allegations of the complaint.

SEC. 141. ACTIONS TO RECOVER INSURANCE; WHAT DEFENDANT CLAIMING EXEMPTION MUST SET UP.—In an action to recover upon a contract of insurance wherein the defendant claims exemption from liability upon the ground that, although the proximate cause of the loss was a peril insured against, the loss was remotely caused by or would not have occurred but for a peril excepted in the contract of insurance, the defendant shall in his answer set forth and specify the peril which was the proximate cause of the loss, in what manner the peril excepted contributed to the loss or itself caused the peril insured against, and if he claim that the peril excepted caused the peril insured against, he shall in his answer set forth and specify upon what premises or at what place the peril excepted caused the peril insured against.

Actions to recover insurance; what defendant claiming exemption must plead.

SEC. 142. WHEN COUNTERCLAIM MAY BE SET UP.—The counterclaim mentioned in section 140 must be one existing in favor of a defendant and against a plaintiff, between whom a several judgment might be had in the action, and arising out of one of the following causes of action:

When counterclaim may be set up.

1. A cause of action arising out of the transaction set forth in the complaint as the foundation of the plaintiff's claim, or connected with the subject of the action;

2. In an action arising upon contract; any other cause of action arising also upon contract and existing at the commencement of the action.

When defendant omits to plead.

SEC. 143. WHEN DEFENDANT OMITTS TO SET UP COUNTERCLAIM.—If the defendant omits to set up a counterclaim upon a cause arising out of the transaction set forth in the complaint as the foundation of the plaintiff's claim, neither he nor his assignee can afterwards maintain an action against the plaintiff therefor.

Counterclaim not barred by death or assignment.

SEC. 144. COUNTERCLAIM NOT BARRED BY DEATH OR ASSIGNMENT.—When cross demands have existed between persons under such circumstances that, if one had brought an action against the other, a counterclaim could have been set up, the two demands shall be deemed compensated, so far as they equal each other, and neither can be deprived of the benefit thereof by the assignment or death of the other.

Contents of answer, etc.

SEC. 145. ANSWER MAY CONTAIN SEVERAL GROUNDS OF DEFENSE; DEFENDANT MAY ANSWER PART AND DEMUR TO PART OF COMPLAINT.—The defendant may set forth by answer as many defenses and counterclaims as he may have. They must be separately stated, and the several defenses must refer to the causes of action which they are intended to answer, in a manner by which they may be intelligibly distinguished. The defendant may also answer one or more of the several causes of action stated in the complaint and demur to the residue.

Cross-complaint, in general.

SEC. 146. CROSS-COMPLAINT, IN GENERAL.—Whenever the defendant seeks affirmative relief against any party, relating to or depending upon the contract, transaction, matter, happening or accident upon which the action is brought, or affecting the property to which the action relates, he may, in addition to his answer, file at the same time, or by permission of the court subsequently, a cross-complaint. The cross-complaint must be served upon the parties affected thereby, and such parties may demur or answer thereto as to the original complaint. If any of the parties affected by the cross-complaint have not appeared in the action, a summons upon the cross-complaint must be issued and served upon them in the same manner as upon the commencement of an original action.

Divorce, etc., action.

SEC. 147. CROSS-COMPLAINT FOR DIVORCE AND PROCEEDINGS THEREON.—In addition to an answer, the defendant may file a cross-complaint for divorce; and when filed the court shall decree the divorce to the party legally entitled thereto. If the original complaint be dismissed after the filing of the cross-complaint, the defendant may proceed to the trial of the cross-complaint without further notice to the adverse party; and the case upon such cross-complaint shall in all things be governed by the same rules applicable to a case on an original complaint. (Act Cong. Sept. 21, 1922, C. 370, § 19, 42 Stat. 1010.)

Vol. 42, p. 1010.

Demurrer to answer.

DEMURRER TO ANSWER

By plaintiff.

SEC. 148. WHEN PLAINTIFF MAY DEMUR TO ANSWER.—The plaintiff may within ten days after the service of the answer demur thereto, or to one or more of the several defenses or counterclaims set up therein.

Grounds of.

SEC. 149. GROUNDS OF DEMURRER.—The demurrer may be taken upon one or more of the following grounds:

1. That several causes of counterclaim have been improperly joined, or not separately stated;
2. That the answer does not state facts sufficient to constitute a defense or counterclaim;
3. That the answer is ambiguous;
4. That the answer is unintelligible; or
5. That the answer is uncertain.

VERIFICATION OF PLEADINGS

Pleadings.

Verification of.

SEC. 150. VERIFICATION OF PLEADINGS.—Every pleading must be subscribed by the party or his attorney; and when the complaint is verified, or when the Government, or any officer of the Government, in his official capacity, is plaintiff, the answer must be verified, unless the admission of the truth of the complaint might subject the party to a criminal prosecution, or, unless an officer of the Government, in his official capacity, is defendant. In all cases of a verification of a pleading, the affidavit of the party must state that the same is true of his own knowledge, except as to the matters which are therein stated on his information or belief, and as to those matters that he believes it to be true; and where a pleading is verified, it must be by the affidavit of a party, unless the parties are absent from the division where the attorney has his office, or from some cause unable to verify it, or the facts are within the knowledge of his attorney or other person verifying the same. When the pleading is verified by the attorney, or any other person except one of the parties, he must set forth in the affidavit the reasons why it is not made by one of the parties. When a corporation is a party, the verification may be made by any officer thereof. When the Government, or any officer of the Government in his official capacity, is plaintiff, the complaint need not be verified.

SEC. 151. COPY OF WRITTEN INSTRUMENT CONTAINED IN COMPLAINT ADMITTED, UNLESS ANSWER IS VERIFIED.—When an action is brought upon a written instrument, and the complaint contains a copy of such instrument, or a copy is annexed thereto, the genuineness and due execution of such instrument are deemed admitted, unless the answer denying the same be verified.

Admittance of copy of instrument in complaint, etc.

SEC. 152. WHEN DEFENSE IS FOUNDED ON WRITTEN INSTRUMENT SET OUT IN ANSWER, ITS EXECUTION ADMITTED, UNLESS DENIED BY PLAINTIFF UNDER OATH.—When the defense to an action is founded on a written instrument, and a copy thereof is contained in the answer, or is annexed thereto, the genuineness and due execution of such instrument are deemed admitted, unless the plaintiff file with the clerk, within ten days after receiving a copy of the answer, an affidavit denying the same, and serve a copy thereof on the defendant.

In defense.

SEC. 153. EXCEPTIONS TO RULES PRESCRIBED BY TWO PRECEDING SECTIONS.—But the execution of the instrument mentioned in sections 151 and 152, is not deemed admitted by a failure to deny the same under oath, if the party desiring to controvert the same is, upon demand, refused an inspection of the original. Such demand must be in writing, served by copy, upon the adverse party or his attorney, and filed with the papers in the case.

Exceptions.

GENERAL RULES OF PLEADING

General rules of pleading.

SEC. 154. PLEADINGS TO BE LIBERALLY CONSTRUED.—In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties.

To be liberally construed.

SEC. 155. SHAM AND IRRELEVANT ANSWERS, AND SO FORTH, MAY BE STRICKEN OUT.—Sham and irrelevant answers, and irrelevant and redundant matter inserted in a pleading, may be stricken out, upon such terms as the court may, in its discretion, impose.

Irrelevant answers, etc.

SEC. 156. HOW TO STATE AN ACCOUNT IN A PLEADING.—It is not necessary for a party to set forth in a pleading the items of an account therein alleged, but he must deliver to the adverse party, within five days after a demand thereof in writing, a copy of the

Stating an account.

account, or be precluded from giving evidence thereof. The court or judge may order a further account when the one delivered is too general, or is defective in any particular.

Description of real property.

SEC. 157. DESCRIPTION OF REAL PROPERTY IN A PLEADING.—In an action for the recovery of real property, it must be described in the complaint with such certainty as to enable an officer, upon execution, to identify it.

Judgments, how pleaded.

SEC. 158. JUDGMENTS, HOW PLEADED.—In pleading a judgment or other determination of a court, officer, or board, it is not necessary to state the facts conferring jurisdiction, but such judgment or determination may be stated to have been duly given or made. If such allegation be controverted, the party pleading must establish on the trial the facts conferring jurisdiction.

Conditions precedent.

SEC. 159. CONDITIONS PRECEDENT, HOW TO BE PLEADED.—In pleading the performance of conditions precedent in a contract, it is not necessary to state the facts showing such performance, but it may be stated generally that the party duly performed all the conditions on his part, and if such allegation be controverted, the party pleading must establish, on the trial, the facts showing such performance.

Statute of limitations.

SEC. 160. STATUTE OF LIMITATIONS, HOW PLEADED.—In pleading the statute of limitations it is not necessary to state the facts showing the defense, but it may be stated generally that the cause of action is barred by the provisions of section — (giving the number of the section and subdivision thereof, if it is so divided, relied upon) of the Code; and if such allegation be controverted, the party pleading must establish, on the trial, the facts showing that the cause of action is so barred.

Libel and slander, how stated in complaint.

SEC. 161. LIBEL AND SLANDER, HOW STATED IN COMPLAINT.—In an action for libel or slander it is not necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose; but it is sufficient to state, generally, that the same was published or spoken concerning the plaintiff; and if such allegation be controverted, the plaintiff must establish on the trial that it was so published or spoken.

Answer in such cases.

SEC. 162. ANSWER IN SUCH CASES.—In the actions mentioned in section 161 the defendant may, in his answer, allege both the truth of the matter charged as defamatory, and any mitigating circumstances, to reduce the amount of damages; and whether he prove the justification or not, he may give in evidence the mitigating circumstances.

Allegations not denied, when deemed true; when deemed controverted.

SEC. 163. ALLEGATIONS NOT DENIED, WHEN TO BE DEEMED TRUE; WHEN TO BE DEEMED CONTROVERTED.—Every material allegation of the complaint, not controverted by the answer, must, for the purposes of the action, be taken as true; the statement of any new matter in the answer in avoidance or constituting a defense or counterclaim, must, on the trial, be deemed controverted by the opposite party.

"Material allegation," defined.

SEC. 164. A MATERIAL ALLEGATION DEFINED.—A material allegation in a pleading is one essential to the claim or defense, and which could not be stricken from the pleading without leaving it insufficient.

Supplemental complaint and answer.

SEC. 165. SUPPLEMENTAL COMPLAINT AND ANSWER.—The plaintiff and defendant, respectively, may be allowed, on motion, to make a supplemental complaint or answer, alleging facts material to the case occurring after the former complaint or answer.

Pleadings subsequent to complaint; filing; service of.

SEC. 166. PLEADINGS SUBSEQUENT TO COMPLAINT MUST BE FILED AND SERVED.—All pleadings subsequent to the complaint, must be filed with the clerk, and copies thereof served upon the adverse party or his attorney.

VARIANCE; MISTAKES IN PLEADING AND AMENDMENTS

SEC. 167. MATERIAL VARIANCE, HOW PROVIDED FOR.—No variance between the allegation in a pleading and the proof is to be deemed material, unless it has actually misled the adverse party to his prejudice in maintaining his action or defense upon the merits. Whenever it appears that a party has been so misled, the court may order the pleading to be amended, upon such terms as may be just.

Variance; mistakes in pleadings and amendments.

How provided for. When material.

SEC. 168. IMMATERIAL VARIANCE, HOW PROVIDED FOR.—Where the variance is not material, as provided in section 167, the court may direct the fact to be found according to the evidence, or may order an immediate amendment, without costs.

Immaterial.

SEC. 169. WHAT NOT TO BE DEEMED A VARIANCE.—Where, however, the allegation of the claim or defense to which the proof is directed, is unproved, not in some particular or particulars only, but in its general scope and meaning, it is not to be deemed a case of variance, within sections 167 and 168, but a failure of proof.

What not to be deemed a variance.

SEC. 170. AMENDMENTS OF COURSE, AND EFFECT OF DEMURRER.—Any pleading may be amended once by the party of course, and without costs, at any time before answer or demurrer filed, or after demurrer and before the trial of the issue of law thereon, by filing the same as amended and serving a copy on the adverse party, who may have ten days thereafter in which to answer or demur to the amended pleading. A demurrer is not waived by filing an answer at the same time; and when the demurrer to a complaint is overruled and there is no answer filed, the court may, upon such terms as may be just, allow an answer to be filed. If a demurrer to the answer be overruled, the facts alleged in the answer must be considered as denied, to the extent mentioned in section 163.

Amendments of course, and effect of demurrer.

Ante, p. 934.

SEC. 171. PLEADING MAY BE AMENDED.—The court may in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this code.

Pleadings; amendment of.

RELIEF FROM JUDGMENT OR ORDER; TIME FOR APPLICATION; PROCEDURE.—And may, also, upon such terms as may be just, relieve a party or his legal representative from a judgment, order, or other proceeding taken against him through his mistake, inadvertence, surprise, or excusable neglect; provided, that application therefor be made within a reasonable time, but in no case exceeding six months after such judgment, order, or proceeding was taken (and provided, further, that said application must be accompanied with a copy of the answer, or other pleading proposed to be filed therein, otherwise said application shall not be granted). When from any cause the summons in an action has not been personally served on the defendant, the court may allow, on such terms as may be just, such defendant or his legal representative, at any time within one year after the rendition of any judgment in such action, to answer to the merits of the original action.

Relief from judgment or order.

Application; time for making. Procedure.

ACTION TO RECOVER PERSONAL PROPERTY.—When, in an action to recover the possession of personal property, the person making any affidavit did not truly state the value of the property, and the officer taking the property, or the sureties on any bond or undertaking is sued for taking the same, the officer or sureties may in their

Personal property, recovery.

answer set up the true value of the property, and that the person in whose behalf said affidavit was made was entitled to the possession of the same when said affidavit was made, or that the value in the affidavit stated was inserted by mistake, the court shall disregard the value as stated in the affidavit, and give judgment according to the right of possession of said property at the time the affidavit was made.

Suing party by fictitious name.

SEC. 172. SUING A PARTY BY A FICTITIOUS NAME, WHEN ALLOWED.—When the plaintiff is ignorant of the name of a defendant, he must state that fact in the complaint, and such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered, the pleading or proceeding must be amended accordingly.

Immaterial errors, etc., disregarded.

SEC. 173. NO ERROR OR DEFECT TO BE REGARDED UNLESS IT AFFECTS SUBSTANTIAL RIGHTS.—The court must, in every stage of an action, disregard any error, improper ruling, instruction, or defect, in the pleadings or proceedings which, in the opinion of said court, does not affect the substantial rights of the parties. No judgment, decision, or decree shall be reversed or affected by reason of any error, ruling, instruction, or defect, unless it shall appear from the record that such error, ruling, instruction, or defect was prejudicial, and also that by reason of such error, ruling, instruction, or defect, the said party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error, ruling, instruction, or defect had not occurred or existed. There shall be no presumption that error is prejudicial, or that injury was done if error is shown.

Time to amend or answer, running of.

SEC. 174. TIME TO AMEND OR ANSWER, RUNNING OF.—When a demurrer to any pleading is sustained or overruled, and time to amend or answer is given, the time so given runs from the service of notice of the decision or order.

PROVISIONAL
REMEDIES IN
CIVIL ACTIONS.

CHAPTER 10.—PROVISIONAL REMEDIES IN CIVIL ACTIONS

Arrest and bail.

ARREST AND BAIL

Arrest in civil actions.

SEC. 175. NO PERSON TO BE ARRESTED EXCEPT AS PRESCRIBED BY THIS CODE.—No person can be arrested in a civil action, except as prescribed in this code.

When.

SEC. 176. CASES IN WHICH DEFENDANT MAY BE ARRESTED.—The defendant may be arrested, as hereinafter prescribed, in the following cases:

1. In an action for the recovery of money or damages on a cause of action arising upon contract, express or implied, when the defendant is about to depart from the Canal Zone with intent to defraud his creditors.

2. In an action for a fine or penalty, or for money or property embezzled, or fraudulently misapplied, or converted to his own use, by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent, or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity; or for misconduct or neglect in office, or in a professional employment, or for a willful violation of duty.

3. In an action to recover the possession of personal property unjustly detained, when the property, or any part thereof, has been concealed, removed, or disposed of, to prevent its being found or taken by the marshal.

4. When the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought; or in concealing or disposing of the property for the taking, detention, or conversion, of which the action is brought.

5. When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors.

SEC. 177. AFFIDAVIT TO OBTAIN ORDER, WHAT TO CONTAIN.—The order for the arrest of the defendant may be made whenever it appears to the judge, by the affidavit of the plaintiff, or some other person, that a sufficient cause of action exists, and that the case is one of those mentioned in section 176. The affidavit must be either positive or upon information and belief; and when upon information and belief, it must state the facts upon which the information and belief are founded. If an order of arrest be made, the affidavit must be filed with the clerk of the court.

Order for arrest; contents.

SEC. 178. SECURITY BY PLAINTIFF BEFORE ORDER OF ARREST.—Before making the order, the judge must require a written undertaking on the part of the plaintiff, with sureties in an amount to be fixed by the judge, which must be at least \$500, to the effect that the plaintiff will pay all costs which may be adjudged to the defendant, and all damages which he may sustain by reason of the arrest, if the same be wrongful, or without sufficient cause, not exceeding the sum specified in the undertaking. The undertaking must be filed with the clerk of the court.

Security by plaintiff before order made.

SEC. 179. ORDER, WHEN MADE, AND ITS FORM.—The order may be made at the time of the issuing of the summons, or any time afterwards before judgment. It must require the marshal forthwith to arrest the defendant and hold him to bail in a specified sum, and to return the order at a time therein mentioned, to the clerk of the court.

Order, when made; form.

SEC. 180. AFFIDAVIT AND ORDER TO BE DELIVERED TO THE MARSHAL, AND COPY TO DEFENDANT.—The order of arrest, with a copy of the affidavit upon which it is made, must be delivered to the marshal, who, upon arresting the defendant, must deliver to him a copy of the affidavit, and also, if desired, a copy of the order of arrest.

Delivery of affidavit and order; copy to defendant.

SEC. 181. ARREST, HOW MADE.—The marshal must execute the order by arresting the defendant and keeping him in custody until discharged by law.

How arrest made.

SEC. 182. DEFENDANT TO BE DISCHARGED ON BAIL OR DEPOSIT.—The defendant, at any time before execution, must be discharged from the arrest, either upon giving bail or upon depositing the amount mentioned in the order of arrest.

Defendant to be discharged on bail or deposit.

SEC. 183. BAIL, HOW GIVEN.—The defendant may give bail by causing a written undertaking to be executed by two or more sufficient sureties, to the effect that they are bound in the amount mentioned in the order of arrest, that the defendant will at all times render himself amenable to the process of the court, during the pendency of the action, and to such as may be issued to enforce the judgment therein, or that they will pay to the plaintiff the amount of any judgment which may be recovered in the action.

Bail, how given.

SEC. 184. SURRENDER OF DEFENDANT.—At any time before judgment, or within ten days thereafter, the bail may surrender the defendant in their exoneration; or he may surrender himself to the marshal.

Surrender of defendant.

SEC. 185. SAME.—For the purpose of surrendering the defendant, the bail, at any time or place before they are finally charged, may themselves arrest, or, by a written authority indorsed on a certified copy of the undertaking, may empower the marshal to do so. Upon the arrest of defendant by the marshal, or upon his delivery to the

Arrest by bail, etc.

marshal by the bail, or upon his own surrender, the bail are exonerated, if such arrest, delivery, or surrender take place before the expiration of ten days after judgment; but if such arrest, delivery, or surrender be not made within ten days after judgment, the bail are finally charged on their undertaking, and bound to pay the amount of the judgment within ten days thereafter.

Procedure against bail.

SEC. 186. BAIL, HOW PROCEEDED AGAINST.—If the bail neglect or refuse to pay the judgment within ten days after they are finally charged, an action may be commenced against such bail for the amount of the original judgment.

How exonerated.

SEC. 187. BAIL, HOW EXONERATED.—The bail are exonerated by the death of the defendant or his imprisonment in jail or in the penitentiary, or by his legal discharge from the obligation to render himself amenable to the process.

Delivery of undertaking to plaintiff, acceptance or rejection.

SEC. 188. DELIVERY OF UNDERTAKING TO PLAINTIFF, AND ITS ACCEPTANCE OR REJECTION BY HIM.—Within the time limited for that purpose, the marshal must file the order of arrest in the office of the clerk of the court in which the action is pending, with his return indorsed thereon, together with a copy of the undertaking of the bail. The original undertaking he must retain in his possession until filed, as herein provided. The plaintiff, within ten days thereafter, may serve upon the marshal a notice that he does not accept the bail, or he is deemed to have accepted them, and the marshal is exonerated from liability. If no notice be served within ten days, the original undertaking must be filed with the clerk of the court.

Notice of justification; new undertaking, if other bail.

SEC. 189. NOTICE OF JUSTIFICATION; NEW UNDERTAKING, IF OTHER BAIL.—Within five days after the receipt of notice, the marshal or defendant may give to the plaintiff or his attorney notice of the justification of the same, or other bail (specifying the places of residence and occupations of the latter), before the judge or clerk of the court, at a specified time and place; the time to be not less than five nor more than ten days thereafter, except by consent of parties. In case other bail be given, there must be a new undertaking.

Qualifications of bail.

SEC. 190. QUALIFICATIONS OF BAIL.—The qualifications of bail are as follows:

1. Each of them must be a resident of the Canal Zone.

2. Each must be worth the amount specified in the order of the arrest, or the amount to which the order is reduced, as provided in this subchapter, over and above all his debts and liabilities, exclusive of property exempt from execution; but the judge or clerk, on justification, may allow more than two sureties to justify severally, in amounts less than that expressed in the order, if the whole justification be equivalent to that of two sufficient bail.

Justification of.

SEC. 191. JUSTIFICATION OF BAIL.—For the purpose of justification, each of the bail must attend before the judge or clerk, at the time and place mentioned in the notice, and may be examined on oath on the part of the plaintiff, touching his sufficiency, in such manner as the judge or clerk, in his discretion, may think proper. The examination must be reduced to writing, and subscribed by the bail, if required by the plaintiff.

Allowance of.

SEC. 192. ALLOWANCE OF BAIL.—If the judge or clerk find the bail sufficient, he must annex the examination to the undertaking, indorse his allowance thereon, and cause them to be filed, and the marshal is thereupon exonerated from liability.

Deposit of money with marshal.

SEC. 193. DEPOSIT OF MONEY WITH MARSHAL.—The defendant may, at the time of his arrest, instead of giving bail, deposit with the marshal the amount mentioned in the order. In case the amount of the bail be reduced, as provided in this subchapter, the defendant may deposit such amount instead of giving bail. In either case the

marshal must give the defendant a certificate of the deposit made, and the defendant must be discharged from custody.

SEC. 194. PAYMENT OF MONEY INTO COURT BY MARSHAL.—The marshal must, immediately after the deposit, pay the same into court, and take from the clerk receiving the same two certificates of such payment, the one of which he shall deliver to the plaintiff's attorney, and the other to the defendant. For any default in making such payment, the same proceedings may be had on the official bond of the marshal, to collect the sum deposited, as in other cases of delinquency.

Payment of money into court by marshal.

SEC. 195. SUBSTITUTING BAIL FOR DEPOSIT.—If money is deposited, as provided in sections 193 and 194, bail may be given and may justify upon notice, at any time before judgment; and on the filing of the undertaking and justification with the clerk, the money deposited must be refunded to the defendant.

Substituting bail for deposit.

SEC. 196. MONEY DEPOSITED, HOW APPLIED OR DISPOSED OF.—Where money has been deposited, if it remain on deposit at the time of the recovery of a judgment in favor of the plaintiff, the clerk must, under the direction of the court, apply the same in satisfaction thereof; and after satisfying the judgment, refund the surplus, if any, to the defendant. If the judgment is in favor of the defendant, the clerk must, under like direction of the court, refund to him the whole sum deposited and remaining unapplied.

Money deposited, disposition of, after judgment.

SEC. 197. MARSHAL, WHEN LIABLE AS BAIL, AND HIS DISCHARGE FROM LIABILITY.—If, after being arrested, the defendant escape or is rescued, the marshal is liable as bail; but he may discharge himself from such liability by the giving of bail at any time before judgment.

Marshal, when liable as bail; discharge from liability.

SEC. 198. PROCEEDINGS ON JUDGMENT AGAINST MARSHAL.—If a judgment is recovered against the marshal upon his liability as bail, and an execution thereon is returned unsatisfied in whole or in part, the same proceedings may be had on his official bond, for the recovery of the whole or any deficiency, as in other cases of delinquency.

Proceedings on judgment against marshal.

SEC. 199. MOTION TO VACATE ORDER OF ARREST OR REDUCE BAIL; AFFIDAVITS ON MOTION.—A defendant arrested may, at any time before the trial of the action, or if there be no trial, before the entry of judgment, apply to the court or judge, upon reasonable notice, to vacate the order of arrest or to reduce the amount of bail. If the application be made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other proofs, in addition to those on which the order of arrest was made.

Motion to vacate order of arrest or reduce bail; affidavits on motion.

SEC. 200. WHEN THE ORDER VACATED OR BAIL REDUCED.—If, upon such application, it appears that there was not sufficient cause for the arrest, the order must be vacated; or if it appears that the bail was fixed too high, the amount must be reduced.

When order vacated or bail reduced.

CLAIM AND DELIVERY OF PERSONAL PROPERTY

Claim and delivery of personal property.

SEC. 201. DELIVERY OF PERSONAL PROPERTY, WHEN IT MAY BE CLAIMED.—The plaintiff in an action to recover the possession of personal property may, at the time of issuing the summons, or at any time before answer, claim the delivery of such property to him as provided in this subchapter.

When may be claimed.

SEC. 202. AFFIDAVIT AND ITS REQUISITES.—Where a delivery is claimed, an affidavit must be made by the plaintiff, or by some one in his behalf, showing:

Affidavit.

1. That the plaintiff is the owner of the property claimed (particularly describing it), or is entitled to the possession thereof;
2. That the property is wrongfully detained by the defendant;

3. The alleged cause of the detention thereof, according to his best knowledge, information, and belief;

4. That it has not been taken for a tax, assessment, or fine, pursuant to a statute; or seized, under an execution or an attachment against the property of the plaintiff; or, if so seized, that it is by statute exempt from such seizure;

5. The actual value of the property.

Requisition to marshal.

SEC. 203. REQUISITION TO MARSHAL TO TAKE AND DELIVER THE PROPERTY.—The plaintiff or his attorney may, thereupon, by an indorsement in writing upon the affidavit, require the marshal to take the property from the defendant.

Security on part of plaintiff, and service of order.

SEC. 204. SECURITY ON THE PART OF THE PLAINTIFF, AND PROCEEDINGS IN SERVING THE ORDER.—Upon a receipt of the affidavit and notice, with a written undertaking, executed by two or more sufficient sureties, approved by the marshal, to the effect that they are bound to the defendant in double the value of the property as stated in the affidavit for the prosecution of the action, for the return of the property to the defendants, if return thereof be adjudged, and for the payment to him of such sum as may from any cause be recovered against the plaintiff, the marshal must forthwith take the property described in the affidavit, if it be in the possession of the defendant or his agent, and retain it in his custody. He must, without delay, serve on the defendant a copy of the affidavit, notice, and undertaking, by delivering the same to him personally, if he can be found, or to his agent from whose possession the property is taken; or, if neither can be found, by leaving them at the usual place of abode of either, with some person of suitable age and discretion, or, if neither have any known place of abode, by putting them in the nearest post office, directed to the defendant.

Exception to sureties; proceedings.

SEC. 205. EXCEPTION TO SURETIES AND PROCEEDINGS THEREON, OR ON FAILURE TO EXCEPT.—The defendant may, within two days after the service of a copy of the affidavit and undertaking, give notice to the marshal that he excepts to the sufficiency of the sureties. If he fails to do so, he is deemed to have waived all objections to them. When the defendant excepts, the sureties must justify on notice in like manner as upon bail on arrest; and the marshal is responsible for the sufficiency of the sureties until the objection to them is either waived or until they justify. If the defendant except to the sureties, he can not reclaim the property as provided in section 206.

Redelivery, when defendant entitled to.

SEC. 206. DEFENDANT, WHEN ENTITLED TO REDELIVERY.—At any time before the delivery of the property to the plaintiff, the defendant may, if he do not except to the sureties of the plaintiff, require the return thereof, upon giving to the marshal a written undertaking, executed by two or more sufficient sureties, to the effect that they are bound in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against the defendant. If a return of the property be not so required within five days after the taking and service of notice to the defendant, it must be delivered to the plaintiff, except as provided in section 211.

Justification of defendant's sureties.

SEC. 207. JUSTIFICATION OF DEFENDANT'S SURETIES.—The defendant's sureties, upon notice to the plaintiff of not less than two or more than five days, must justify before the judge or clerk of the court, in the same manner as upon bail on arrest; and upon such justification the marshal must deliver the property to the defendant. The marshal is responsible for the defendant's sureties until they justify, or until the justification is completed or waived, and may

retain the property until that time. If they, or others in their place, fail to justify at the time and place appointed, he must deliver the property to the plaintiff.

SEC. 208. QUALIFICATION OF SURETIES.—The qualification of sureties must be such as are prescribed by this code, in respect to bail upon an order of arrest. Qualification of sureties.

SEC. 209. PROPERTY, HOW TAKEN WHEN CONCEALED IN BUILDING OR INCLOSURE.—If the property, or any part thereof, be concealed in a building or inclosure, the marshal must publicly demand its delivery. If it be not delivered, he must cause the building or inclosure to be broken open, and take the property into his possession. Concealed property, how taken.

SEC. 210. PROPERTY, HOW KEPT.—When the marshal has taken property, as in this subchapter provided, he must keep it in a secure place, and deliver it to the party entitled thereto, upon receiving his fees for taking and his necessary expenses for keeping the same. How kept.

SEC. 211. CLAIM OF PROPERTY BY THIRD PERSON.—If the property taken be claimed by any other person than the defendant or his agent, and such person make affidavit of his title thereto, or right to the possession thereof, stating the grounds of such title or right, and serve the same upon the marshal, the marshal is not bound to keep the property or deliver it to the plaintiff, unless the plaintiff, on demand of him or his agent, indemnify the marshal against such claim, by an undertaking by two sufficient sureties; and no claim to such property by any other person than the defendant or his agent is valid against the marshal unless so made. When claimed by third person.

SEC. 212. NOTICE AND AFFIDAVIT, WHEN AND WHERE TO BE FILED.—The marshal must file the notice, undertaking, and affidavit, with his proceedings thereon, with the clerk of the court, within twenty days after taking the property mentioned therein. Filing of notice and affidavit.

SEC. 213. PROTECTION OF PLAINTIFF IN POSSESSION OF PROPERTY.—After the property has been delivered to the plaintiff as in this subchapter provided, the court shall, by appropriate order, protect the plaintiff in possession of said property until the final determination of the action. Protection of plaintiff in possession.

INJUNCTION

SEC. 214. INJUNCTION, WHAT IS, AND WHO MAY GRANT IT.—An injunction is a writ or order requiring a person to refrain from a particular act. It may be granted by the district court, or the judge thereof, in any action brought in said court; and when granted by the judge, it may be enforced as an order of the court. Injunction.

SEC. 215. WHEN INJUNCTION MAY BE GRANTED OR MAY NOT.—An injunction may be granted in the following cases: Definition of; who may grant.

1. When it appears by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;

2. When it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action;

3. When it appears, during the litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action, and tending to render the judgment ineffectual;

4. When pecuniary compensation would not afford adequate relief;

5. Where it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief; When granted.

6. Where the restraint is necessary to prevent a multiplicity of judicial proceedings;

7. Where the obligation arises from a trust.

When denied.

AN INJUNCTION CAN NOT BE GRANTED—

1. To stay a judicial proceeding pending at the commencement of the action in which the injunction is demanded, unless such restraint is necessary to prevent a multiplicity of such proceedings;

2. To prevent the execution of a public statute by officers of the law for the public benefit;

3. To prevent the breach of a contract, the performance of which would not be specifically enforced;

4. To prevent the exercise of a public or private office, in a lawful manner, by the person in possession.

Time of granting;
service of copy.

SEC. 216. INJUNCTION; TIME OF GRANTING; SERVICE OF COPY.—An injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor. A copy of the complaint or of the affidavits, upon which the injunction was granted, must, if not previously served, be served therewith.

Notice.
Preliminary injunction;
temporary restraining order.

NOTICE.—No preliminary injunction shall be granted without notice to the opposite party; nor shall any temporary restraining order be granted without notice to the opposite party, unless it shall appear from facts shown by affidavit or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice. In case a temporary restraining order shall be granted without notice, in the contingency above specified, the matter shall be made returnable on an order requiring cause to be shown why the injunction should not be granted, on the earliest day that the business of the court will admit of, but not later than ten days from the date of such order.

Proceedings when
hearing had.

PARTY OBTAINING ORDER MUST BE READY; SERVICE OF COMPLAINT, AFFIDAVITS AND POINTS AND AUTHORITIES.—When the matter first comes up for hearing the party who obtained the temporary restraining order must be ready to proceed and must have served upon the opposite party at least two days prior to such hearing, a copy of the complaint and of all affidavits to be used in such application and a copy of his points and authorities in support of such application; if he be not ready, or if he shall fail to serve a copy of his complaint, affidavits and points and authorities, as herein required, the court shall dissolve the temporary restraining order.

Defendant entitled to
continuance.

DEFENDANT ENTITLED TO CONTINUANCE.—The defendant, however, shall be entitled, as of course, to one continuance for a reasonable period, if he desires it, to enable him to meet the application for the preliminary injunction.

Counter-affidavits.

COUNTER-AFFIDAVITS.—The defendant may, in response to such order to show cause, present affidavits relating to the granting of the preliminary injunction, and if such affidavits are served on the applicant at least two days prior to the hearing, the applicant shall not be entitled to any continuance on account thereof.

Precedence.

PRECEDENCE.—On the day upon which such order is made returnable, such hearing shall take precedence of all other matters on the calendar of said day, except older matter of the same character, and matters to which special precedence may be given by law. When the cause is at issue it shall be set for trial at the earliest possible date and shall take precedence of all other cases, except older matters of the same character, and matters to which special precedence may be given by law.

SEC. 217. INJUNCTION AFTER ANSWER.—An injunction can not be allowed after the defendant has answered, unless upon notice or upon an order to show cause; but in such case the defendant may be restrained until the decision of the court or judge granting or refusing the injunction. Injunction after answer.

SEC. 218. SECURITY UPON INJUNCTION.—On granting an injunction, the court or judge must require, except when it is granted on the application of the Government, or a wife against her husband, a written undertaking on the part of the applicant, with sufficient sureties, to the effect that he will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled thereto. Within five days after the service of the injunction, the person enjoined may except to the sufficiency of the sureties, and unless within five days thereafter, upon notice of not less than two days to the person enjoined, such sureties, or others in their place, justify before the judge or clerk of the court at a time and place designated in such notice, the order granting the injunction must be dissolved. Security upon.

SEC. 219. MOTION TO VACATE OR MODIFY INJUNCTION; PROCEDURE.—If an injunction is granted without notice to the person enjoined, he may apply, upon reasonable notice to the district court or judge, to dissolve or modify the same. The application may be made upon the complaint or the affidavit on which the injunction was granted, or upon affidavit on the part of the person enjoined, with or without the answer. If the application is made upon affidavits on the part of the person enjoined, but not otherwise, the person against whom the application is made may oppose the same by affidavits or other evidence in addition to that on which the injunction was granted. Motion to vacate or modify injunction; procedure.

ATTACHMENT

Attachment.

SEC. 220. ATTACHMENT, WHEN AND IN WHAT CASES MAY ISSUE.—The plaintiff, at the time of issuing the summons, or at any time afterward, may have the property of the defendant attached, as security for the satisfaction of any judgment that may be recovered, unless the defendant give security to pay such judgment, as in this subchapter provided, in the following cases: When and in what cases may issue.

1. In an action upon a contract, express or implied, for the direct payment of money, where the contract is made or is payable in the Canal Zone, and is not secured by any mortgage or lien upon real or personal property, or any pledge of personal property, or, if originally so secured, such security has, without any act of the plaintiff, or the person to whom the security was given, become valueless.
2. In an action upon a contract, express or implied, against a defendant not residing in the Canal Zone.
3. In an action against a defendant, not residing in the Zone, to recover a sum of money as damages, arising from an injury to property in the Zone, in consequence of negligence, fraud, or other wrongful act.

SEC. 221. AFFIDAVIT FOR ATTACHMENT.—The clerk of the court must issue the writ of attachment upon receiving an affidavit by or on behalf of the plaintiff showing: Affidavit for.

1. The facts specified in section 220 which entitle him to the writ;
2. The amount of the indebtedness claimed, over and above all legal set-offs or counterclaims, or the amount claimed as damages; and
3. That the attachment is not sought, and the action is not prosecuted, to hinder, delay, or defraud any creditor of the defendant.

Undertaking on.

SEC. 222. UNDERTAKING ON ATTACHMENT; EXCEPTIONS TO SURETIES.—Before issuing the writ, the clerk must require a written undertaking on the part of the plaintiff, in the sum not less than \$200 and not exceeding the amount claimed by the plaintiff, with sufficient sureties, to the effect that if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, and that if the attachment is discharged on the ground that the plaintiff was not entitled thereto under section 220, the plaintiff will pay all damages which the defendant may have sustained by reason of the attachment, not exceeding the sum specified in the undertaking. At any time after the issuing of the attachment, but not later than five days after actual notice of the levy thereof, the defendant may except to the sufficiency of the sureties. If he fails to do so, he is deemed to have waived all objections to them. When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two or more than five days, must justify before the judge or clerk of the court in the same manner as upon bail on arrest; and upon failure to justify, or if others in their place fail to justify, at the time and place appointed, the judge or clerk must issue an order vacating the writ of attachment.

Exceptions to sureties.

Writ, to whom directed; contents.

SEC. 223. WRIT, TO WHOM DIRECTED AND WHAT TO STATE.—The writ must be directed to the marshal, and must require him to attach and safely keep all the property of such defendant within the Canal Zone not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against such defendant, the amount of which must be stated in conformity with the complaint, unless such defendant give him security by the undertaking of at least two sufficient sureties in an amount sufficient to satisfy such demand against such defendant, besides costs, or in an amount equal to the value of the property of such defendant which has been or is about to be attached; in which case to take such undertaking.

If more than one defendant.

IF MORE THAN ONE DEFENDANT.—In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in such action may give the marshal such undertaking, and the marshal shall take the same, and such undertaking shall not subject such defendant to or be answerable for any demand against any other defendant, nor shall the marshal thereby be prevented from attaching or be obliged to release from attachment, any property of any other defendant: *Provided, however,* That such defendant, at the time of giving such undertaking to the marshal, shall file with the marshal, a statement, duly verified under oath, wherein such defendant shall aver and declare that the other defendant or defendants in the action in which said undertaking was given has or have not any interest or claim of any nature whatsoever in or to said property. Such statement must further contain the character of such defendant's title and the manner in which he acquired title to such attached property: *Provided further,* That before said attachment shall be released, the undertaking required by this section must be approved by the judge or, in the absence or disability of the judge, by the clerk of the court.

Provisos. Sworn statement to be filed.

Interest in property.

Judicial approval.

Shares of stock, etc., attachment of.

SEC. 224. SHARES OF STOCK AND DEBTS DUE DEFENDANT, HOW ATTACHED AND DISPOSED OF.—The rights or shares which the defendant may have in the stock of any corporation or company, together with the interest and profit thereon, and all debts due such defendant, and all other property in the Canal Zone of such defend-

ant not exempt from execution, may be attached, and if judgment be recovered, be sold to satisfy the judgment and execution.

SEC. 225. HOW REAL AND PERSONAL PROPERTY SHALL BE ATTACHED.—Attachment of real and personal property. The marshal to whom the writ is directed and delivered, must execute the same without delay, and if the undertaking mentioned in section 223 be not given, as follows:

1. Real property must be attached, by filing with the registrar of property a copy of the writ, together with a description of the property attached, and a notice that it is attached; and by leaving a similar copy of the writ, description, and notice with an occupant of the property, if there is one; if not, then by posting the same in a conspicuous place on the property attached.

2. Real property, or an interest therein, belonging to the defendant, and held by any other person, must be attached, by filing with the registrar of property a copy of the writ, together with a description of the property, and a notice that such real property, and any interest of the defendant therein, held by or standing in the name of such other person (naming him), are attached; and by leaving with the occupant, if any, and with such other person, or his agent, if known and within the Canal Zone, or at the residence of either, if within the Canal Zone, a copy of the writ, with a similar description and notice. If there is no occupant of the property, a copy of the writ, together with such description and notice, must be posted in a conspicuous place upon the property. The registrar must index such attachment when filed, in the names, both of the defendant and of the person by whom the property is held.

3. Personal property, capable of manual delivery, must be attached by taking it into custody.

4. Stocks or shares, or interest in stocks or shares, of any corporation or company, must be attached by leaving with the president, or other head of the same, or the secretary, cashier, or other managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the defendant is attached, in pursuance of such writ.

5. Debts and credits and other personal property, not capable of manual delivery, must be attached by leaving with the person owing such debts, or having in his possession, or under his control, such credits and other personal property, or with his agent, a copy of the writ, and a notice that the debts owing by him to the defendant, or the credits and other personal property in his possession, or under his control, belonging to the defendant, are attached in pursuance of such writ, except in the case of attachment of growing crops, a copy of the writ, together with a description of the property attached, and a notice that it is attached, shall be recorded the same as in the attachment of real property.

SEC. 226. ATTACHMENT LIEN ON REAL PROPERTY.—The lien of the attachment on real property attaches and becomes effective upon the filing of a copy of the writ, together with a description of the property attached and a notice that it is attached, with the registrar of property: *Provided, however,* That in event that the marshal does not complete the execution of said writ in the manner prescribed in section 225 of this code within a period of fifteen days next following said filing in the registrar's office then said lien shall cease at the expiration of said period of fifteen days. Attachment lien on real property.

EXPIRATION; EXTENSION.—The attachment whether heretofore levied or hereafter to be levied shall be a lien upon all real property attached for a period of three years after the date of levy unless sooner released or discharged as provided in this subchapter, by Expiration; extension.

dismissal of the action or by entry and docketing of judgment in the action. At the expiration of three years the lien shall cease and any proceeding or proceedings against the property under the attachment shall be barred: *Provided*, That upon motion of a party to the action, made not less than five nor more than sixty days before the expiration of said period of three years, the court in which the action is pending may extend the time of said lien for a period not exceeding two years from the date on which the original lien would expire, and the lien shall be extended for the period specified in the order upon the filing, before the expiration of the existing lien, of a certified copy of the order with the registrar of property. The lien may be extended from time to time in the manner herein prescribed.

Proriso.
Motion for extension.

Attorney to give written instructions to marshal what to attach.

SEC. 227. ATTORNEY TO GIVE WRITTEN INSTRUCTIONS TO MARSHAL WHAT TO ATTACH.—Upon receiving information in writing from the plaintiff or his attorney, that any person has in his possession, or under his control, any credits or other personal property belonging to the defendant, or is owing any debt to the defendant, the marshal must serve upon such person a copy of the writ, and a notice that such credits, or other property or debts, as the case may be, are attached in pursuance of such writ.

Garnishment, when garnishee liable to plaintiff.

SEC. 228. GARNISHMENT, WHEN GARNISHEE LIABLE TO PLAINTIFF.—All persons having in their possession, or under their control, any credits or other personal property belonging to the defendant, or owing any debts to the defendant at the time of service upon them of a copy of the writ and notice, as provided in sections 226 and 227, shall be, unless such property be delivered up or transferred, or such debts be paid to the marshal, liable to the plaintiff for the amount of such credits, property, or debts, until the attachment be discharged, or any judgment recovered by him be satisfied.

Citation to garnishee to appear.

SEC. 229. CITATION TO GARNISHEE TO APPEAR BEFORE THE COURT OR JUDGE.—Any person owing debts to the defendant, or having in his possession or under his control, any credits or other personal property belonging to the defendant, may be required to attend before the court or judge, or in case of the absence or disability of the judge by the clerk of the court, and be examined on oath respecting the same. The defendant may also be required to attend for the purpose of giving information respecting his property, and may be examined on oath. The court or judge may, after such examination, order personal property, capable of manual delivery, to be delivered to the marshal on such terms as may be just, having reference to any liens thereon or claims against the same, and a memorandum to be given of all other personal property, containing the amount and description thereof.

Inventory, how made.

SEC. 230. INVENTORY, HOW MADE; PARTY REFUSING TO GIVE MEMORANDUM MAY BE COMPELLED TO PAY COSTS.—The marshal must make a full inventory of the property attached, and return the same with the writ. To enable him to make such return as to debts and credits attached, he must request, at the time of service, the party owing the debt or having the credit to give him a memorandum, stating the amount and description of each; and if such memorandum be refused, he must return the fact of refusal with the writ. The party refusing to give the memorandum may be required to pay the costs of any proceeding taken for the purpose of obtaining information respecting the amounts and description of such debt or credit.

Payment of costs by party refusing to give memorandum.

Perishable property, how sold; disposition of proceeds.

SEC. 231. PERISHABLE PROPERTY, HOW SOLD; DISPOSITION OF PROCEEDS; ACCOUNTS TO BE COLLECTED WITHOUT SUIT.—If any of the property attached be perishable, the marshal must sell the same in the manner in which such property is sold on execution. The proceeds, and

other property attached by him, must be retained by him to answer any judgment that may be recovered in the action, unless sooner subjected to execution upon another judgment recovered previous to the issuing of the attachment. Debts and credits attached may be collected by him, if the same can be done without suit. The marshal's receipt is a sufficient discharge for the amount paid.

Collection of accounts.

SEC. 232. PROPERTY ATTACHED MAY BE SOLD AS UNDER EXECUTION, IF THE INTERESTS OF THE PARTIES REQUIRE.—Whenever property has been taken by an officer under a writ of attachment, and it is made to appear satisfactorily to the court or the judge thereof that the interest of the parties to the action will be subserved by a sale thereof, the court or judge may order such property to be sold in the same manner as property is sold under an execution, and the proceeds to be deposited in the court to abide the judgment in the action. Such order can be made only upon notice to the adverse party or his attorney, in case such party has been personally served with a summons in the action.

Sale of attached property.

SEC. 233. WHEN PROPERTY CLAIMED BY A THIRD PARTY, HOW TRIED.—If any personal property attached be claimed by a third person as his property, the same rules shall prevail as to the contents and making of said claim, and as to the holding of said property, as in case of a claim after levy upon execution, as provided for in section 357.

Claims of third party, how tried.

Post, p. 970.

SEC. 234. IF PLAINTIFF OBTAINS JUDGMENT, HOW SATISFIED.—If judgment be recovered by the plaintiff, the marshal must satisfy the same out of the property attached by him which has not been delivered to the defendant, or a claimant as hereinbefore provided, or subjected to execution on another judgment recovered previous to the issuing of the attachment, if it be sufficient for that purpose:

Satisfaction of judgment.

1. By paying to the plaintiff the proceeds of all sales of perishable property sold by him, or of any debts or credits collected by him, or so much as shall be necessary to satisfy the judgment;

2. If any balance remain due, and an execution shall have been issued on the judgment, he must sell under the execution so much of the property, real or personal, as may be necessary to satisfy the balance, if enough for that purpose remain in his hands. Notices of the sales must be given, and the sales conducted as in other cases of sales on execution.

SEC. 235. WHEN THERE REMAINS A BALANCE DUE, HOW COLLECTED.—If, after selling all the property attached by him remaining in his hands, and applying the proceeds, together with the proceeds of any debts or credits collected by him, deducting his fees, to the payment of the judgment, any balance shall remain due, the marshal must proceed to collect such balance, as upon an execution in other cases. Whenever the judgment shall have been paid, the marshal, upon reasonable demand, must deliver over to the defendant the attached property remaining in his hands, and any proceeds of the property attached unapplied on the judgment.

Collection of balance due.

SEC. 236. WHEN SUITS MAY BE COMMENCED ON THE UNDERTAKING.—If the execution be returned, unsatisfied, in whole or in part, the plaintiff may prosecute any undertaking given pursuant to section 223 or section 239, or he may proceed, as in other cases, upon the return of an execution.

When suits may be commenced on the undertaking.

Anse, p. 944.

Post, p. 948.

SEC. 237. IF DEFENDANT RECOVERS JUDGMENT, WHAT THE MARSHAL IS TO DELIVER.—If the defendant recovers judgment against the plaintiff and no appeal is perfected and undertaking executed, any undertaking received in the action, all the proceeds of sales and money collected by the marshal, and all the property attached remaining in the marshal's hands, must be delivered to the defendant or his

If defendant recovers judgment, what marshal to deliver.

agent, the order of attachment be discharged, and the property released therefrom.

Proceedings to release attachments.

SEC. 238. PROCEEDINGS TO RELEASE ATTACHMENTS.—Whenever any defendant has appeared in the action, such defendant may, upon reasonable notice to the plaintiff, apply to the district court, or to the judge thereof, for an order to discharge the attachment wholly or in part; and upon the execution of the undertaking mentioned in section 555, an order may be made releasing from the operation of the attachment, any or all of the property of such defendant attached; and all of the property so released and all of the proceeds of the sales thereof, must be delivered to such defendant upon the justification of the sureties on the undertaking, if required by the plaintiff. Such justification must take place within five days after the notice of the filing of such undertaking.

Requirements by court for release of attachment.

SEC. 239. REQUIREMENTS BY COURT FOR RELEASE OF ATTACHMENT.—Before making such order, the court or judge must require an undertaking on behalf of such defendant, by at least two sureties, to the effect that in case the plaintiff recovers judgment in the action against the defendant, by whom or in whose behalf such undertaking shall be given, such defendant will, on demand, redeliver the attached property so released to the proper officer, to be applied to the payment of any judgment in such action against said defendant, or in default thereof, that such defendant and sureties will, on demand, pay to the plaintiff the full value of the property released not exceeding the amount of such judgment against such defendant. The court or judge making such order may fix the sum for which the undertaking must be executed, and if necessary in fixing such sum to know the value of the property released, the same may be appraised by one or more disinterested persons, to be appointed for that purpose. The sureties may be required to justify before the court or judge and the property attached can not be released from the attachment without their justification if the same is required.

Motion to discharge attachment; grounds.

SEC. 240. WHEN A MOTION TO DISCHARGE ATTACHMENT MAY BE MADE, AND UPON WHAT GROUNDS.—The defendant may also at any time, either before or after the release of the attached property, or before any attachment shall have been actually levied, apply, on motion, upon reasonable notice to the plaintiff, to the court, or to the judge thereof, that the writ of attachment be discharged on the ground that the same was improperly or irregularly issued.

Motion made on affidavit.

SEC. 241. WHEN MOTION MADE ON AFFIDAVIT, IT MAY BE OPPOSED BY AFFIDAVIT.—If the motion be made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other evidence, in addition to those on which the attachment was made.

When writ must be discharged.

SEC. 242. WHEN WRIT MUST BE DISCHARGED.—If upon such application, it satisfactorily appears that the writ of attachment was improperly or irregularly issued it must be discharged; provided that such attachment shall not be discharged if at or before the hearing of such application, the writ of attachment, or the affidavit, or undertaking upon which such attachment was based shall be amended and made to conform to the provisions of this subchapter.

When returned.

SEC. 243. WHEN WRIT TO BE RETURNED.—The marshal must return the writ of attachment with the summons, if issued at the same time; otherwise, within twenty days after its receipt, with a certificate of his proceedings indorsed thereon or attached thereto; and whenever an order has been made discharging or releasing an attachment upon real property, a certified copy of such order may be filed in the office of the registrar of property.

SEC. 244. RELEASE OF REAL PROPERTY FROM ATTACHMENT.—An attachment as to any real property may be released by a writing signed by the plaintiff, or his attorney, or the officer who levied the writ and acknowledged in the manner provided in chapter 22 of the Civil Code; and upon the filing of such release, it is the duty of the registrar of property to note the same on the record of the copy of the writ on file in his office. Such attachment may also be released by an entry in the margin of the record thereof, in the registrar's office, in the manner provided for the discharge of mortgages under section 1349 of the Civil Code.

Release of real property from attachment.

Post, p. 1164.

SEC. 245. ATTACHMENT OF INTEREST OF DEFENDANT IN ESTATE OF DECEDENT.—The interest of a defendant in personal property belonging to the estate of a decedent, whether as heir, legatee, or devisee, may be attached by serving the personal representative of the decedent with a copy of the writ and a notice that said interest is attached. Such attachment shall not impair the powers of the representative over the property for the purposes of administration. A copy of said writ of attachment and of said notice shall also be filed in the office of the clerk of the court in which said estate is being administered and the personal representative shall report such attachment to the court when any petition for distribution is filed, and in the decree made upon such petition distribution shall be ordered to such heir, legatee, or devisee, but delivery of such property shall be ordered to the officer making the levy subject to the claim of such heir, legatee, or devisee, or any person claiming under him. The property shall not be delivered to the officer making the levy until the decree distributing such interest has become final.

Attachment of defendant's interest in estate of decedent.

RECEIVERS

Receivers.

SEC. 246. APPOINTMENT OF RECEIVERS.—A receiver may be appointed by the district court in an action pending therein, or by the judge of said court.

Appointment of.

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured;

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to discharge the mortgage debt;

3. After judgment, to carry the judgment into effect;

4. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or in proceedings in aid of execution, when an execution has been returned unsatisfied, or when the judgment debtor refuses to apply his property in satisfaction of the judgment;

5. In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights;

6. In all other cases where receivers have heretofore been appointed by the usages of courts of equity.

Appointment, upon dissolution of corporation.

SEC. 247. APPOINTMENT OF RECEIVERS UPON DISSOLUTION OF CORPORATION.—Upon the dissolution of any corporation having its principal place of business in the Canal Zone, the district court, on application of any creditor of the corporation, or of any stockholder or member thereof, may appoint one or more persons to be receivers or trustees of the corporation, to take charge of the estate and effects thereof and to collect the debts and property due and belonging to the corporation, and to pay the outstanding debts thereof, and to divide the moneys and other property that shall remain over among the stockholders or members.

Restrictions; ex parte application, undertaking on.

SEC. 248. RECEIVER, RESTRICTIONS ON APPOINTMENT; EX PARTE APPLICATION, UNDERTAKING ON.—No party, or attorney of a party, or person interested in an action, or related to the judge of the court by consanguinity or affinity within the third degree, can be appointed receiver therein without the written consent of the parties, filed with the clerk. If a receiver is appointed upon an ex parte application, the court, before making the order, must require from the applicant an undertaking, with sufficient sureties, in an amount to be fixed by the court, to the effect that the applicant will pay to the defendant all damages he may sustain by reason of the appointment of such receiver and the entry by him upon his duties, in case the applicant shall have procured such appointment wrongfully, maliciously, or without sufficient cause; and the court may, in its discretion, at any time after said appointment, require an additional undertaking.

Oath and undertaking of receiver.

SEC. 249. OATH AND UNDERTAKING OF RECEIVER.—Before entering upon his duties, the receiver must be sworn to perform them faithfully, and with two or more sureties, approved by the court or judge, execute an undertaking to the Government of the Canal Zone in such sum as the court or judge may direct, to the effect that he will faithfully discharge the duties of receiver in the action and obey the orders of the court therein.

Powers.

SEC. 250. POWERS OF RECEIVERS.—The receiver has, under the control of the court, power to bring and defend actions in his own name, as receiver; to take and keep possession of the property, to receive rents, collect debts, to compound for and compromise the same, to make transfers, and generally to do such acts respecting the property as the court may authorize.

Investment of funds.

SEC. 251. INVESTMENT OF FUNDS.—Funds in the hands of a receiver may be invested upon interest, by order of the court; but no such order can be made, except upon the consent of all the parties to the action.

Notice of unclaimed funds in receiver's hands; disposition of.

SEC. 252. NOTICE OF UNCLAIMED FUNDS IN RECEIVER'S HANDS; DISPOSITION OF.—A receiver having any funds in his hands belonging to a person whose whereabouts are unknown to him, shall, before receiving his discharge as such receiver, publish a notice, in one or more newspapers of general circulation in the Canal Zone, at least once a week for four consecutive weeks, setting forth the name of the owner of any unclaimed funds, the last known place of residence or post office address of such owner and the amount of such unclaimed funds. Any funds remaining in his hands unclaimed for thirty days after the date of the last publication of such notice, shall be reported to the court, and upon order of the court, all such funds must be paid to the collector of the Panama Canal accompanied with a copy of the order, which must set forth the facts required in the notice herein provided. Such funds shall be paid out by the collector to the owner thereof or his order in such manner and upon such terms as the court may direct.

All costs and expenses connected with such advertising shall be paid out of the funds the whereabouts of whose owners are unknown.

DEPOSITS IN COURT; HANDLING OF FUNDS BY CLERK

SEC. 253. DEPOSIT IN COURT.—When it is admitted by the pleadings, or shown upon the examination of a party to the action, that he has in his possession, or under his control, any money or other thing capable of delivery, which, being the subject of litigation, is held by him as trustee for another party, or which belongs or is due to another party, the court may order the same, upon motion, to be deposited in court or delivered to such party, upon such conditions as may be just, subject to the further direction of the court.

Deposits in court;
handling funds by
clerk.
Court order.

SEC. 254. MANNER OF ENFORCING THE ORDER.—Whenever, in the exercise of its authority, a court has ordered the deposit or delivery of money, or other thing, and the order is disobeyed, the court, beside punishing the disobedience, may make an order requiring the marshal to take the money, or thing, and deposit or deliver it in conformity with the direction of the court.

Enforcement.

SEC. 255. MONEY DEPOSITED DEEMED IN REGISTRY OF COURT.—Every sum of money deposited with a clerk of said court, by or for the use of any party, upon a judgment of the court or in a pending action or proceeding by virtue of the law or by direction of the court, as soon as deposited with the clerk, shall be deemed to be in the registry of the court.

Deemed in registry
of court.

SEC. 256. CLERK TO DEPOSIT SUMS OVER \$200 IN DEPOSITORY; DISBURSEMENT; RECORD OF RECEIPT AND DISBURSEMENT.—The clerk shall deposit in some depository designated by the judge of said court, in the name of the "District Court, Canal Zone," every sum of money deposited in the registry of the court which exceeds \$200, as soon as the same is received; and such money may thereafter be paid out only on a check, voucher, or order of the court, or the judge thereof, countersigned by a clerk of the court. The clerk in each division of the district court shall make a record showing the date of receipt, the amount received, from whom received, and the case in which any such money is deposited in the registry of the court; and the date, amount, and to whom the same was paid out.

Sums over \$200; dis-
bursement; record of

SEC. 257. MAINTENANCE OF GENERAL DEPOSIT ACCOUNT; INTEREST; COMMISSION; DEPOSIT OF FUNDS OF \$200 OR LESS.—The clerk shall maintain a general deposit account in a designated depository in which shall be deposited every cash fund exceeding \$200 deposited in the registry of the court. Interest earned on such general account shall be retained by the clerk as his commission for receiving and caring therefor and shall be accounted for by him as fees of his office. No commission shall be charged by the clerk for handling any fund of \$200 or less.

Maintenance of gen-
eral deposit account;
interest; commission.

In any case, however, where any such fund is likely to remain in the registry of the court for six months or more, and where the parties so stipulate or the court so directs, such fund shall be deposited in a designated bank in a savings account at interest. The clerk's commission for caring for such fund in such case shall be paid only out of interest earned thereon, to the amount of one-fourth of such interest. The remainder of such interest shall be deemed a part of such fund and shall be paid out on order or decree of the court according to the exigency of the case.

Deposit of funds of
\$200 or less.

Deposit in bank.

SEC. 258. JUDGE TO DESIGNATE ONE OR MORE DEPOSITORIES.—The judge of the district court shall designate one or more depositories in which money deposited in the registry of the court shall be deposited by the clerks.

Designation of de-
positories.

“Clerk” to include assistant and acting clerks.

SEC. 259. “CLERK” DEFINED TO INCLUDE ASSISTANT AND ACTING CLERKS.—The word “clerk” as used in sections 255 to 258 shall include the clerk of the district court, the assistant clerks thereof, and any acting clerk when performing the duties of the clerk or assistant clerk when they or any of them are absent on account of illness or vacation, or are unable to act from any cause.

Disposition of un-claimed funds.

SEC. 260. DISPOSITION OF UNCLAIMED FUNDS BY CLERK.—All moneys, securities, or funds now in the hands or under the possession or control of the clerk of the district court where, for a period of four years or more, no order has been made, or no step or proceeding has been had or taken in the case, action, or proceeding in, by, or through which said moneys, securities, or funds may have been deposited or left with said clerk or his predecessors in office, and where no valid claim has been made upon or for any such moneys, securities, or funds for a period of four years or more, and where the owner or ownership of said moneys, securities, or funds is unknown or where such owner refuses to accept the same, shall be held by said clerk and his successor in office until one year after the enactment of this code, unless sooner demanded by and turned over to the legal owner or owners thereof.

One year after the enactment of this code, the clerk of the district court having in his possession any such moneys, securities, or funds shall turn the same over to the collector of the Panama Canal to be held and disposed of as hereinafter provided.

Whenever the clerk of the district court has in his hands for a period of two years or more any fund or moneys belonging to any person or persons, which funds or moneys he has been unable to disburse to such person or persons because of his inability to locate them, or because of their refusal to accept the same, the said clerk shall upon order of the court turn the same over to the collector of the Panama Canal to be held and disposed of as hereinafter provided.

Any person claiming to be entitled to any amount so deposited with the collector may, within five years after such deposit, petition the court or judge for an order directing payment to the said claimant. A copy of such petition shall be served on the collector and thereafter no such amount shall be covered into the Treasury of the United States, as hereinafter directed, until so ordered by the court.

If no one claims the amount, as herein provided, or if a claim be made and disallowed and the court so directs, such amount devolves to the United States and shall be covered into the Treasury by the collector as miscellaneous receipts.

TRIAL AND JUDGMENT IN CIVIL ACTIONS.

CHAPTER 11.—TRIAL AND JUDGMENT IN CIVIL ACTIONS

General.

JUDGMENT IN GENERAL

“Judgment,” defined.

SEC. 261. JUDGMENT DEFINED.—A judgment is the final determination of the rights of the parties in an action or proceeding.

May be for or against one of the parties.

SEC. 262. JUDGMENT MAY BE FOR OR AGAINST ONE OF THE PARTIES.—Judgment may be given for or against one or more of several plaintiffs, and for or against one or more of several defendants; and it may, when the justice of the case requires it, determine the ultimate rights of the parties on each side, as between themselves.

Against one party; action may proceed as to others.

SEC. 263. JUDGMENT MAY BE AGAINST ONE PARTY, AND ACTION PROCEED AS TO OTHERS.—In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper.

SEC. 264. THE RELIEF TO BE AWARDED TO THE PLAINTIFF.—The relief granted to the plaintiff, if there be no answer, can not exceed that which he shall have demanded in his complaint; but in any other case, the court may grant him any relief consistent with the case made by the complaint and embraced within the issue. Relief granted plaintiff.

SEC. 265. DISMISSAL OF ACTIONS AND ENTRY OF NONSUIT.—An action may be dismissed, or a judgment of nonsuit entered, in the following cases: Dismissal of actions; entry of nonsuit.

1. By the plaintiff, by written request to the clerk, filed with the papers in the case, at any time before the trial, upon payment of his costs; provided, a counterclaim has not been set up, or affirmative relief sought by the cross-complaint or answer of the defendant. If a provisional remedy has been allowed, the undertaking must thereupon be delivered by the clerk to the defendant, who may have his action thereon;

2. By either party, upon the written consent of the other;

3. By the court, when either party fails to appear on the trial, and the other party appears and asks for the dismissal;

4. By the court, when upon the trial and before the final submission of the case, the plaintiff abandons it;

5. By the court, upon motion of the defendant, when upon the trial the plaintiff fails to prove a sufficient case.

But no dismissal mentioned in subdivisions 1 and 2 hereof shall be entered unless upon written consent of his attorney of record, or if said consent is not obtained, upon order of the court, after notice to the attorney.

The dismissals mentioned in said subdivisions 1 and 2 hereof, when written consent of the attorney of record of the party requesting the dismissals are filed, may be made by entry in the clerk's register.

The dismissals mentioned in subdivisions three, four, and five of this section must be made by orders of the court entered upon the minutes thereof, and are effective for all purposes when so entered; but the clerk of the court must note such orders in his register of actions in the case.

SEC. 266. DISMISSAL OF ACTION FOR FAILURE TO ISSUE SUMMONS, WHEN.—No action heretofore or hereafter commenced shall be further prosecuted, and no further proceedings shall be had therein, and all actions heretofore or hereafter commenced must be dismissed by the court in which the same shall have been commenced, on its own motion, or on motion of any party interested therein, whether named in the complaint as a party or not, unless summons shall have issued within one year, and all such actions must be in like manner dismissed, unless the summons shall be served and return thereon made within three years after the commencement of said action. But all such actions may be prosecuted, if appearance has been made by the defendant or defendants, within said three years in the same manner as if summons had been issued and served; provided, that, except in actions to partition or to recover possession of, or to enforce a lien upon, or to determine conflicting claims to, real or personal property, no dismissal shall be had under this section as to any defendant because of the failure to serve summons on him during his absence from the zone, or while he has secreted himself within the zone to prevent the service of summons on him. Failure to issue summons, when.

SEC. 267. ALL OTHER JUDGMENTS ARE ON THE MERITS.—In all cases other than those mentioned in sections 265, 266, and 268, judgment must be rendered on the merits. Judgments on merits.

SEC. 268. DISMISSAL OF ACTIONS.—The court may in its discretion dismiss any action for want of prosecution on its own motion or on motion of the defendant and after due notice to the plaintiff, when- Dismissal of actions.

ever plaintiff has failed for two years after answer filed to bring such action to trial.

Judgment upon failure to answer.

JUDGMENT UPON FAILURE TO ANSWER

If defendant fails.

SEC. 269. JUDGMENT IF DEFENDANT FAILS TO ANSWER.—Judgment may be had, if the defendant fails to answer the complaint, as follows:

1. In an action arising upon contract for the recovery of money or damages only, if the defendant has been personally served and no answer has been filed with the clerk of the court within the time specified in the summons, or such further time as may have been granted, the clerk, upon application of the plaintiff, must enter the default of the defendant, and immediately thereafter enter judgment for the amount demanded in the complaint, including the costs, against the defendant, or against one or more of several defendants, in the cases provided for in section 120.

2. In other actions, if the defendant has been personally served and no answer has been filed with the clerk of the court within the time specified in the summons, or such further time as may have been granted, the clerk must enter the default of the defendant; and thereafter the plaintiff may apply to the court for the relief demanded in the complaint. If the taking of an account, or the proof of any fact, is necessary to enable the court to give judgment, or to carry the judgment into effect, the court may take the account or hear the proof, or may, in its discretion, order a reference for that purpose. And where the action is for the recovery of damages, in whole or in part, the court may order the damages to be assessed by a jury; or if, to determine the amount of damages, the examination of a long account is involved, by a reference as above provided.

3. In all actions where the service of the summons was by publication, the plaintiff, upon the expiration of the time for answering, may, upon proof of the publication, and that no answer has been filed, apply for judgment; and the court must thereupon require proof to be made of the allegations of the complaint; and if the defendant is not a resident of the Zone, must require the plaintiff, or his agent, to be examined, on oath, respecting any payments that have been made to the plaintiff, or to anyone for his use, on account of any demand mentioned in the complaint, and may render judgment for the amount which he is entitled to recover; provided, that, in actions involving merely the possession of real property where the complaint is verified and shows by proper allegations that no party to the action claims title to the real property involved, either by accession, transfer, will, or succession but only the possession thereof, the court may render judgment upon proof of occupancy by plaintiff and ouster by defendant.

Issues; mode of trial and postponements.

ISSUES; MODE OF TRIAL AND POSTPONEMENTS

"Issue," defined.

SEC. 270. ISSUE DEFINED, AND THE DIFFERENT KINDS.—Issues arise upon the pleadings when a fact or a conclusion of law is maintained by the one party and is controverted by the other. They are of two kinds:

1. Of law; and,
2. Of fact.

How raised. Issue of law.

SEC. 271. ISSUE OF LAW, HOW RAISED.—An issue of law arises upon a demurrer to the complaint or answer, or to some part thereof.

Issue of fact.

SEC. 272. ISSUE OF FACT, HOW RAISED.—An issue of fact arises—

1. Upon a material allegation in the complaint controverted by the answer; and,

2. Upon new matters in the answer, except an issue of law is joined thereon.

SEC. 273. **ISSUE OF LAW, HOW TRIED.**—An issue of law must be tried by the court, unless it is referred upon consent.

How tried.
Issue of law.

SEC. 274. **ISSUES OF FACT, HOW TRIED.**—Issues of fact shall be tried by the court, except where a jury is demanded as provided in sections 279 and 280 or a reference is ordered as provided in this code.

Issue of fact.

SEC. 275. **CLERK MUST ENTER CAUSES ON THE CALENDAR, TO REMAIN UNTIL DISPOSED OF; WHEN MAY BE RESTORED.**—The clerk must enter causes upon the calendar of the court according to the date of issue. Causes once placed on the calendar must remain upon the calendar until finally disposed of; provided, that causes may be dropped from the calendar by consent of parties, and may be again restored upon notice.

Causes to be calendared, etc.

SEC. 276. **PARTIES OR COURT MAY BRING ISSUE TO TRIAL.**—Either party may bring an issue to trial or to a hearing, and, in the absence of the adverse party, unless the court, for good cause, otherwise direct, may proceed with his case, and take a dismissal of the action, or a verdict, or judgment, as the case may require; provided, however, if the issue to be tried is an issue of fact, proof must first be made to the satisfaction of the court that the adverse party has had five days' notice of such trial. The court or judge may on its own motion bring an issue to trial or to a hearing.

Parties or court may bring issue to trial.

SEC. 277. **MOTION TO POSTPONE A TRIAL FOR ABSENCE OF EVIDENCE OR A MATERIAL WITNESS.**—A motion to postpone a trial on the ground of the absence of evidence can only be made upon affidavit showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it. The court may require the moving party, where application is made on account of the absence of a material witness, to state upon affidavit the evidence which he expects to obtain; and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial must not be postponed.

Motion to postpone; when can be made.

SEC. 278. **IN CASES OF ADJOURNMENT A PARTY MAY HAVE THE TESTIMONY OF ANY WITNESS TAKEN.**—The party obtaining a postponement of a trial in the district court must, if required by the adverse party, consent that the testimony of any witness of such adverse party, who is in attendance, be then taken by deposition before the judge or clerk of the court, or before such notary public as the court may indicate, which must accordingly be done; and the testimony so taken may be read on the trial, with the same effect, and subject to the same objections, as if the witnesses were produced.

Depositions of witnesses in cases of adjournment.

TRIAL BY JURY

Trial by jury.

RIGHT TO JURY TRIAL

SEC. 279. **RIGHT TO TRIAL BY JURY.**—A jury shall be had, on the demand of either party, in any civil case at law originating in the district court. (Acts Cong. Aug. 24, 1912, c. 390, § 8, 37 Stat. 565; Sept. 21, 1922, c. 370, § 2, 42 Stat. 1005; Dec. 29, 1926, c. 19, § 1, 44 Stat. 924.)

Right to.

Vol. 37, p. 565; Vol. 42, p. 1005; Vol. 44, p. 924.

SEC. 280. **REQUEST FOR JURY.**—In the trial of any civil cause where a jury trial may be demanded, if either party shall desire a jury, request therefor must be made at the time such cause is assigned for trial.

Request for.

Formation of.

FORMATION OF JURY

Peremptory challenges, civil cases.

SEC. 281. PEREMPTORY CHALLENGES, CIVIL CASES.—Either party may challenge the jurors, but where there are several parties on either side, they must join in the challenge before it can be made. The challenges are to individual jurors and are either peremptory or for cause. Each party is entitled to four peremptory challenges. If no peremptory challenges are taken until the panel is full, they must be taken by the parties alternately, commencing with the plaintiff, and each party shall be entitled to have the panel full before exercising any peremptory challenge.

Challenges for cause.

SEC. 282. CHALLENGES OF JURORS FOR CAUSE.—Challenges for cause may be taken on one or more of the following grounds:

1. A want of any of the qualifications prescribed to render a person competent as a juror.
2. Consanguinity or affinity within the fourth degree to any party, or to an officer of a corporation, which is a party;
3. Standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent, or debtor and creditor, to either party, or to an officer of a corporation which is a party, or being a member of the family of either party; or a partner in business with either party; or surety on any bond or obligation for either party, or being the holder of bonds or shares of the capital stock of a corporation which is a party.
4. Having served as a juror in a civil action or been a witness on a previous trial between the same parties, for the same cause of action; or having served as a juror within one year previously in any civil action or proceeding in which either party was plaintiff or defendant.
5. Interest on the part of the juror in the event of the action, or in the main question involved in the action.
6. Having an unqualified opinion or belief as to the merits of the action founded upon knowledge of its material facts or of some of them.
7. The existence of a state of mind in the juror evincing enmity against or bias to either party.
8. That he is a party to an action pending in the court for which he is drawn and which action is set for trial before the panel of which he is a member.

How tried.

SEC. 283. CHALLENGES, HOW TRIED.—Challenges for cause must be tried by the court. The juror challenged and any other person may be examined as a witness on the trial of the challenge.

Jury to be sworn.

SEC. 284. JURY TO BE SWORN.—As soon as the jury is completed, an oath must be administered to the jurors, in substance, that they and each of them will well and truly try the matter in issue between ———, the plaintiff, and ———, defendant, and a true verdict render according to the evidence.

Conduct of trial.

CONDUCT OF TRIAL

Order of proceedings on trial.

SEC. 285. ORDER OF PROCEEDING ON TRIAL.—When the jury has been sworn, the trial must proceed in the following order, unless the judge, for special reasons, otherwise directs:

1. The plaintiff, after stating the issue and his case, must produce the evidence on his part;
2. The defendant may then open his defense, and offer his evidence in support thereof;
3. The parties may then respectively offer rebutting evidence only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case;

4. When the evidence is concluded, unless the case is submitted to the jury on either side or on both sides without argument, the plaintiff must commence and may conclude the argument;

5. If several defendants, having separate defenses, appear by different counsel, the court must determine their relative order in the evidence and argument;

6. The court may then charge the jury.

SEC. 286. CHARGE TO THE JURY; COURT MUST FURNISH, IN WRITING, UPON REQUEST, THE POINTS OF LAW CONTAINED THEREIN.—In charging the jury the court may state to them all matters of law which it thinks necessary for their information in giving their verdict; and, if it state the testimony of the case, it must inform the jury that they are the exclusive judges of all questions of fact. The court must furnish to either party, at the time, upon request, a statement in writing of the points of law contained in the charge, or sign, at the time, a statement of such points prepared and submitted by the counsel of either party.

Charge to the jury; writing required.

SEC. 287. SPECIAL INSTRUCTIONS.—Where either party asks special instructions to be given to the jury, the court must either give such instruction, as requested, or refuse to do so, or give the instruction with a modification, in such manner that it may distinctly appear what instructions were given in whole or in part.

Special instructions.

SEC. 288. VIEW BY JURY OF THE PREMISES.—When, in the opinion of the court, it is proper for the jury to have a view of the property which is the subject of litigation, or of the place in which any material fact occurred, it may order them to be conducted, in a body, under the charge of an officer, to the place, which shall be shown to them by some person appointed by the court for that purpose. While the jury are thus absent, no person, other than the person so appointed, shall speak to them on any subject connected with the trial.

View of premises by jury.

SEC. 289. ADMONITION WHEN JURY PERMITTED TO SEPARATE.—If the jury are permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that it is their duty not to converse with, or suffer themselves to be addressed by any other person, on any subject of the trial, and that it is their duty not to form or express an opinion thereon until the case is finally submitted to them.

Admonition on separation of jury.

SEC. 290. JURY MAY TAKE WITH THEM CERTAIN PAPERS.—Upon retiring for deliberation the jury may take with them all papers which have been received as evidence in the cause, except depositions or copies of such papers as ought not, in the opinion of the court, to be taken from the person having them in possession; and they may also take with them notes of the testimony or other proceedings on the trial, taken by themselves or any of them, but none taken by any other person.

Papers jury may take upon retiring.

SEC. 291. DELIBERATION OF JURY, HOW CONDUCTED.—When the case is finally submitted to the jury, they may decide in court or retire for deliberation; if they retire, they must be kept together in some convenient place, under charge of an officer, until at least three-fourths of them agree upon a verdict or are discharged by the court. Unless by order of the court, the officer having them under his charge must not suffer any communication to be made to them, or make any himself, except to ask them if they or three-fourths of them are agreed upon a verdict, and he must not, before their verdict is rendered, communicate to any person the state of their deliberations or the verdict agreed upon.

Deliberation of jury.

SEC. 292. MAY COME INTO COURT FOR FURTHER INSTRUCTIONS.—After the jury have retired for deliberation, if there be a disagreement

Return to court for further instructions.

between them as to any part of the testimony, or if they desire to be informed of any point of law arising in the cause, they may require the officer to conduct them into court. Upon their being brought into court, the information required must be given in the presence of, or after notice to, the parties or counsel.

Proceedings if juror becomes sick.

SEC. 293. PROCEEDINGS IF JUROR BECOMES SICK.—If, after the impaneling of the jury, and before verdict, a juror becomes sick, so as to be unable to perform his duty, the court may order him to be discharged. In that case the trial may proceed with the other jurors with the consent of the parties, or another juror may be sworn and the trial begin anew or the jury may be discharged and a new jury then or afterwards impaneled.

When verdict prevented; cause again tried.

SEC. 294. WHEN PREVENTED FROM GIVING VERDICT, THE CAUSE MAY BE AGAIN TRIED.—In all cases where the jury are discharged, or prevented from giving a verdict, by reason of accident or other cause, during the progress of the trial, or after the cause is submitted to them, the action may be again tried immediately, or at a future time, as the court may direct.

Adjournment during absence of jury; sealed verdict.

SEC. 295. WHILE JURY ARE ABSENT, COURT MAY ADJOURN FROM TIME TO TIME; SEALED VERDICT.—While the jury are absent the court may adjourn from time to time, in respect to other business; but it is nevertheless open for every purpose connected with the cause submitted to the jury, until a verdict is rendered or the jury discharged. The court may direct the jury to bring in a sealed verdict, at the opening of the court, in case of an agreement during a recess or adjournment for the day.

Verdict, how declared; form.

SEC. 296. VERDICT, HOW DECLARED; FORM OF; POLLING THE JURY.—When the jury, or three-fourths of them, have agreed upon a verdict, they must be conducted into court, their names called by the clerk, and the verdict rendered by their foreman; the verdict must be in writing, signed by the foreman, and must be read by the clerk to the jury, and the inquiry made whether it is their verdict. Either party may require the jury to be polled, which is done by the court or clerk asking each juror if it is his verdict; if upon such inquiry or polling, more than one-fourth of the jurors disagree thereto, the jury must be sent out again, but if no such disagreement be expressed, the verdict is complete and the jury discharged from the case.

Polling jury.

Informal verdict; proceedings.

SEC. 297. PROCEEDINGS WHEN VERDICT IS INFORMAL.—When the verdict is announced, if it is informal or insufficient, in not covering the issue submitted, it may be corrected by the jury under the advice of the court, or the jury may be again sent out.

The verdict.

THE VERDICT

“General” and “special,” defined.

SEC. 298. GENERAL AND SPECIAL VERDICTS DEFINED.—The verdict of a jury is either general or special. A general verdict is that by which they pronounce generally upon all or any of the issues, either in favor of the plaintiff or defendant; a special verdict is that by which the jury find the facts only, leaving the judgment to the court. The special verdict must present the conclusions of fact as established by the evidence, and not the evidence to prove them; and those conclusions of fact must be so presented as that nothing shall remain to the court but to draw from them conclusions of law.

When may be rendered.

SEC. 299. WHEN A GENERAL OR SPECIAL VERDICT MAY BE RENDERED.—In an action for the recovery of money only, or specific real property, the jury, in their discretion, may render a general or special verdict. In all other cases the court may direct the jury to find a special verdict in writing upon all, or any of the issues, and in all cases may instruct them, if they render a general verdict, to find upon particu-

lar questions of fact, to be stated in writing, and may direct a written finding thereon. The special verdict or finding must be filed with the clerk and entered upon the minutes. Where a special finding of facts is inconsistent with the general verdict, the former controls the latter, and the court must give judgment accordingly.

SEC. 300. VERDICT IN ACTIONS FOR RECOVERY OF MONEY OR ON ESTABLISHING COUNTERCLAIM.—When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant, when a counterclaim for the recovery of money is established, exceeding the amount of the plaintiff's claim as established, the jury must also find the amount of the recovery.

Actions for recovery of money or on establishing counterclaim.

SEC. 301. VERDICT IN ACTIONS FOR THE RECOVERY OF SPECIFIC PERSONAL PROPERTY.—In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff, or the defendant, by his answer, claim a return thereof, the jury, if their verdict be in favor of the plaintiff, or if being in favor of defendant, they also find that he is entitled to a return thereof, must find the value of the property, and, if so instructed, the value of specific portions thereof, and may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the taking or detention of such property.

Actions for recovery of specific personal property.

SEC. 302. ENTRY OF VERDICT.—Upon receiving a verdict, an entry must be made by the clerk in the minutes of the court, specifying the time of trial, the names of the jurors and witnesses, and setting out the verdict at length; and where special verdict is found, either the judgment rendered thereon, or if the case be reserved for argument or further consideration, the order thus reserving it.

Entry of verdict.

SEC. 303. JUDGMENT NOTWITHSTANDING VERDICT.—When a motion for a directed verdict, which should have been granted, has been denied and a verdict rendered against the moving party, the court, at any time before the entry of judgment, either of its own motion or on motion of the aggrieved party, shall render judgment in favor of the aggrieved party notwithstanding the verdict.

Judgment notwithstanding verdict.

A motion for judgment notwithstanding such verdict may also be made in the alternative form, asking therefor and reserving, if that be denied, the right to apply for a new trial. If the motion for a directed verdict or for judgment notwithstanding the verdict be denied, the trial court on motion for new trial may order judgment to be so entered when it appears from the whole evidence that a verdict should have been so directed at the trial.

New trial.

TRIAL BY COURT

SEC. 304. UPON TRIAL BY COURT, DECISION TO BE IN WRITING AND FILED WITHIN THIRTY DAYS.—Upon the trial of a question of fact by the court, its decision must be given in writing and filed with the clerk within thirty days after the cause is submitted for decision.

Trial by court.

Decision; form; filing.

SEC. 305. FACTS FOUND AND CONCLUSIONS OF LAW MUST BE SEPARATELY STATED; JUDGMENT ON.—In giving the decision, the facts found and the conclusions of law must be separately stated. Judgment upon the decision must be entered accordingly.

Statement of facts found and conclusions of law; judgment on.

SEC. 306. WAIVING FINDINGS OF FACT.—Findings of fact may be waived by several parties to an issue of fact:

Waiving findings of fact.

1. By failing to appear at the trial;
2. By consent in writing filed with the clerk;
3. By oral consent in open court, entered in the minutes.

In all cases where the court directs a party to prepare findings, a copy of said proposed findings shall be served upon all the parties

to the action at least five days before findings shall be signed by the court, and the court shall not sign any findings therein prior to the expiration of such five days.

Proceedings after determining issue of law.

SEC. 307. PROCEEDINGS AFTER DETERMINATION OF ISSUE OF LAW.—On a judgment for the plaintiff upon an issue of law, he may proceed in the manner prescribed by the first two subdivisions of section 269, upon the failure of the defendant to answer. If judgment be for the defendant upon an issue of law, and the taking of an account, or the proof of any fact, be necessary to enable the court to complete the judgment, a reference may be ordered, as in that section provided.

References and trials by referees.

REFERENCES AND TRIALS BY REFEREES

Reference ordered upon agreement of parties, in what cases.

SEC. 308. REFERENCE ORDERED UPON AGREEMENT OF PARTIES, IN WHAT CASES.—A reference may be ordered upon the agreement of the parties filed with the clerk, or entered in the minutes:

1. To try any or all of the issues in an action or proceeding, whether of fact or of law, and to report a finding and judgment thereon;

2. To ascertain a fact necessary to enable the court to determine an action or proceeding.

Ordered on motion in what cases.

SEC. 309. REFERENCE ORDERED ON MOTION, IN WHAT CASES.—When the parties do not consent, the court may, upon the application of either, or of its own motion, direct a reference in the following cases:

1. When the trial of an issue of fact requires the examination of a long account on either side; in which case the referees may be directed to hear and decide the whole issue, or report upon any specific question of fact involved therein;

2. When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect;

3. When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of the action;

4. When it is necessary for the information of the court in a special proceeding.

Objection to appointment of referee. When may offer grounds of.

SEC. 310. A PARTY MAY OBJECT; GROUNDS OF OBJECTION.—A party may object to the appointment of any person as referee, on one or more of the following grounds:

1. A want of any of the qualifications prescribed to render a person competent as a juror;

2. Consanguinity or affinity, within the third degree, to either party, or to an officer of a corporation which is a party, or to the judge of the court in which the appointment shall be made;

3. Standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent, to either party; or being a member of the family of either party; or a partner in business with either party; or security on any bond or obligation for either party;

4. Having served as a juror or been a witness on any trial between the same parties for the same cause of action;

5. Interest on the part of such person in the event of the action, or in the main question involved in the action;

6. Having formed or expressed an unqualified opinion or belief as to the merits of the action;

7. The existence of a state of mind in such person evincing enmity against or bias to either party.

How disposed of.

SEC. 311. OBJECTIONS, HOW DISPOSED OF.—The objections taken to the appointment of any person as referee must be heard and dis-

posed of by the court. Affidavits may be read and witnesses examined as to such objections.

SEC. 312. REFEREES TO REPORT WITHIN TWENTY DAYS.—The referees or commissioner must report their findings in writing to the court within twenty days after the testimony is closed and the facts found and conclusions of law must be separately stated therein.

Report of referees.

SEC. 313. EFFECT OF REFEREE'S FINDING.—The finding of the referee or commissioner upon the whole issue must stand as the finding of the court, and upon filing of the finding with the clerk of the court, judgment may be entered thereon in the same manner as if the action had been tried by the court.

Effect of referee's finding.

SEC. 314. HOW EXCEPTED TO, AND SO FORTH.—The findings of the referee or commissioner may be excepted to and reviewed in like manner as if made by the court. When the reference is to report the facts, the finding reported has the effect of a special verdict.

How excepted to, etc.

PROVISIONS RELATING TO TRIALS IN GENERAL
EXCEPTIONS

Provisions relating to trials in general.

SEC. 315. "EXCEPTION" DEFINED; WHEN TAKEN.—An exception is an objection upon a matter of law to a decision made, either before or after judgment, by a court, tribunal, judge, or other judicial officer, in an action or proceeding. The exception must be taken at the time the decision is made, except as provided in section 316.

"Exception" defined; when taken.

SEC. 316. VERDICT OR ORDER IN ABSENCE OF PARTY, DEEMED EXCEPTED TO.—The verdict of the jury, the final decision in an action or proceeding, an interlocutory order or decision, finally determining the rights of the parties, or some of them, an order or decision from which an appeal may be taken, an order sustaining or overruling a demurrer, allowing or refusing to allow an amendment to a pleading, striking out a pleading or a portion thereof, refusing a continuance, an order made upon ex parte application, giving an instruction, although no objection to such instruction was made, refusing to give an instruction, modifying an instruction requested, an order or decision made in the absence of the party or an order granting or denying a nonsuit or a motion to strike out evidence or testimony and a ruling sustaining or overruling an objection to evidence, are deemed to have been excepted to.

Verdict or order in absence of party, deemed excepted to.

SEC. 317. EXCEPTION, FORM OF.—No particular form of exception is required, but when the exception is to the verdict or decision, upon the ground of the insufficiency of the evidence to justify it, the objection must specify the particulars in which such evidence is alleged to be insufficient. The objection must be stated, with so much of the evidence or other matter as is necessary to explain it, and no more. Only the substance of the reporter's notes of the evidence shall be stated. Documents on file in the action or proceeding may be copied, or the substance thereof stated, or a reference thereto sufficient to identify them may be made.

Form of exception.

SEC. 318. BILL OF EXCEPTIONS, WHEN TO BE PRESENTED, ETC.—A bill containing the exception to any decision may be presented to the court or judge, for settlement at any time after the decision is made, but the same must be presented within ten days after written notice of making such decision, and after having been settled must be signed by the judge and filed with the clerk. When the decision excepted to is made by a tribunal other than a court, or by a judicial officer, the bill of exceptions must be presented to and settled and signed by such tribunal or officer.

Bill of exceptions, when to be presented, etc.

SEC. 319. BILL OF EXCEPTIONS, PREPARATION AND SETTLEMENT; TIME OF FILING.—When a party desires to have exceptions taken at a

Preparation and settlement; time of filing.

trial settled in a bill of exceptions, he may, at any time thereafter, and within ten days after the entry of judgment, if the action was tried with a jury, or after receiving notice of the entry of judgment, if the action was tried without a jury, or if proceedings on motion for a new trial be pending, within ten days after notice of decision denying said motion, or other determination thereof, or such further time as the court in which the action is pending, or the judge thereof, may allow, prepare the draft of a bill, and serve the same, or a copy thereof, upon the adverse party.

Contents of draft.

CONTENTS OF DRAFT.—Such draft must contain all the exceptions and proceedings taken upon which the party relies, and may contain all matters reviewable on the same appeal whether occurring at the trial or on motion for a new trial. It may also contain a statement of any matters occurring upon the trial, in the presence of the court, showing any of the matters mentioned in subdivisions one and two of section 324.

Post, p. 963.

Adverse party may propose amendments.

ADVERSE PARTY MAY PROPOSE AMENDMENTS.—Within ten days after such service, the adverse party may propose amendments thereto, and serve the same or a copy thereof, upon the other party.

Delivery to judge.

DELIVERY TO THE JUDGE.—The proposed bill and amendments must, within ten days thereafter be presented by the party seeking the settlement of the bill, to the judge who tried or heard the case, upon five days' notice to the adverse party, or be delivered to the clerk of the court for the judge. When received by the clerk he must immediately deliver them to the judge, if he is in the Canal Zone; if he is absent from the Zone, and either party desires the paper to be forwarded to the judge, the clerk must, upon notice in writing of such party, immediately forward them by mail, or other safe channel; if not thus forwarded the clerk must deliver them to the judge immediately after his return to the Zone.

Judge to designate time of settling.

JUDGE TO DESIGNATE TIME OF SETTLING.—When received from the clerk, the judge must designate the time at which he will settle the bill, and the clerk must immediately notify the parties of such designation. At the time designated the judge must settle the bill. The bill must thereupon be engrossed and presented to the judge to be certified, by the party presenting it, within ten days.

Action tried before referee.

ACTION TRIED BEFORE REFEREE.—If the action was tried before a referee, the proposed bill, with the amendments, if any, must be presented to such referee for settlement within ten days after service of the amendments, upon notice of five days to the adverse party, and thereupon the referee must settle the bill. If no amendments are served or if served are allowed, the proposed bill may be presented, with the amendments, if any, to the judge or referee, for settlement without notice to the adverse party.

Judge to strike out useless matter.

JUDGE TO STRIKE OUT USELESS MATTER.—It is the duty of the judge or referee, in settling the bill, to strike out of it all redundant and useless matter, so that the exceptions and proceedings may be presented as briefly as possible. When settled, the bill must be signed by the judge or referee, with his certificate to the effect that the same is allowed, and must then be filed with the clerk.

Service when default entered.

NOT TO BE SERVED ON PARTY WHEN DEFAULT ENTERED.—No bill of exceptions, notice of appeal, or notice or paper, other than amendments to the pleadings or an amended pleading, need be served upon any party whose default has been duly entered, or who has not appeared in the action or proceeding.

Exceptions after judgment.

SEC. 320. EXCEPTIONS AFTER JUDGMENT.—Exceptions to any decision made after judgment may be presented to the judge at the time of such decision, and be settled or noted, as provided in section 318, or a bill thereof may be presented and settled afterward, as pro-

vided in section 319, and within like periods after written notice of entry of the order, upon appeal from which such decision is reviewable.

SEC. 321. PROCEEDINGS IF JUDGE REFUSE TO ALLOW BILL OF EXCEPTIONS.—If the judge in any case refuses to allow a bill of exceptions in accordance with the facts, the party desiring the bill settled may apply by petition to the United States Circuit Court of Appeals for the Fifth Circuit to prove the same; the application may be made in the mode and manner, and under such regulations as that court may prescribe; and the bill, when proven, must be certified by the court as correct, and filed with the clerk of the court in which the action was tried, and when so filed it has the same force and effect as if settled by the judge who tried the cause.

Proceedings if bill of exceptions refused.

SEC. 322. SETTLEMENT OF BILL OF EXCEPTIONS.—When the decision excepted to was made by any judicial officer, other than a judge, the bill of exceptions shall be presented to such judicial officer, and be settled and signed by him in the same manner as it is required to be presented to, settled, and signed by a court or judge. A judge or judicial officer may settle and sign a bill of exceptions after, as well as before, he ceases to be such judge or judicial officer. If such judge or judicial officer, before the bill of exceptions is settled, dies, is removed from office, becomes disqualified, is absent from the Canal Zone, or refuses to settle the bill of exceptions, or if no mode is provided by law for the settlement of the same, it shall be settled and certified in such manner as the circuit court of appeals may, by its order or rules, direct.

Settlement of bill of exceptions.

NEW TRIALS

New trials.

SEC. 323. NEW TRIAL DEFINED.—A new trial is a reexamination of an issue of fact in the same court after a trial and decision by a jury, court, or referee.

Defined.

SEC. 324. WHEN NEW TRIAL MAY BE GRANTED.—The former verdict or other decision may be vacated and a new trial granted, on the application of the party aggrieved, for any of the following causes, materially affecting the substantial rights of such party:

When granted.

1. Irregularity in the proceedings of the court, jury, or adverse party, or any order of the court or abuse of discretion by which either party was prevented from having a fair trial;

2. Misconduct of the jury; and whenever any one or more of the jurors have been induced to assent to any general or special verdict, or to a finding on any question submitted to them by the court, by a resort to the determination of chance, such misconduct may be proved by the affidavit of any one of the jurors;

3. Accident or surprise, which ordinary prudence could not have guarded against;

4. Newly discovered evidence, material for the party making the application, which he could not, with reasonable diligence, have discovered and produced at the trial;

5. Excessive damages, appearing to have been given under the influence of passion or prejudice;

6. Insufficiency of the evidence to justify the verdict or other decision, or that it is against law;

7. Error in law, occurring at the trial and excepted to by the party making the application.

When a new trial is granted upon the ground of the insufficiency of the evidence to sustain the verdict, the order shall so specify; otherwise, on appeal from such order, it will be presumed that the order was not based upon that ground.

Application for.

SEC. 325. MANNER OF MAKING APPLICATION FOR NEW TRIAL.—When the application is made for a cause mentioned in the first, second, third, and fourth subdivisions of section 324, it must be made upon affidavits; otherwise it must be made on the minutes of the court.

Notice of motion, upon whom served; contents.

SEC. 326. NOTICE OF MOTION, UPON WHOM TO BE SERVED, AND WHAT TO CONTAIN.—The party intending to move for a new trial must, either before the entry of judgment or within ten days after receiving notice of the entry of the judgment, or within ten days after verdict, if the trial was by jury, file with the clerk and serve upon the adverse party a notice of his intention to move for a new trial, designating the grounds upon which the motion will be made and whether the same will be made upon affidavits or the minutes of the court or both. The time above specified shall not be extended by order or stipulation. If the motion is to be made upon affidavits, the moving party must, within ten days after serving the notice, or such further time as the court in which the action is pending, or the judge thereof, may allow (but not to exceed twenty days' additional time) file such affidavits with the clerk and serve a copy thereof upon the adverse party, who shall have ten days thereafter, or such further time as the court may allow (not exceeding twenty days' additional time) to file counter-affidavits and serve a copy thereof upon the moving party.

Time of hearing motion; reference to pleadings, orders and evidence at hearing.

SEC. 327. TIME OF HEARING MOTION; REFERENCE TO PLEADINGS, ORDERS AND EVIDENCE AT HEARING.—The motion for a new trial must be heard at the earliest practicable time after the filing of affidavits and counter-affidavits, in case the motion is made on affidavits, in other cases after the filing of the notice. On such hearing reference may be had in all cases to the pleadings and orders of the court on file, and when the motion is made on the minutes, reference may also be had to any depositions and documentary evidence offered at the trial and to the report of the proceedings on the trial taken by the reporter, or to any certified transcript, of such report, or if there be no such report or certified transcript, to such proceedings occurring at the trial as are within the recollection of the judge; when the proceedings at the trial have been reported, but the reporter's notes have not been transcribed, the reporter must, upon request of the court, or either party, attend the hearing of the motion, and shall read his notes, or such parts thereof as the court, or either party, may require.

New trial has precedence.

NEW TRIAL HEARING HAS PRECEDENCE.—The hearing and disposition of the motion for a new trial shall have precedence over all other matters except criminal cases, probate matters, and cases actually on trial, and it shall be the duty of the court to determine the same at the earliest possible moment.

To be passed on within two months.

MOTION TO BE PASSED ON WITHIN TWO MONTHS.—The power of the court to pass on motion for a new trial shall expire within two months after the verdict of the jury or service on the moving party of notice of the entry of the judgment. If such motion is not determined within said two months, the effect shall be a denial of the motion without further order of the court.

Vacation of judgment.

SEC. 328. VACATION OF JUDGMENT.—A judgment or decree of the district court, when based upon findings of fact made by the court, or the special verdict of a jury, may, upon motion of the party aggrieved, be set aside and vacated by the court, and another and different judgment entered, for either of the following causes, materially affecting the substantial rights of such party and entitling him to a different judgment:

1. Incorrect or erroneous conclusions of law not consistent with or not supported by the findings of fact; and in such case when

the judgment is set aside, the conclusions of law shall be amended and corrected.

2. A judgment or decree not consistent with or not supported by the special verdict.

SEC. 329. NOTICE OF INTENTION TO MOVE TO VACATE JUDGMENT; TIME FOR MAKING MOTION.—The party intending to make the motion mentioned in section 328 must, within ten days after notice of the entry of judgment, serve upon the adverse party and file with the clerk of the court a notice of his intention, designating the grounds upon which, and the time at which the motion will be made, and specifying the particulars in which the conclusions of law are not consistent with the finding of facts, or in which the judgment or decree is not consistent with the special verdict. The time designated for the making of the motion must not be more than sixty days from the time of the service of the notice.

Notice of intention to move to vacate judgment.

MANNER OF GIVING AND ENTERING JUDGMENT

Manner of giving and entering judgment.

SEC. 330. JUDGMENT TO BE ENTERED IN TWENTY-FOUR HOURS, AND SO FORTH.—When trial by jury has been had, judgment must be entered by the clerk, in conformity to the verdict, within twenty-four hours after the rendition of the verdict, unless the court order the case to be reserved for argument or further consideration, or grant a stay of proceedings. If the trial has been had by the court, judgment must be entered by the clerk, in conformity to the decision of the court, immediately upon the filing of such decision. In no case is a judgment effectual for any purpose until so entered.

Entry within twenty-four hours, etc.

SEC. 331. CASE MAY BE BROUGHT BEFORE THE COURT FOR ARGUMENT.—When the case is reserved for argument or further consideration, as mentioned in section 330, it may be brought by either party before the court for argument.

Argument before court.

SEC. 332. WHEN COUNTERCLAIM ESTABLISHED EXCEEDS PLAINTIFF'S DEMAND.—If a counterclaim, established at the trial, exceed the plaintiff's demand, judgment for the defendant must be given for the excess; or if it appear that the defendant is entitled to any other affirmative relief, judgment must be given accordingly.

When established counterclaim exceeds plaintiff's demand.

SEC. 333. IN REPLEVIN, JUDGMENT TO BE IN THE ALTERNATIVE, AND WITH DAMAGES; GOLD COIN OR CURRENCY JUDGMENT.—In an action to recover the possession of personal property, judgment for the plaintiff may be for the possession or the value thereof, in case a delivery can not be had, and damages for the detention. If the property has been delivered to the plaintiff, and the defendant claim a return thereof, judgment for the defendant may be for a return of the property or the value thereof, in case a return can not be had, and damages for taking and withholding the same. In an action on a contract or obligation in writing, for the direct payment of money, made payable in a specified kind of money or currency, judgment for the plaintiff, whether it be by default or after verdict, may follow the contract or obligation, and be made payable in the kind of money or currency specified therein; and in all actions for the recovery of money, if the plaintiff allege in his complaint that the same was understood and agreed by the respective parties to be payable in a specified kind of money or currency, and this fact is admitted by the default of the defendant or established by evidence, the judgment for the plaintiff must be made payable in the kind of money or currency so alleged in the complaint; and in an action against any person for the recovery of money received by such person in a fiduciary capacity, or to the use of another, judg-

In replevin, judgment to be in the alternative, and with damages; gold coin or currency judgment.

ment for the plaintiff must be made payable in the kind of money or currency so received by such person.

Clerk to enter abstract of judgment.

SEC. 334. CLERK TO ENTER ABSTRACT OF JUDGMENT.—The clerk must enter an abstract of the judgment in a column set aside for that purpose on the civil docket.

If a party die after verdict, judgment may be entered.

SEC. 335. IF A PARTY DIE AFTER VERDICT, JUDGMENT MAY BE ENTERED.—If a party die after a verdict or decision upon any issue of fact, and before judgment, the court may nevertheless render judgment thereon. Such judgment is payable in the course of administration on his estate.

What constitutes judgment roll.

SEC. 336. JUDGMENT ROLL, WHAT CONSTITUTES.—Immediately after entering the judgment, the clerk must attach together and file the following papers, which constitute the judgment roll:

1. In case the complaint is not answered by any defendant, the summons, with the affidavit or proof of service; the complaint with a memorandum indorsed thereon that the default of the defendant in not answering was entered, and a copy of the judgment; and in case the service so made is by publication, the affidavit for publication of summons, and the order directing the publication of summons.

2. In all other cases, the pleadings, all orders striking out any pleading in whole or in part, a copy of the verdict of the jury, or finding of the court or referee, and a copy of any order made on demurrer, or relating to a change of parties, and a copy of the judgment; if there are two or more defendants in the action, and any one of them has allowed judgment to pass against him by default, the summons, with proof of its service, on such defendant; and if the service on such defaulting defendant be by publication, then the affidavit for publication, and the order directing the publication of the summons.

Clerk to enter judgment.

SEC. 337. CLERK TO ENTER JUDGMENT.—Immediately after filing the judgment roll, the clerk must make the proper entries of the judgment under appropriate heads, in the civil docket kept by him.

Inspection of docket.

SEC. 338. DOCKET TO BE OPEN FOR INSPECTION WITHOUT CHARGE.—The docket kept by the clerk is open at all times, during office hours, for the inspection of the public, without charge. The clerk must arrange the several dockets kept by him in such a manner as to facilitate their inspection.

Satisfaction of judgment, how made.

SEC. 339. SATISFACTION OF A JUDGMENT, HOW MADE.—Satisfaction of a judgment may be entered in the clerk's docket upon an execution returned satisfied, or upon an acknowledgment of satisfaction filed with the clerk, made in the manner prescribed in chapter 22 of the Civil Code, by the judgment creditor, or by his indorsement on the face, or on the margin of the record of the judgment, or by the attorney, unless a revocation of his authority is filed. Whenever a judgment is satisfied in fact, otherwise than upon an execution, the party or attorney must give such acknowledgment, or make such indorsement, and, upon motion, the court may compel it, or may order the entry of satisfaction to be made without it.

Undertaking in actions to set aside transfer of property.

SEC. 340. UNDERTAKING IN ACTIONS TO SET ASIDE TRANSFER OF PROPERTY.—Where an action is commenced to set aside a transfer or conveyance of property on the grounds that such transfer or conveyance was made to hinder, delay, or defraud a creditor or creditors, the transferee or grantee to whom it is alleged the property was transferred or conveyed to hinder, delay, or defraud creditors or the successors or assigns of such transferee or grantee, may give an undertaking as herein provided, and when such undertaking is given as herein provided, the transferee or grantee to whom it is alleged the property was transferred or conveyed to hinder, delay, or defraud

creditors, or the successors and assigns of such transferee or grantee, may sell, encumber, transfer, convey, mortgage, pledge, or otherwise dispose of the property, or any part thereof, which is alleged to have been transferred or conveyed to hinder, delay, or defraud creditors, so that the purchaser, encumbrancer, transferee, mortgagee, grantee, or pledgee of such property, will take, own, hold, and possess such property unaffected by such action and suit, or the judgment which may be rendered therein.

SEC. 341. CONDITIONS OF UNDERTAKING.—Such undertaking with two sureties shall be executed by the transferee or grantee to whom it is alleged the property was transferred or conveyed to hinder, delay, or defraud creditors, or the successor or assign of such transferee or grantee, in double the estimated value of the property so alleged to have been transferred or conveyed; provided, in no case need such undertaking be for a greater sum than double the amount of the debt or liability alleged to be due and owing to the plaintiff in such action, commenced to set aside said transfer and conveyance; and where such estimated value of the property alleged so to have been conveyed is less than the sum alleged to be due and owing to the plaintiff in the action, such estimated value shall be stated in the undertaking, and said undertaking shall be conditioned that, if it be adjudged in said action that the transfer or conveyance was made to hinder, delay, or defraud a creditor or creditors, then that the transferee or grantee or the said successor or assigns of such transferee or grantee giving such undertaking, will pay to the plaintiff in said action a sum equal to the value, as the same is estimated in said undertaking, of said property alleged to have been transferred or conveyed to hinder, delay, or defraud creditors, not exceeding the sum alleged to be due and owing to the plaintiff in the action.

Conditions of.

SEC. 342. FILING AND SERVING UNDERTAKING.—Said undertaking shall be filed in the action in which said execution issued and a copy thereof served upon the plaintiff or his attorney in said action.

Filing and serving.

SEC. 343. OBJECTIONS TO SURETIES.—Within ten days after service of the copy of undertaking the plaintiff may object to such undertaking on the ground of inability of the sureties, or either of them, to pay the sum for which they become bound in said undertaking, and upon the ground that the estimated value of the property therein is less than the market value of such property. Such objection to the undertaking shall be made in writing, specifying the ground or grounds of objection, and if the objection is made to the undertaking that the estimated value therein is less than the market value of the property, such objection shall specify the plaintiff's estimate of the market value of the property. Such written objection shall be served upon the said transferee or grantee, or the successor or assigns of such transferee or grantee giving such undertaking.

Objections to sureties.

SEC. 344. JUSTIFICATION OF SURETIES; APPROVAL AND DISAPPROVAL OF UNDERTAKING.—When the sureties or either of them, are objected to, the surety or sureties so objected to shall justify before the court in which the action is commenced, upon ten days' notice of the time when they will so justify being given to the plaintiff, or plaintiff's attorney. Upon the hearing and examination into the sufficiency of a surety, witnesses may be required to attend and evidence may be procured and introduced in the same manner as in trial of civil cases. Upon such hearing and examination the court shall make its order, in writing, approving or disapproving the sufficiency of the sureties or surety on such undertaking. In case the court disapproves of the surety or sureties on any undertaking, a new undertaking may be filed and served, and to any undertaking given

Justification of sureties; approval and disapproval of undertaking.

under the provisions of this act the same objection to the sureties may be made and the same proceedings had as in case of the first undertaking filed and served.

Objection because estimated value in undertaking less than market value; new undertaking.

SEC. 345. OBJECTION BECAUSE ESTIMATED VALUE IN UNDERTAKING LESS THAN MARKET VALUE; NEW UNDERTAKING.—When objection is made to the undertaking upon the ground that the estimated value of the property, as stated in the undertaking, is less than the market value of the property, the transferee or grantee, or the successor or assigns of such transferee or grantee giving the undertaking may accept the estimated value stated by the plaintiff in said objection, and a new undertaking may at once be filed, with the plaintiff's estimate stated therein as the estimated value, and no objection shall thereafter be made upon that ground; if the plaintiff's estimate of the market value is not accepted, the transferee or grantee, or the successor or assigns of the grantee or transferee giving such undertaking, upon ten days' notice to the plaintiff, shall move the court in which the action is pending to estimate the market value of the property, and upon the hearing of such motion, witnesses may be required to attend and testify, and evidence may be produced in the same manner as in the trial of civil actions. Upon the hearing of the motion the court shall estimate the market value of the property, and if the estimated value of the property as made by the court exceeds the estimated value as stated in the undertaking, a new undertaking shall be filed and served with the market value determined by the stated value therein as the estimated value of the property.

Justification of sureties. *Post*, p. 1002.

SEC. 346. JUSTIFICATION OF SURETIES. The sureties shall justify upon the undertaking as required by section 533.

When undertaking effective.

SEC. 347. WHEN UNDERTAKING BECOMES EFFECTIVE.—The undertaking shall become effective for the purpose stated in section 340, ten days after service of copy thereof on the plaintiff, unless objection to such undertaking is made as provided in sections 343 or 345, and in case objection is so made to the undertaking filed and served, the same shall become effective for such purpose when an order is made by such court approving the sureties, when the surety or sureties are objected to, or affirming the estimate of the value of property when objection is made thereto, or in case any objection to the undertaking is sustained by the court when a new undertaking is filed and served as required by sections 344 or 345, to which no objection is made, or if made is not sustained by the court.

Judgment against sureties.

SEC. 348. JUDGMENT AGAINST SURETIES.—If judgment be rendered in said action that the alleged transfer or conveyance was made to hinder, delay, or defraud creditors, then judgment shall be rendered in such action without further proceeding in favor of plaintiff and against the principal and sureties on said undertaking for the sum for which said undertaking was executed according to the conditions thereof.

EXECUTION OF JUDGMENT IN CIVIL ACTIONS.

CHAPTER 12.—EXECUTION OF JUDGMENT IN CIVIL ACTIONS

EXECUTION

Time execution may issue.

SEC. 349. WITHIN WHAT TIME EXECUTION MAY ISSUE.—The party in whose favor judgment is given may, at any time within five years after the entry thereof, have a writ of execution issued for its enforcement. If, after the entry of the judgment, the issuing of execution thereon is stayed or enjoined by any judgment or order of court, or by operation of law, the time during which it is so

stayed or enjoined must be excluded from the computation of the five years within which execution may issue.

SEC. 350. STAY OF EXECUTION.—The court or the judge thereof shall not have the power, without the consent of the adverse party, to stay, for a longer period than thirty days, the execution of any judgment or order the execution whereof would be stayed on appeal only by the execution of a stay bond.

Stay of.

SEC. 351. WHO MAY ISSUE THE EXECUTION, ITS FORM, TO WHOM DIRECTED, AND WHAT IT SHALL REQUIRE.—The writ of execution must be issued in the name of the government of the Canal Zone, sealed with the seal of the court, and subscribed by the clerk, and be directed to the marshal, and it must intelligibly refer to the judgment, stating the court, the division where the judgment-roll is filed, and if it be for money, the amount thereof, and the amount actually due thereon, and if made payable in a specified kind of money or currency, as provided in section 333, the execution must also state the kind of money or currency in which the judgment is payable, and must require the marshal substantially as follows:

Who may issue, form, to whom directed, requirements.

Ante, p. 965.

1. If it be against the property of the judgment debtor, it must require the marshal to satisfy the judgment, with interest, out of the property of such debtor.

2. If it be against property in the hands of the personal representatives, heirs, devisees, legatees, tenants, or trustees, it must require the marshal to satisfy the judgment, with interest, out of such property.

3. If it be against the person of the judgment debtor, it must require the marshal to arrest such debtor and commit him to jail until he pay the judgment, with interest, or be discharged according to law.

4. If it be issued on a judgment made payable in a specified kind of money or currency, as provided in section 333, it must also require the marshal to satisfy the same in the kind of money or currency in which the judgment is made payable, and the marshal must refuse payment in any other kind of money or currency; and in case of levy and sale of the property of the judgment debtor, he must refuse payment from any purchaser at such sale in any other kind of money or currency than that specified in the execution. The marshal collecting money or currency in the manner required by this subchapter, must pay to the plaintiff or party entitled to recover the same, the same kind of money or currency received by him, and in case of neglect or refusal so to do, he shall be liable on his official bond to the judgment creditor in three times the amount of the money so collected.

5. If it be for the delivery of the possession of property, it must require the marshal to deliver the possession of the same, describing it, to the party entitled thereto, and may at the same time require the marshal to satisfy any costs, damages, rents, or profits recovered by the same judgment, out of the property of the person against whom it was rendered, and the value of the property for which the judgment was rendered to be specified therein if a delivery thereof can not be had.

SEC. 352. WHEN MADE RETURNABLE.—The execution may be made returnable, at any time not less than ten nor more than sixty days after its receipt by the marshal, to the clerk with whom the judgment roll is filed. When the execution is returned the clerk must attach it to the judgment roll.

When made returnable.

SEC. 353. MONEY JUDGMENTS AND OTHERS, HOW ENFORCED.—When the judgment is for money, or the possession of property, the same may be enforced by a writ of execution; and if the judgment direct

How money judgments and others enforced.

that the defendant be arrested, the execution may issue against the person of the judgment debtor, after the return of an execution against his property unsatisfied in whole or part; when the judgment requires the sale of property, the same may be enforced by a writ reciting such judgment, or the material parts thereof, and directing the proper officer to execute the judgment, by making the sale and applying the proceeds in conformity therewith; when the judgment requires the performance of any other act than as above designated, a certified copy of the judgment may be served upon the party against whom the same is rendered, or upon the person or officer required thereby or by law to obey the same, and obedience thereto may be enforced by the court.

Execution after five years.

SEC. 354.—EXECUTION AFTER FIVE YEARS.—In all cases the judgment may be enforced or carried into execution after the lapse of five years from the date of its entry, by leave of the court, upon motion, or by judgment for that purpose, founded upon supplemental pleadings; but nothing in this section shall be construed to revive a judgment for the recovery of money which shall have been barred by limitation at the time of the enactment of this code.

Execution on property of deceased party.

SEC. 355. WHEN EXECUTION MAY ISSUE AGAINST THE PROPERTY OF A PARTY AFTER HIS DEATH.—Notwithstanding the death of a party after the judgment, execution thereon may be issued, or it may be enforced, as follows:

1. In case of the death of the judgment creditor, upon the application of his executor or administrator, or successor in interest;
2. In case of the death of the judgment debtor, if the judgment be for the recovery of property, or the enforcement of a lien thereon.

Property liable to execution; not affected until levied on.

SEC. 356. PROPERTY LIABLE TO EXECUTION; NOT AFFECTED UNTIL LEVIED ON.—All goods, chattels, moneys, and other property, both real and personal, or any interest therein, of the judgment debtor, not exempt by law, and all property and rights of property seized and held under attachment in the action, are liable to execution. Shares and interests in any corporation or company, and debts and credits, and all other property, both real and personal, or any interest in either real or personal property, and all other property not capable of manual delivery, may be levied upon or released from levy in like manner as like property may be attached or released from attachment. Until a levy, property is not affected by the execution; but no levy shall bind any property for a longer period than one year from the date of the issuance of the execution; provided, however, an alias execution may be issued on said judgment and levied on any property not exempt from execution.

Indemnity where property claimed by third party.

SEC. 357. INDEMNITY WHERE PROPERTY CLAIMED BY THIRD PARTY.—If the property levied on is claimed by a third person as his property by a written claim verified by his oath or that of his agent, setting out his right to the possession thereof, and served upon the marshal, the marshal is not bound to keep the property unless the plaintiff, or the person in whose favor the writ of execution runs, on demand, indemnifies the marshal against such claim by an undertaking by at least two good and sufficient sureties in a sum equal to double the value of the property levied on; and the marshal is not liable for damages for the taking or keeping of such property to any such third person, unless such a claim is made.

The marshal may demand and exact the undertaking herein provided for notwithstanding any defect, informality, or insufficiency of the verified claim served upon him.

What exempt from execution.

SEC. 358. WHAT EXEMPT FROM EXECUTION.—The following property is exempt from execution or attachment, except as herein otherwise specially provided:

1. Chairs, tables, desks, and books, to the value of \$200 belonging to the judgment debtor; Exemptions.

2. Household furniture and utensils necessary for housekeeping and used for that purpose by the debtor, such as the debtor may select, of a value not exceeding \$250; and all wearing apparel;

3. Tools and implements necessarily used by him in his trade or employment;

4. Two domestic animals such as the debtor may select, not exceeding \$100 in value, and necessarily used by him in his ordinary occupation;

5. The professional libraries of lawyers, judges, clergymen, doctors, school teachers, and music teachers, not exceeding \$250 in value;

6. One fishing boat and net, not exceeding the total value of \$200, the property of any fisherman, by the lawful use of which he earns his livelihood;

7. The wages and earnings of all seamen and seagoing fishermen, not exceeding \$300, regardless of where or when earned, and in addition to all other exemptions otherwise provided by any law;

8. The earnings of the judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise, that such earnings are necessary for the use of his family, residing in the Canal Zone, supported in whole or in part by his labor; but where debts are incurred by any such person, or his wife or family for the common necessities of life, or have been incurred at a time when the debtor had no family residing in the Canal Zone, supported in whole or in part by his labor, the one-half of such earnings above mentioned is nevertheless subject to execution, garnishment, or attachment to satisfy debts so incurred;

9. All the nautical instruments and wearing apparel of any master, officer, or seaman of any steamer or other vessel;

10. All arms, uniforms, and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor;

11. Life insurance benefits. All moneys, benefits, privileges, or immunities accruing or in any manner growing out of any life insurance, if the annual premiums paid do not exceed \$500, and if they exceed that sum a like exemption shall exist which shall bear the same proportion to the moneys, benefits, privileges, and immunities so accruing or growing out of such insurance that said \$500 bears to the whole annual premiums paid;

12. Pensions. All money received by any person, a resident of the Canal Zone, as a pension from the United States Government, whether the same shall be in the actual possession of such pensioner or deposited, loaned, or invested by him.

NOT EXEMPT FROM JUDGMENT FOR PRICE.—No article, however, or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon. Not exempt from judgment for price.

SEC. 359. WRIT, HOW EXECUTED.—The marshal must execute the writ against the property of the judgment debtor, by levying on a sufficient amount of property, if there be sufficient; collecting or selling the things in action, and selling the other property, and paying to the plaintiff or his attorney so much of the proceeds as will satisfy the judgment. Any excess in the proceeds over the judgment and accruing costs must be returned to the judgment debtor, unless otherwise directed by the judgment or order of the court. When there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs within the view of the marshal, he must levy only on such part of the property as the How writ executed.

judgment debtor may indicate, if the property indicated be amply sufficient to satisfy the judgment and costs.

Notice of sale under execution, how given.

SEC. 360. NOTICE OF SALE UNDER EXECUTION, HOW GIVEN.—Before the sale of property on execution or under power contained in any deed of trust, notice thereof must be given as follows:

1. In case of perishable property: By posting written notice of the time and place of sale in three public places of the town where the sale is to take place, for such time as may be reasonable, considering the character and condition of the property.

2. In case of other personal property: By posting a similar notice in three public places in the town where the sale is to take place, for not less than five days nor more than ten days.

3. In case of real property: By posting a similar notice particularly describing the property for twenty days, in three public places of the town where the property is to be sold and publishing a copy thereof once a week for the same period, in some newspaper of general circulation in the Canal Zone. Provided that where real property is to be sold under the provision of any deed of trust the copy of said notice shall be posted in some conspicuous place on the property to be sold, at least twenty days before date of sale.

4. When the judgment under which the property is to be sold is made payable in a specified kind of money or currency, the several notices required by this section must state the kind of money or currency in which bids may be made at such sale, which must be the same as that specified in the judgment.

Selling without notice, penalty.

SEC. 361. SELLING WITHOUT NOTICE WHAT PENALTY ATTACHED.—An officer selling without the notice prescribed by the last section forfeits \$500 to the aggrieved party, in addition to his actual damages; and a person willfully taking down or defacing the notice posted, if done before the sale or the satisfaction of the judgment (if the judgment be satisfied before sale), forfeits \$500.

Sales, how conducted.

SEC. 362. SALES, HOW CONDUCTED; NEITHER THE OFFICER CONDUCTING IT NOR HIS DEPUTY TO BE A PURCHASER; REAL AND PERSONAL PROPERTY, HOW SOLD; JUDGMENT DEBTOR, IF PRESENT, MAY DIRECT ORDER OF SALE, AND THE OFFICER SHALL FOLLOW HIS DIRECTIONS.—All sales of property under execution must be made at auction, to the highest bidder, between the hours of nine in the morning and five in the afternoon. After sufficient property has been sold to satisfy the execution, no more can be sold. Neither the officer holding the execution nor his deputy can become a purchaser or be interested in any purchase at such sale. When the sale is of personal property, capable of manual delivery, it must be within view of those who attend the sale, and be sold in such parcels as are likely to bring the highest price; and when the sale is of real property, consisting of several known lots or parcels, they must be sold separately; or when a portion of such real property is claimed by a third person, and he requires it to be sold separately, such portion must be thus sold. The judgment debtor, if present at the sale, may also direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels, or of articles which can be sold to advantage separately, and the marshal must follow such directions.

Proceedings if purchaser refuses to pay purchase money.

SEC. 363. IF PURCHASER REFUSES TO PAY PURCHASE-MONEY, WHAT PROCEEDINGS.—If a purchaser refuse to pay the amount bid by him for property struck off to him at a sale under execution, the officer may again sell the property at any time to the highest bidder, and if any loss be occasioned thereby, the officer may recover the amount of such loss, with costs, from the bidder so refusing, in any court of competent jurisdiction.

SEC. 364. OFFICER MAY REFUSE SUCH PURCHASER'S SUBSEQUENT BID.—When a purchaser refuses to pay, the officer may, in his discretion, thereafter reject any subsequent bid of such person.

Refusal of purchaser's subsequent bid.

Liability of officer.

SEC. 365. THESE TWO SECTIONS NOT TO MAKE OFFICER LIABLE BEYOND A CERTAIN AMOUNT.—Sections 363 and 364 must not be construed to make the officer liable for any more than the amount bid by the second or subsequent purchaser, and the amount collected from the purchaser refusing to pay.

SEC. 366. PERSONAL PROPERTY CAPABLE OF MANUAL DELIVERY, HOW DELIVERED TO PURCHASER.—When the purchaser of any personal property capable of manual delivery pays the purchase-money, the officer making the sale must deliver to the purchaser the property, and, if desired, execute and deliver to him a certificate of the sale. Such certificate conveys to the purchaser all the right which the debtor had in such property on the day of ¹ the execution or attachment was levied.

Delivery of personal property.

SEC. 367. PERSONAL PROPERTY NOT CAPABLE OF MANUAL DELIVERY, HOW SOLD AND DELIVERED.—When the purchaser of any personal property not capable of manual delivery pays the purchase-money, the officer making the sale must execute and deliver to the purchaser a certificate of sale. Such certificate conveys to the purchaser all the right which the debtor had in such property on the day the execution or attachment was levied.

When not capable of manual delivery.

SEC. 368. SALE OF REAL PROPERTY; WHAT PURCHASER IS SUBSTITUTED TO AND ACQUIRES.—Upon a sale of real property, the purchaser is substituted to and acquires all the right, title, interest, and claim of the judgment debtor thereto on the date of the levy of the execution thereon. And in case property, real or personal, has been attached in the action, the purchaser is substituted to and acquires all the right, title, interest, and claim of the judgment debtor on or at any time after the day the attachment was levied upon such property.

Sale of real property, status of purchaser.

SEC. 369. WHEN SALES ARE ABSOLUTE; WHAT CERTIFICATE MUST SHOW.—Sales of personal property, and of real property, when the estate therein is less than a leasehold of two years' unexpired term, are absolute. In all other cases the property is subject to redemption, as provided in this subchapter. The officer must give to the purchaser a certificate of sale, and file a duplicate thereof for record in the office of the registrar of property, which certificate must state the date of the judgment under which the sale was made and the names of the parties thereto, and contain:

When sales absolute; what certificate must show.

1. A particular description of the real property sold;
2. The price bid for each distinct lot or parcel;
3. The whole price paid;
4. If the property is subject to redemption, the certificate must so declare, and if the redemption can be effected only in a particular kind of money or currency, that fact must be stated.

SEC. 370. REAL PROPERTY SO SOLD, BY WHOM IT MAY BE REDEEMED.—Property sold subject to redemption, as provided in section 369, or any part sold separately, may be redeemed in the manner hereinafter provided, by the following persons, or their successors in interest:

Redemption of real property so sold.

1. The judgment debtor, or his successor in interest, in the whole or any part of the property;
2. A creditor having a lien or mortgage on the property sold, or on some share or part thereof, subsequent to that on which the property was sold. The persons mentioned in the second subdivision of this section are, in this subchapter, termed redemptioners.

SEC. 371. WHEN IT MAY BE REDEEMED, AND REDEMPTION MONEY.—The judgment debtor, or redemptioner, may redeem the property from the purchaser any time within twelve months after the sale on

When may be redeemed; redemption money.

¹ So in original.

paying the purchaser the amount of his purchase, with 1 per cent per month thereon in addition, up to the time of redemption. And if the purchaser be also a creditor, having a prior lien to that of the redemptioner, other than the judgment under which said purchase was made, the amount of such lien with interest.

Another redemption-
er may redeem.

SEC. 372. ANOTHER REDEMPTIONER MAY REDEEM.—If property be so redeemed by a redemptioner, another redemptioner may, within sixty days after the last redemption, again redeem it from the last redemptioner, on paying the sum paid on such last redemption, with 2 per cent thereon in addition, and, in addition, the amount of any liens held by said redemptioner prior to his own, with interest; but the judgment under which the property was sold need not be so paid as a lien.

Selling property
again.

SELLING PROPERTY AGAIN.—The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty days after the last redemption, on paying the sum paid on the last previous redemption, with 2 per cent thereon in addition, and the amount of any liens, other than the judgment under which the property was sold, held by the last redemptioner previous to his own with interest.

Written notice to
marshal; to be filed
with registrar.

WRITTEN NOTICE TO MARSHAL; TO BE FILED WITH REGISTRAR.—Written notice of redemption must be given to the marshal and a duplicate filed with the registrar of property, and if the redemptioner has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the marshal and filed with the registrar; and if such notice be not filed, the property may be redeemed without paying such lien.

Marshal's deed.

MARSHAL'S DEED.—If no redemption be made within twelve months after the sale, the purchaser, or his assignee, is entitled to a conveyance; or if so redeemed, whenever sixty days have elapsed, and no other redemption has been made, and notice thereof given and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to a marshal's deed; but, in all cases, the judgment debtor shall have the entire period of twelve months from the date of the sale to redeem the property.

Redemption by judgment
debtor.

REDEMPTION BY JUDGMENT DEBTOR.—If the judgment debtor redeem, he must make the same payments as are required to effect a redemption by a redemptioner. If the debtor redeem, the effect of the sale is terminated and he is restored to his estate.

Certificate of redemption.

CERTIFICATE OF REDEMPTION.—Upon a redemption by the debtor, the person to whom the payment is made must execute and deliver to him a certificate of redemption, acknowledged or proved before an officer authorized to take acknowledgments. Such certificate must be filed and recorded in the office of the registrar of property, and the registrar must note the record thereof in the margin of the record of the certificate of sale.

Payments, in case of
redemption.
Post, p. 1029.

SEC. 373. IN CASES OF REDEMPTION, TO WHOM THE PAYMENTS ARE TO BE MADE.—The payments mentioned in sections 702 and 703¹ may be made to the purchaser or redemptioner, or for him, to the officer who made the sale. When the judgment under which the sale has been made is payable in a specified kind of money or currency, payments must be made in the same kind of money or currency, and a tender of the money is equivalent to payment.

Redemptioner's duties
to redeem.

SEC. 374. WHAT A REDEMPTIONER MUST DO IN ORDER TO REDEEM.—A redemptioner must produce to the officer or person from whom he seeks to redeem and serve with his notice to the marshal making the sale, or his successor in office:

1. A copy of the docket of the judgment under which he claims the right to redeem, certified by the clerk of the court, where the

¹ So in original.

judgment is docketed; or, if he redeem upon a mortgage or other lien, a note of the record thereof, certified by the registrar;

2. A copy of any assignment necessary to establish his claim, verified by the affidavit of himself, or of a subscribing witness thereto;

3. An affidavit by himself or his agent, showing the amount then actually due on the lien.

SEC. 375. UNTIL THE EXPIRATION OF REDEMPTION-TIME, COURT MAY RESTRAIN WASTE ON THE PROPERTY; WHAT CONSIDERED WASTE.—Until the expiration of the time allowed for redemption, the court may restrain the commission of waste on the property, by order granted with or without notice, on the application of the purchaser or the judgment creditor. But it is not waste for the person in possession of the property at the time of sale, or entitled to possession afterwards, during the period allowed for redemption, to continue to use it in the same manner in which it was previously used; or to use in the ordinary course of husbandry; or to make the necessary repairs of buildings thereon; or to use wood or timber on the property therefor; or for the repair of fences; or for fuel in his family, while he occupies the property.

Restraint of property waste.

SEC. 376. RENTS AND PROFITS.—The purchaser from the time of the sale until a redemption, and a redemptioner, from the time of his redemption until another redemption, is entitled to receive, from the tenant in possession, the rents of the property sold, or the value of the use and occupation thereof. But when any rents or profits have been received by the judgment creditor or purchaser, or his or their assigns, from the property thus sold preceding such redemption, the amounts of such rents and profits shall be a credit upon the redemption money to be paid; and if the redemptioner or judgment debtor, before the expiration of the time allowed for such redemption, demands in writing of such purchaser or creditor, or his assigns, a written and verified statement of the amounts of such rents and profits thus received, the period for redemption is extended five days after such sworn statement is given by such purchaser or his assigns, to such redemptioner or debtor. If such purchaser or his assigns shall, for a period of one month from and after such demand, fail or refuse to give such statement, such redemptioner or debtor may bring an action in any court of competent jurisdiction, to compel an accounting and disclosure of such rents and profits, and until fifteen days from and after the final determination of such action, the right of redemption is extended to such redemptioner or debtor.

Rents and profits.

SEC. 377. IF PURCHASER OF REAL PROPERTY BE EVICTED FOR IRREGULARITIES IN SALE, WHAT HE MAY RECOVER, AND FROM WHOM; WHEN JUDGMENT TO BE REVIVED; PETITION FOR THE PURPOSE, HOW AND BY WHOM MADE.—If the purchaser of real property sold on execution, or his successor in interest, be evicted therefrom in consequence of irregularities in the proceedings concerning the sale, or of the reversal or discharge of the judgment, he may recover the price paid, with interest, from the judgment creditor. If the purchaser of property at marshal's sale, or his successor in interest, fail to recover possession in consequence of irregularity in the proceedings concerning the sale, or because the property sold was not subject to execution and sale, the court having jurisdiction thereof must, after notice and on motion of such party in interest, or his attorney, revive the original judgment in the name of the petitioner, for the amount paid by such purchaser at the sale, with interest thereon from the time of payment at the same rate that the original judgment bore; and the

Recovery, etc., by evicted purchaser of real property.

Procedure.

judgment so revived has the same force and effect as would an original judgment of the date of the revival, and no more.

Contribution.
Who may compel.

SEC. 378. PARTY WHO PAYS MORE THAN HIS SHARE MAY COMPEL CONTRIBUTION.—When property, liable to an execution against several persons, is sold thereon, and more than a due proportion of the judgment is satisfied out of the proceeds of the sale of the property of one of them, or one of them pays, without a sale, more than his proportion, he may compel contribution from the others; and when a judgment is against several, and is upon an obligation of one of them, as security for another, and the surety pays the amount, or any part thereof, either by sale of his property or before sale, he may compel repayment from the principal. In such case the person so paying or contributing is entitled to the benefit of the judgment, to enforce contribution or repayment, if, within ten days after his payment, he file with the clerk of the court where the judgment was rendered, notice of his payment and claim to contribution or repayment. Upon a filing of such notice, the clerk must make an entry thereof in the margin of the docket.

Claimant may give
undertaking and re-
lease property.

SEC. 379. CLAIMANT OF PROPERTY MAY GIVE UNDERTAKING AND RELEASE PROPERTY.—Where property levied upon under execution to satisfy a judgment for the payment of money is claimed, in whole or in part, by a person, corporation, partnership or association, other than the judgment debtor, such claimant may give an undertaking as hereinafter provided, which undertaking shall release the property in the undertaking described from the lien and levy of such execution.

Claim of property;
undertaking, amount
and condition of.

SEC. 380. CLAIM OF PROPERTY; UNDERTAKING, AMOUNT AND CONDITIONS OF.—Such undertaking, with two sureties, shall be executed by the person, corporation, partnership or association, claiming in whole or in part, the property upon which execution is levied in double the estimated value of the property claimed by the person, corporation, partnership or association; provided, in no case need such undertaking be for a greater sum than double the amount for which the execution is levied; and where the estimated value of the property so claimed by the person, corporation, partnership or association is less than the sum for which such attachment is levied, such estimated value shall be stated in the undertaking, and said undertaking shall be conditioned that if the property claimed by the person, corporation, partnership or association is finally adjudged to be the property of the judgment debtor, said person, corporation, partnership or association will pay of said judgment upon which execution has issued a sum equal to the value, as estimated in said undertaking, of said property claimed by said person, corporation, partnership or association, and said property claimed shall be described in said undertaking.

Filing and serving
undertaking.

SEC. 381. CLAIM OF PROPERTY; UNDERTAKING, FILING, AND SERVING.—Said undertaking shall be filed in the action in which said execution issued, and a copy thereof served upon the judgment creditor or his attorney in said action.

Objections to.

SEC. 382. CLAIM OF PROPERTY; UNDERTAKING, OBJECTIONS TO.—Within ten days after the service of the copy of undertaking, the judgment creditor may object to such undertaking on the ground of inability of the sureties, or either of them, to pay the sum for which they become bound in said undertaking, and upon the ground that the estimated value of property therein is less than the market value of the property claimed. Such objection to the undertaking shall be made in writing, specifying the ground or grounds of objection, and if the objection is made to the undertaking that the estimated value therein is less than the market value of the property claimed,

such objection shall specify the judgment creditor's estimate of the market value of the property claimed. Such written objection shall be served upon the person, partnership, corporation, or association giving such undertaking and claiming the property therein described.

SEC. 383. CLAIM OF PROPERTY; JUSTIFICATION, APPROVAL, AND DISAPPROVAL.—When the sureties, or either of them, are objected to, the surety or sureties so objected to shall justify before the court out of which such execution issued, upon ten days' notice of the time when they will so justify being given to the judgment debtor or his attorney. Upon the hearing and examination into the sufficiency of a surety, witnesses may be required to attend and evidence may be procured and introduced in the same manner as in trial of civil cases. Upon such hearing and examination, the court shall make its order, in writing, approving or disapproving the sufficiency of the surety or sureties on such undertaking. In case the court disapproves of the surety or sureties on any undertaking, a new undertaking may be filed and served, and to any undertaking given under the provisions of sections 379 to 386, the same objection to the sureties may be made, and the same proceedings had as in case of the first undertaking filed and served.

Justification, approval, and disapproval.

SEC. 384. CLAIM OF PROPERTY; UNDERTAKING, ESTIMATE OF VALUE, AND NEW UNDERTAKINGS.—When objection is made to the undertaking upon the ground that the estimated value of the property claimed, as stated in the undertaking, is less than the market value of the property claimed, the person, corporation, partnership, or association may accept the estimated value stated by the judgment creditor in said objection, and a new undertaking may be at once filed with the judgment creditor's estimate stated therein as the estimated value, and no objection shall thereafter be made upon that ground; if the judgment creditor's estimate of the market value is not accepted, the person, corporation, partnership, or association giving the undertaking shall move the court in which the execution issued, upon ten days' notice to the judgment creditor, to estimate the market value of the property claimed and described in the undertaking, and upon the hearing of such motion witnesses may be required to attend and testify, and evidence be produced in the same manner as in the trial of civil actions. Upon the hearing of such motion, the court shall estimate the market value of the property described in the undertaking, and if the estimated value made by the court exceeds the estimated value as stated in the undertaking, a new understanding¹ shall be filed and served, with the market value determined by the court stated therein as the estimated value.

Undertaking, estimate of value, and new undertakings.

SEC. 385. CLAIM OF PROPERTY; UNDERTAKING, JUSTIFICATION OF SURETIES.—The sureties shall justify on the undertaking as required by section 533.

Undertaking, justification of sureties.

SEC. 386. CLAIM OF PROPERTY; UNDERTAKING, WHEN BECOMES EFFECTIVE.—The undertaking shall become effective for the purpose herein specified ten days after service of copy thereof on the judgment debtor, unless objection to such undertaking is made as herein provided, and in case objection is made to the undertaking filed and served, then the undertaking shall become effective for such purposes when an undertaking is given as herein provided.

When becomes effective.

PROCEEDINGS SUPPLEMENTAL TO EXECUTION

Proceedings supplemental to execution.

SEC. 387. DEBTOR REQUIRED TO ANSWER CONCERNING HIS PROPERTY, WHEN.—When an execution against property of the judgment debtor,

Debtor required to answer concerning his property, when.

¹ So in original.

or of any one of several debtors in the same judgment, issued to the marshal, is returned unsatisfied in whole or in part, the judgment creditor, at any time after such return is made, is entitled to an order from the judge of the court, requiring such judgment debtor to appear and answer concerning his property before such judge, or a referee appointed by him, at a time and place specified in the order.

Proceedings to compel debtor to appear; when may be arrested; bail.

SEC. 388. PROCEEDINGS TO COMPEL DEBTOR TO APPEAR; IN WHAT CASES HE MAY BE ARRESTED; WHAT BAIL MAY BE GIVEN.—After the issuing of an execution against property, and upon proof, by affidavit of a party or otherwise, to the satisfaction of the judge of the court, that any judgment debtor has property which he unjustly refuses to apply toward the satisfaction of the judgment, such judge may, by an order, require the judgment debtor to appear, at a specified time and place, before such judge, or a referee appointed by him, to answer concerning the same; and such proceedings may thereupon be had for the application of the property of the judgment debtor toward the satisfaction of the judgment as are provided upon the return of an execution. Instead of the order requiring the attendance of the judgment debtor, the judge may, upon affidavit of the judgment creditor, his agent or attorney, if it appear to him that there is danger of the debtor absconding, order the marshal to arrest the debtor and bring him before such judge. Upon being brought before the judge, he may be ordered to enter into an undertaking, with sufficient surety, that he will attend from time to time before the judge or referee, as may be directed during the pendency of proceedings and until the final termination thereof, and will not in the meantime dispose of any portion of his property not exempt from execution. In default of entering into such undertaking he may be committed to jail.

Any debtor of the judgment debtor may pay the latter's creditor.

SEC. 389. ANY DEBTOR OF THE JUDGMENT DEBTOR MAY PAY THE LATTER'S CREDITOR.—After the issuing of an execution against property, and before its return, any person indebted to the judgment debtor may pay to the marshal the amount of his debt, or so much thereof as may be necessary to satisfy the execution; and the marshal's receipt is a sufficient discharge for the amount so paid.

Examination of debtors of judgment debtor, etc.

SEC. 390. EXAMINATION OF DEBTORS OF JUDGMENT DEBTOR, OR OF THOSE HAVING PROPERTY BELONGING TO HIM.—After the issuing or return of an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, and upon proof by affidavit or otherwise, to the satisfaction of the judge, that any person or corporation has property of such judgment debtor, or is indebted to him in an amount exceeding \$50, the judge may, by an order, require such person or corporation, or any officer or member thereof, to appear at a specified time and place before him, or a referee appointed by him, and answer concerning the same.

Witnesses required to testify.

SEC. 391. WITNESSES REQUIRED TO TESTIFY.—Witnesses may be required to appear and testify before the judge or referee, upon any proceeding under this subchapter, in the same manner as upon the trial of an issue.

Judge may order property to be applied on execution.

SEC. 392. JUDGE MAY ORDER PROPERTY TO BE APPLIED ON EXECUTION.—The judge or referee may order any property of the judgment debtor, not exempt from execution, in the hands of such debtor, or any other person, or due to the judgment debtor, to be applied toward the satisfaction of the judgment; but no such order can be made as to money or property in the hands of any other person or claimed to be due from him to the judgment debtor, if such person claims an interest in the property adverse to the judgment debtor or denies the debt.

SEC. 393. PROCEEDINGS UPON CLAIM OF ANOTHER PARTY.—If it appears that a person or corporation, alleged to have property of the judgment debtor, or to be indebted to him, claims an interest in the property adverse to him, or denies the debt, the judgment creditor may maintain an action against such person or corporation for the recovery of such interest or debt; and the court or judge may, by order, forbid a transfer or other disposition of such interest or debt, until an action can be commenced and prosecuted to judgment. Such order may be modified or vacated by the judge granting the same, or the court in which the action is brought, at any time, upon such terms as may be just.

Proceedings upon claim of another party.

SEC. 394. DISOBEDIENCE OF ORDERS, HOW PUNISHED.—If any person, party, or witness disobey an order of the referee, properly made, in the proceedings before him under this subchapter, he may be punished by the court or judge ordering the reference, for a contempt.

Punishment for disobedience of orders.

CHAPTER 13.—ACTIONS IN PARTICULAR CASES

ACTIONS IN PARTICULAR CASES.

ACTIONS FOR FORECLOSURE OF MORTGAGES

Foreclosure of mortgages.

Proceedings.

SEC. 395. PROCEEDINGS IN FORECLOSURE SUITS.—There can be but one action for the recovery of any debt, or the enforcement of any right secured by mortgage upon real or personal property, which action must be in accordance with the provisions of this subchapter. In such action the court may, by its judgment, direct the sale of the encumbered property (or so much thereof as may be necessary), and the application of the proceeds of the sale to the payment of the costs of court, and the expenses of the sale, and the amount due plaintiff, including, where the mortgage provides for the payment of attorney's fees, such sum for such fees as the court shall find reasonable, not exceeding the amount named in the mortgage.

The court may, by its judgment, or at any time after judgment, appoint a commissioner to sell the encumbered property. It must require of him an undertaking in an amount fixed by the court, with sufficient sureties, to be approved by the judge, to the effect that the commissioner will faithfully perform the duties of his office according to law. Before entering upon the discharge of his duties he must file such undertaking, so approved, together with his oath that he will faithfully perform the duties of his office.

If it appear from the marshal's return, or from the commissioner's report, that the proceeds are insufficient, and a balance still remains due, judgment must then be docketed by the clerk in the manner provided in this code for such balance against the defendant or defendants personally liable for the debt. No person holding a conveyance from or under the mortgager of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record in the office of the registrar of property at the time of the commencement of the action, need be made a party to such action, and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding such unrecorded conveyance or lien as if he had been a party to the action.

If the court appoint a commissioner for the sale of the property, he must sell it in the manner provided by law for the sale of like property by the marshal upon execution; and the provisions of sections 349 to 386 are hereby made applicable to sale made by such commissioner, and the powers therein given and the duties therein imposed on the marshal are extended to such commissioner.

Ante, p. 968.

SEC. 396. SURPLUS MONEY TO BE DEPOSITED IN COURT.—If there be surplus money remaining, after payment of the amount due on the

Surplus money to be deposited in court.

mortgage, lien, or encumbrance, with costs, the court may cause the same to be paid to the person entitled to it, and in the meantime may direct it to be deposited in court.

When debt secured falls due at different times.

SEC. 397. PROCEEDINGS WHEN DEBT SECURED FALLS DUE AT DIFFERENT TIMES.—If the debt for which the mortgage, lien, or encumbrance is held is not all due, so soon as sufficient of the property has been sold to pay the amount due, with costs, the sale must cease, and afterwards, as often as more becomes due, for principal or interest, the court may, on motion, order more to be sold. But if the property can not be sold in portions, without injury to the parties, the whole may be ordered to be sold in the first instance, and the entire debt and costs paid, there being a rebate of interest where such rebate is proper.

Commissioner's oath, bond, report, and compensation.

SEC. 398. COMMISSIONER'S OATH, BOND, REPORT, AND COMPENSATION.—The commissioner, before entering upon his duties, must be sworn to perform them faithfully, and the court making the appointment shall require of him an undertaking, with sufficient sureties, to be approved by the court, in an amount to be fixed by the court, to the effect that he will faithfully perform the duties of commissioner, according to law. Within thirty days after such sale, the commissioner must file with the clerk of the court in which the action is pending, a verified report and account of the sale, together with the proper affidavits, showing that the regular and required notice of the time and place of the sale was given, which report and account shall have the same force and effect as the marshal's return in sales under execution. In all cases of sales made by a commissioner, the court in which the proceedings are pending shall fix a reasonable compensation for the commissioner's services, but in no case to be less than the sum of \$10.

Actions for nuisance and waste.

ACTIONS FOR NUISANCE AND WASTE

Nuisance defined; abatement, by whom actions instituted.

SEC. 399. NUISANCE DEFINED; ABATEMENT OF; ACTIONS INSTITUTED, BY WHOM.—An action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by a nuisance, as the same is defined in section 1685 of the Civil Code, and by the judgment in such action the nuisance may be enjoined or abated as well as damages recovered therefor. A civil action may be brought in the name of the Government of the Canal Zone to abate a public nuisance, as the same is defined in section 1686 of the Civil Code, by the district attorney.

Actions for waste.

SEC. 400. WASTE, ACTIONS FOR.—If a guardian, tenant for life or years, joint tenant, or tenant in common of real property, commit waste thereon, any person aggrieved by the waste may bring an action against him therefor, in which action there may be judgment for treble damages.

Conflicting claims to property; real estate.

ACTIONS TO DETERMINE CONFLICTING CLAIMS TO PROPERTY, AND OTHER PROVISIONS RELATING TO ACTIONS CONCERNING REAL ESTATE

To quiet title.

SEC. 401. ACTION TO QUIET TITLE TO REAL AND PERSONAL PROPERTY.—An action may be brought by any person against another who claims an estate or interest in real or personal property adverse to him, for the purpose of determining such adverse claim; provided, however, that whenever in an action to quiet title to, or to determine adverse claims to, real or personal property, the validity or interpretation of any gift, devise, bequest, or trust, under any will or instrument purporting to be a will, whether admitted to probate or not, shall be

Claim arising under will.

involved, such will, or instrument purporting to be a will, is admissible in evidence; and all questions concerning the validity of any gift, devise, bequest, or trust therein contained, save such as belong exclusively to the probate jurisdiction, shall be determined in such action: *Provided*, That if the said will shall have been admitted to probate and interpreted by a decree of the district court, which decree has become final, such interpretation shall be conclusive as to the proper construction of said will, or any part thereof, so construed, in any action under this section: *And provided, however*, That nothing herein contained shall be construed to deprive a party of the right to a jury trial in any case where by the law such right is now given.

Provisos.
Construction of will.

Jury trials.

When plaintiff can not recover costs.

SEC. 402. WHEN PLAINTIFF CAN NOT RECOVER COSTS.—If the defendant in such action disclaim in his answer any interest or estate in the property, or suffer judgment to be taken against him without answer, the plaintiff can not recover costs.

SEC. 403. WHERE PLAINTIFF'S RIGHT TERMINATES PENDING SUIT, WHAT HE MAY RECOVER.—In an action for the recovery of property, where the plaintiff shows a right to recover at the time the action was commenced, but it appears that his right has terminated during the pendency of the action, the verdict and judgment must be according to the fact, and the plaintiff may recover damages for withholding the property.

Where plaintiff's right terminates pending suit, what he may recover.

SEC. 404. WHEN VALUE OF IMPROVEMENTS CAN BE ALLOWED AS A SET-OFF.—When damages are claimed for withholding the property recovered, upon which permanent improvements have been made by a defendant, or those under whom he claims, holding under color of title adversely to the claim of the plaintiff, in good faith, the value of such improvements must be allowed as a set-off against such damages.

When value of improvements can be allowed as set-off.

SEC. 405. AN ORDER MAY BE MADE TO ALLOW A PARTY TO SURVEY AND MEASURE THE LAND IN DISPUTE.—The court in which an action is pending for the recovery of real property, or for damages for an injury thereto, or the judge thereof may, on motion, upon notice by either party for good cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof, for the purpose of the action, even though entry for such purpose has to be made through other lands belonging to parties to the action.

Surveying, etc., land in dispute.

SEC. 406. ORDER, WHAT TO CONTAIN, AND HOW SERVED; IF UNNECESSARY INJURY DONE, THE PARTY SURVEYING TO BE LIABLE THEREFOR.—The order must describe the property, and a copy thereof must be served on the owner or occupant; and thereupon such party may enter upon the property, with necessary surveyors and assistants, and make such survey and measurements; but if any unnecessary injury be done to the property he is liable therefor.

Order, what to contain, service; liability for unnecessary injury.

SEC. 407. A MORTGAGE MUST NOT BE DEEMED A CONVEYANCE, WHATEVER ITS TERMS.—A mortgage of real property shall not be deemed a conveyance, whatever its terms, so as to enable the owner of the mortgage to recover possession of the real property without a foreclosure and sale.

Mortgage not a conveyance, whatever its terms.

SEC. 408. WHEN COURT MAY GRANT INJUNCTION DURING FORECLOSURE OR AFTER SALE ON EXECUTION, BEFORE CONVEYANCE.—The court may, by injunction, on good cause shown, restrain the party in possession from doing any act to the injury of real property during the foreclosure of a mortgage thereon; or, after a sale on execution, before a conveyance.

Injunction during foreclosure or after sale on execution, before conveyance.

Recovery of damages.

SEC. 409. DAMAGES MAY BE RECOVERED FOR INJURY TO THE POSSESSION AFTER SALE AND BEFORE DELIVERY OF POSSESSION.—When real property has been sold on execution, the purchaser thereof, or any person who may have succeeded to his interest, may, after his estate becomes absolute, recover damages for injury to the property by the tenant in possession after sale, and before possession is delivered under the conveyance.

Action not to be prejudiced by alienation pending suit.

SEC. 410. ACTION NOT TO BE PREJUDICED BY ALIENATION PENDING SUIT.—An action for the recovery of real property against a person in possession can not be prejudiced by any alienation made by such person, either before or after the commencement of the action.

PROCEEDINGS IN MAGISTRATES' COURTS.

CHAPTER 14.—PROCEEDINGS IN MAGISTRATES' COURTS

Place of trial.

PLACE OF TRIAL OF ACTIONS IN MAGISTRATES' COURTS

Where actions must be commenced.

SEC. 411. ACTIONS, WHERE MUST BE COMMENCED.—Actions in magistrates' courts must be commenced, and, subject to the right to change the place of trial, as in this subchapter provided, must be tried:

1. In the subdivision in which the defendant resides;
2. When two or more persons are jointly, or jointly and severally, bound in any debt or contract, or otherwise jointly liable in the same action, and reside in different subdivisions—in either subdivision;
3. In cases of injury to the person or property—in the subdivision where the injury was committed, or where the defendant resides;
4. If for the recovery of personal property, or the value thereof, or damages for taking or detaining the same—in the subdivision in which the property may be found, or in which the property was taken, or in which the defendant resides;
5. When the defendant is a nonresident of the Canal Zone—in either subdivision;
6. When a person has contracted to perform an obligation at a particular place, and resides in the other subdivision—in the subdivision in which such obligation is to be performed, or in which he resides; and the subdivision in which the obligation is incurred is deemed to be the subdivision in which it is to be performed, unless there is a special contract in writing to the contrary;
7. When the parties voluntarily appear and plead without summons—in either subdivision;
8. In all other cases—in the subdivision in which the defendant resides.

Change of venue.

SEC. 412. PLACE OF TRIAL MAY BE CHANGED IN CERTAIN CASES.—The court may, at any time before the trial, on motion, change the place of trial in the following cases:

1. When it appears to the satisfaction of the magistrate before whom the action is pending, by affidavit of either party, that such magistrate is a material witness for either party;
2. When either party makes and files an affidavit that he believes that he can not have a fair and impartial trial before such magistrate, by reason of the interest, prejudice, or bias of the magistrate;
3. When, from any cause, the magistrate is disqualified from acting.

Proceedings thereafter.

SEC. 413. PROCEEDINGS AFTER ORDER CHANGING PLACE OF TRIAL.—After an order has been made, transferring the action for trial to another court, the following proceedings must be had:

1. The magistrate ordering the transfer must immediately transmit to the magistrate of the court to which it is transferred, on payment

by the party applying of all the costs that have accrued, all the papers in the action, together with a certified transcript from his docket of the proceedings therein;

2. Upon the receipt by him of such papers, the magistrate to whom the case is transferred has thereafter the same jurisdiction over the action as though it had been commenced in his court.

MANNER OF COMMENCING ACTIONS IN MAGISTRATES' COURTS

Actions in magistrates' courts.

SEC. 414. ACTIONS, HOW COMMENCED.—An action in a magistrate's court is commenced by filing a complaint.

Complaint.

SEC. 415. SUMMONS MAY ISSUE WITHIN A YEAR.—The court must indorse on the complaint the date upon which it was filed, and at any time within one year thereafter the plaintiff may have summons issued.

Summons.

SEC. 416. DEFENDANT MAY WAIVE SUMMONS.—At any time after the complaint is filed the defendant may, in writing, or by appearing and pleading, waive the issuing of summons.

Waiver of, by defendant.

SEC. 417. PARTIES MAY APPEAR IN PERSON OR BY ATTORNEY.—Parties in magistrates' courts may appear and act in person or by attorney.

Appearance.

SEC. 418. WHEN GUARDIAN NECESSARY, HOW APPOINTED.—When an infant, insane, or incompetent person is a party, he must appear either by his general guardian, if he have one, or by a guardian ad litem appointed by the magistrate. When a guardian ad litem is appointed by the magistrate, he must be appointed as follows:

Appointment of guardian.

1. If the infant, insane, or incompetent person, be plaintiff, the appointment must be made before the summons is issued, upon the application of the infant, if he be of the age of fourteen years; if under that age, or if insane, or incompetent, upon the application of a relative or friend.

2. If the infant, insane, or incompetent person, be defendant, the appointment must be made at the time the summons is returned, or before the answer, upon the application of the infant, if he be of the age of fourteen years and apply at or before the summons is returned; if he be under the age of fourteen, or be insane or incompetent, or neglect so to apply, then upon the application of a relative or friend, or any other party to the action, or by the magistrate on his own motion.

SEC. 419. SUMMONS, HOW ISSUED, DIRECTED, AND WHAT TO CONTAIN.—The summons must be directed to the defendant, signed by the magistrate, and must contain:

Summons.

1. The title of the court, name of the subdivision in which the action is brought, and the names of the parties thereto;

2. A direction that the defendant appear and answer before the magistrate, as specified in section 420;

3. A notice that unless the defendant so appear and answer, the plaintiff will take judgment for any money or damages demanded in the complaint, as arising upon contract, or will apply to the court for the relief demanded in the complaint. If the plaintiff appears by attorney, the name of the attorney must be indorsed upon the summons.

SEC. 420. TIME FOR APPEARANCE OF DEFENDANT.—The time specified in the summons for the appearance of the defendant must be as follows:

Time for appearance of defendant.

1. If an order of arrest is indorsed upon the summons, forthwith;

2. In all other cases, within five days, if the summons is served in the subdivision, in which the action is brought; within ten days, if served in the other subdivision.

Alias summons.

SEC. 421. ALIAS SUMMONS.—If the summons is returned without being served upon any or all of the defendants, or if it has been lost, the magistrate, upon the demand of the plaintiff, may issue an alias summons, in the same form as the original, except that he may fix the time for the appearance of the defendant at a period not to exceed ninety days from its date.

SEC. 422. SAME.—The magistrate may, within a year from the date of the filing of the complaint, issue as many alias summonses as may be demanded by the plaintiff.

Service of, outside of subdivision.

SEC. 423. SERVICE OF SUMMONS OUTSIDE OF SUBDIVISION.—The summons can not be served out of the subdivision wherein the action is brought, except in the following cases:

1. When the action is upon the joint contract or obligation of two or more persons, one of whom resides within the subdivision;

2. When the action is brought against a party who has contracted in writing to perform an obligation at a particular place, and resides in the other subdivision;

3. When the action is for injury to person or property, and the defendant resides in the other subdivision;

4. In all cases where the defendant was a resident of the subdivision when the action was brought, or when the obligation was incurred, and thereafter departed therefrom, in which event he may be served wherever he may be found;

5. In actions of forcible entry and detainer, or to enforce and foreclose liens on, or to recover possession of, personal property situated within the subdivision.

By whom and how served and returned.

SEC. 424. SUMMONS, BY WHOM AND HOW SERVED AND RETURNED.—The summons may be served by the constable of either of the Magistrates' Courts of the Canal Zone or by any other person of the age of eighteen years or over not a party to the action. When a summons issued by a magistrate is to be served out of the subdivision in which it is issued the summons must be served and returned as provided in chapter 8 of this code, or it may be served by publication and sections 121 and 122 so far as they relate to the publication of summons are made applicable to magistrates' courts, the word magistrate being substituted for the word judge wherever the latter word occurs.

Ante, p. 924.

Notice of hearing in magistrates' courts.

SEC. 425. NOTICE OF HEARING IN MAGISTRATES' COURTS.—When all the parties served with process shall have appeared, or some of them have appeared, and the remaining defendants have made default, the magistrate must fix the day for the trial of said cause, and give notice thereof to the parties to the action who have appeared, but in case any of the parties are represented by an attorney, then to such attorney: *Provided, however*, That where a party has appeared in person, such party shall leave with the magistrate or magistrate's clerk, and the same shall be entered upon the register in the action, an address where service of the notice of hearing of such matter may be made: *Provided, further*, That such notice shall be personally served on said person if he can be found at said address, but in case said person can not, after due diligence, be found at said address and such fact appears by affidavit to the satisfaction of the magistrate, then the service of such notice may be by registered mail and in the manner hereinafter provided for service of notice by mail. Such notice shall be in writing, signed by the magistrate, and substantially in the following form, filling blanks according to the facts:

Provisos.
Address of party appearing in person.

Service of notice.

FORM OF NOTICE.—In the magistrate’s court, subdivision of _____, Canal Zone.

Form of notice.

“ _____ plaintiff, v. _____ defendant

“ To _____ plaintiff, or _____ attorney for plaintiff, and to defendant, or _____ attorney for defendant:

“ You and each of you will please take notice that the undersigned magistrate before whom the above-entitled cause is pending, has set for hearing the demurrer of _____, filed in said cause (or has set the said cause for trial, as the case may be), before me at _____, at _____ o’clock — m., on the _____ day of _____, 19—.

“ Dated this _____ day of _____, 19—.

“(Signed) _____,

“ Magistrate.”

SERVICE; SERVICE BY MAIL.—Said notice shall be served by mail or personally. When served by mail the magistrate shall deposit copies thereof in a sealed envelope in the post office at least ten days before the trial or hearing addressed to each of the persons on whom it is to be served at their place of residence: *Provided*, That such notice shall be served by mail only when the person on whom service is to be made resides out of the subdivision in which said magistrate’s court is situated, or is absent therefrom or has appeared in person. When personally served said notice shall be served at least five days before the trial or hearing on the persons on whom it is to be served by any person competent and qualified to serve a summons in a magistrate’s court, and when personally served it shall be served, returned and filed in like manner as a summons. When a party has appeared by attorney the notice may be served in the manner prescribed by subdivision 1 of section 515.

Service by mail.

Proviso.
When to be resorted to.

Post, p. 990.

Docket entries.

DOCKET ENTRIES.—The magistrate shall enter on his docket the date of trial or hearing; and when such notice shall have been served by mail the magistrate shall enter on his docket the date of mailing such notice of trial or hearing and such entry shall be prima facie evidence of the fact of such service. The parties are entitled to one hour in which to appear after the time fixed in said notice, but are not bound to remain longer than that time unless both parties have appeared and the magistrate being present is engaged in the trial of another cause.

PLEADINGS IN MAGISTRATES’ COURTS

Pleadings in magistrates’ courts.

SEC. 426. FORM OF PLEADINGS.—Pleadings in magistrates’ courts—

Form.

1. Are not required to be in any particular form, but must be such as to enable a person of common understanding to know what is intended;

2. May, except the complaint, be oral or in writing;

3. Need not be verified, unless otherwise provided in this chapter;

4. If in writing, must be filed with the magistrate;

5. If oral, an entry of their substance must be made in the docket.

SEC. 427. PLEADINGS IN MAGISTRATES’ COURTS.—The pleadings are:

1. The complaint by the plaintiff;

2. The demurrer to the complaint;

3. The answer by the defendant;

4. The demurrer to the answer.

SEC. 428. COMPLAINT DEFINED.—The complaint in magistrates’ courts is a concise statement, in writing, of the facts constituting the plaintiff’s cause of action; or a copy of the account, note, bill, bond, or instrument upon which the action is based.

“Complaint” defined.

Demurrer.

SEC. 429. WHEN DEMURRER TO COMPLAINT MAY BE PUT IN.—The defendant may, at any time before answering, demur to the complaint.

Answer.

SEC. 430. ANSWER, WHAT TO CONTAIN.—The answer may contain a denial of any or all of the material facts stated in the complaint, which the defendant believes to be untrue, and also a statement, in a plain and direct manner, of any other facts constituting a defense or counterclaim, upon which an action might be brought by the defendant against the plaintiff, or his assignor, in a magistrate's court.

Counterclaim.

SEC. 431. IF THE DEFENDANT OMIT TO SET UP COUNTERCLAIM.—If the defendant omit to set up a counterclaim in the cases mentioned in section 430, neither he nor his assignee can afterwards maintain an action against the plaintiff therefor.

Demurrer to answer.

SEC. 432. WHEN PLAINTIFF MAY DEMUR TO ANSWER.—When the answer contains new matter in avoidance, or constituting a defense or a counterclaim, the plaintiff may, at any time before the trial, demur to the same for insufficiency, stating therein the grounds of such demurrer.

When affirmative judgment may be rendered.

SEC. 433. WHEN AFFIRMATIVE JUDGMENT MAY BE RENDERED FOR DEFENDANT.—Affirmative judgment may be rendered for the defendant on his cross-complaint (counterclaim) whenever the defendant proves that he is entitled to more than the plaintiff has proven or whenever the plaintiff fails to prove that he is entitled to any judgment.

Proceedings on demurrer.

SEC. 434. THE PROCEEDINGS ON DEMURRER.—The proceedings on demurrer are as follows:

1. If the demurrer to the complaint is sustained, the plaintiff may, within such time, not exceeding two days, as the court allows, amend his complaint;

2. If the demurrer to a complaint is overruled, the defendant may answer forthwith;

3. If the demurrer to an answer is sustained, the defendant may amend his answer within such time, not exceeding two days, as the court may allow;

4. If the demurrer to an answer is overruled, the action must proceed as if no demurrer had been interposed.

Amendment of pleadings.

SEC. 435. AMENDMENT OF PLEADINGS.—Either party may, at any time before the conclusion of the trial, amend any pleading; but if the amendment is made after the issue, and it appears to the satisfaction of the court, by oath, that an adjournment is necessary to the adverse party in consequence of such amendment, an adjournment must be granted. The court may also, in its discretion, when an adjournment will by the amendment be rendered necessary, require as a condition to the allowance of such amendment, made after issue joined, the payment of costs to the adverse party.

Relief against judgment.

RELIEF AGAINST JUDGMENT.—The court may also, on such terms as may be just, and on payment of costs, relieve a party from a judgment by default taken against him by his mistake, inadvertence, surprise, or excusable neglect, but the application for such relief must be made within ten days after notice of the entry of the judgment and upon an affidavit showing good cause therefor.

Answer or demurrer to amended pleadings.

SEC. 436. ANSWER OR DEMURRER TO AMENDED PLEADINGS.—When a pleading is amended, the adverse party may answer or demur to it within such time, as the court may allow, not exceeding five days after notice of the amendment.

PROVISIONAL REMEDIES IN MAGISTRATES' COURTS
ARREST AND BAIL

Provisional remedies
in magistrates' courts.
Arrest and bail.

Order of arrest;
arrest of defendant.

SEC. 437. ORDER OF ARREST, AND ARREST OF DEFENDANT.—An order to arrest the defendant may be indorsed on a summons issued by the magistrate, and the defendant may be arrested thereon by the constable, at the time of serving the summons, and brought before the magistrate, and there detained until duly discharged, in the following cases:

1. In an action for the recovery of money or damages on a cause of action arising upon contract, express, or implied, when the defendant is about to depart from the Canal Zone, with intent to defraud his creditors;

2. In an action for a fine or penalty, or for money or property embezzled or fraudulently misapplied, or converted to his own use by one who received it in a fiduciary capacity;

3. When the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought;

4. When the defendant has removed, concealed, or disposed of his property, or is about to do so, with intent to defraud his creditors.

SEC. 438. AFFIDAVIT AND UNDERTAKING FOR ORDER OF ARREST.—Before an order for an arrest can be made, the party applying must prove to the satisfaction of the magistrate by the affidavit of himself, or some other person, the facts upon which the application is founded. The plaintiff must also execute and deliver to the magistrate a written undertaking in the sum of \$300, with sufficient sureties, to the effect that the plaintiff will pay all costs that may be adjudged to the defendant, and all damages which he may sustain by reason of the arrest, if the same be wrongful, or without sufficient cause, not exceeding the sum specified in the undertaking.

Affidavit and under-
taking for order of
arrest.

SEC. 439. A DEFENDANT ARRESTED MUST BE TAKEN BEFORE THE MAGISTRATE IMMEDIATELY.—The defendant, immediately upon being arrested, must be taken before the magistrate who made the order, and if he is absent or unable to try the action, or if it appears to him by the affidavit of the defendant that he is a material witness in the action, the officer must immediately take the defendant before the magistrate of the other subdivision, who must take jurisdiction of the action and proceed thereon, as if the summons had been issued and the order of arrest made by him.

Appearance of de-
fendant.

SEC. 440. THE OFFICER MUST GIVE NOTICE TO THE PLAINTIFF OF ARREST.—The officer making the arrest must immediately give notice thereof to the plaintiff, or his attorney or agent, and indorse on the summons, and subscribe a certificate, stating the time of serving the same, the time of the arrest, and of his giving notice to the plaintiff.

Notice to plaintiff of
arrest.

SEC. 441. THE OFFICER MUST DETAIN THE DEFENDANT.—The officer making the arrest must keep the defendant in custody until he is discharged by order of the magistrate.

Detention of defend-
ant.

ATTACHMENT

Attachment.

Issue of writ.

SEC. 442. ISSUE OF WRIT OF ATTACHMENT.—A writ to attach the property of the defendant must be issued by the magistrate at the time of or after issuing summons in actions in which the sum claimed exclusive of interest exceeds \$10, on receiving an affidavit by or on behalf of the plaintiff, showing the same facts as are required to be shown by the affidavit specified in section 221.

Undertaking on; ex-
ceptions to sureties.

SEC. 443. ATTACHMENT, UNDERTAKING ON; EXCEPTIONS TO SURETIES.—Before issuing the writ, the magistrate must require a written under-

taking on the part of the plaintiff, with two or more sufficient sureties, in a sum not less than \$50 nor more than \$300, to the effect that if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking. At any time after the issuing of the attachment, but not later than five days after the notice of its levy, the defendant may except to the sufficiency of the sureties. If he fails to do so, he is deemed to have waived all objections to them. When excepted to they must justify in the manner and within the time provided in section 222, otherwise the magistrate must order the writ of attachment vacated.

Ante, p. 944.

To whom writ directed; requirements.

SEC. 444. TO WHOM WRIT DIRECTED; WHAT TO REQUIRE.—The writ must be directed to the constable and must require him to attach and safely keep all of the property of the defendant within his subdivision not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against the defendant, the amount of which must be stated in conformity with the complaint, unless the defendant, whose property has been or is about to be attached, give him security by the undertaking of two sufficient sureties, in an amount sufficient to satisfy such demand against such defendant besides costs; in which case to take such undertaking.

In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in such action may give the constable such undertaking, and the constable shall take the same, and such undertaking shall not subject such defendant to or be answerable for any demand against any other defendant, nor shall the constable thereby be prevented from attaching or be obliged to release from attachment, any property of any other defendant: *Provided, however*, That such defendant, at the time of giving such undertaking to the constable, shall file with the constable a statement duly verified under oath, wherein such defendant shall aver and declare that the other defendant or defendants in the action in which said undertaking was given has or have not any interest or claim of any nature whatsoever in or to said property. Such statement must further contain the character of such defendant's title and the manner in which he acquired title to such attached property.

Proviso.
Sworn statement to be filed.

Service out of subdivision.

SERVICE OUT OF SUBDIVISION.—A writ may be issued at the same time to the constable of the other subdivision.

Provisions applicable to all attachments in magistrates' courts.
Ante, pp. 926, 944.

SEC. 445. CERTAIN PROVISIONS APPLY TO ALL ATTACHMENTS IN MAGISTRATES' COURTS.—Section 121 and sections 224 to 243, both inclusive, of this code are applicable to attachments issued in magistrates' courts, the word "constable" being substituted for the word "marshal," and the word "magistrate" being substituted for the word "judge."

Claim and delivery of personal property.

CLAIM AND DELIVERY OF PERSONAL PROPERTY

How enforced.

SEC. 446. HOW CLAIM AND DELIVERY ENFORCED.—In an action to recover possession of personal property, the plaintiff may, at the time of issuing summons or at any time thereafter before answer, claim the delivery of such property to him; and the sections of this code from section 202 to section 213, both inclusive, are applicable to such claim when made in magistrates' courts, the powers therein given and duties imposed on the marshal being extended to constables, and the word "magistrate" substituted for "judge."

Ante, p. 939.

JUDGMENT BY DEFAULT IN MAGISTRATES' COURTS

Judgment by default.

Failure of defendant to appear.

SEC. 447. JUDGMENT WHEN DEFENDANT FAILS TO APPEAR.—If the defendant fails to appear and to answer or demur within the time specified in the summons, then, upon proof of service of summons, the following proceedings must be had:

1. If the action is based upon a contract, and is for the recovery of money, or damages only, the court must render judgment in favor of plaintiff for the sum specified in the summons.

2. In all other actions the court must hear the evidence offered by the plaintiff, and must render judgment in his favor for such sum (not exceeding the amount stated in the summons), as appears by such evidence to be just.

SEC. 448. JUDGMENT BY DEFAULT.—In the following cases the same proceedings must be had and judgment must be rendered in like manner as if the defendant had failed to appear and answer, or demur:

Other cases, when must be rendered.

1. If the complaint has been amended, and the defendant fails to answer it, as amended, within the time allowed by the court;

2. If the demurrer to the complaint is overruled, and the defendant fails to answer within the time allowed by the court, not to exceed five days;

3. If the demurrer to the answer is sustained and the defendant fails to amend the answer within the time allowed by the court.

TIME OF TRIAL AND POSTPONEMENTS IN MAGISTRATES' COURTS

Time of trial and postponements.

Commencement.

SEC. 449. TIME WHEN TRIAL MUST BE COMMENCED.—Unless postponed, as provided in this subchapter, or unless transferred to the other subdivision, the trial of the action must commence at the expiration of one hour from the time specified in the notice mentioned in section 425, and the trial must be continued, without adjournment for more than twenty-four hours at any one time, until all the issues therein are disposed of.

SEC. 450. WHEN COURT MAY, OF ITS OWN MOTION, POSTPONE TRIAL.—The court may, of its own motion, postpone the trial—

Postponement.

1. For not exceeding one day, if, at the time fixed by law or by an order of the court for the trial, the court is engaged in the trial of another action;

2. For not exceeding two days, if, by an amendment of the pleadings, or the allowance of time to make such amendment or to plead, a postponement is rendered necessary.

SEC. 451. POSTPONEMENT BY CONSENT.—The court may, by consent of the parties, given in writing or in open court, postpone the trial to a time agreed upon by the parties.

By consent.

SEC. 452. POSTPONEMENT UPON APPLICATION OF A PARTY.—The trial may be postponed upon the application of either party, for a period not exceeding four months:

Upon application of a party.

1. The party making the application must prove, by his own oath or otherwise, that he can not, for want of material testimony, which he expects to procure, safely proceed to trial, and must show in what respect the testimony expected is material, and that he has used due diligence to procure it and has been unable to do so;

2. If the application is on the part of the plaintiff, and the defendant is under arrest, a postponement for more than three hours discharges the defendant from custody, but the action may proceed notwithstanding, and the defendant is subject to arrest on execution, in the same manner as if he had not been discharged;

3. If the application is on the part of a defendant under arrest, before it can be granted he must execute an undertaking, with two or more sufficient sureties, to be approved by, and in a sum to be fixed by, the justice, to the effect that he will render himself amenable to the process of the court during the pendency of the action, and to such as may be issued to enforce the judgment therein; or that the sureties will pay to the plaintiff the amount of any judgment which he may recover in the action, not exceeding the amount specified in the undertaking. On filing the undertaking specified in this subdivision, the magistrate must order the defendant to be discharged from custody.

4. The party making the application must, if required by the adverse party, consent that the testimony of any witness of such adverse party, who is in attendance, may be then taken by deposition before the magistrate, and that the testimony so taken may be read on the trial, with the same effect, and subject to the same objections, as if the witness was produced;

But the court may require the party making the application to state, upon affidavit, the evidence which he expects to obtain; and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial must not be postponed.

Limitation on continuance.

SEC. 453. NO CONTINUANCE FOR MORE THAN TEN DAYS TO BE GRANTED, UNLESS UPON FILING OF UNDERTAKING.—No adjournment must, unless by consent, be granted for a period longer than ten days, upon the application of either party, except upon condition that such party file an undertaking, in an amount fixed by the magistrate, with two sureties, to be approved by the magistrate, to the effect that they will pay to the opposite party the amount of any judgment which may be recovered against the party applying, not exceeding the sum specified in the undertaking.

Trials in magistrates' courts.

TRIALS IN MAGISTRATES' COURTS

"Issue" defined.

SEC. 454. ISSUE DEFINED, AND THE DIFFERENT KINDS.—Issues arise upon the pleadings when a fact or conclusion of law is maintained by the one party and is controverted by the other. They are of two kinds:

Kinds.

1. Of law; and,
2. Of fact.

How raised. Issue of law.

SEC. 455. ISSUE OF LAW, HOW RAISED.—An issue of law arises upon a demurrer to the complaint or answer, or to some part thereof.

Of fact.

SEC. 456. ISSUE OF FACT, HOW RAISED.—An issue of fact arises—
1. Upon a material allegation in the complaint controverted by the answer; and,
2. Upon new matter in the answer, except an issue of law is joined thereon.

How tried.

SEC. 457. ISSUES, HOW TRIED.—Issues, both of law and of fact, must be tried by the court.

Failure of party to appear.

SEC. 458. EITHER PARTY FAILING TO APPEAR, TRIAL MAY PROCEED AT REQUEST OF OTHER PARTY.—If either party fails to appear at the time fixed for trial, the trial may proceed at the request of the adverse party.

Exhibition of original instrument.

SEC. 459. REQUIRING EXHIBITION OF ORIGINAL INSTRUMENT.—When the cause of action or counterclaim arises upon an account or instrument for the payment of money only, the court, at any time before the trial, may, by an order under his hand, require the original to be exhibited to the inspection of, and a copy to be furnished to, the adverse party, at such time as may be fixed in the order; or, if

such order is not obeyed, the account or instrument can not be given in evidence.

SEC. 460. COMPLAINT, WHEN ACCOMPANYING INSTRUMENT DEEMED GENUINE.—If the complaint of the plaintiff, or the answer of the defendant, contains a copy, or consists of the original of the written obligation upon which the action is brought or the defense founded, the genuineness and due execution of such instrument are deemed admitted, unless the answer denying the same is verified, or unless the plaintiff, within two days after the service on him of such answer, files with the magistrate an affidavit denying the same, and serves a copy thereof on the defendant.

Complaint, when accompanying instrument deemed genuine.

JUDGMENTS (OTHER THAN BY DEFAULT) IN MAGISTRATES' COURTS

Judgments (other than by default).
By confession.

SEC. 461. JUDGMENT BY CONFESSION.—Judgments upon confession may be entered up in either magistrate's court specified in the confession.

SEC. 462. JUDGMENT OF DISMISSAL ENTERED IN CERTAIN CASES WITHOUT PREJUDICE.—Judgment that the action be dismissed, without prejudice to a new action, may be entered with costs, in the following cases:

Dismissal without prejudice.

1. When the plaintiff voluntarily dismisses the action before it is finally submitted; or fails to prosecute the action to judgment with reasonable diligence; provided a counterclaim has not been made, or affirmative relief sought by the cross-complaint or answer of the defendant; if a provisional remedy has been allowed, the undertaking must thereupon be delivered by the magistrate to the defendant who may have his action thereon;

2. When he fails to appear at the time specified in the summons, or at the time to which the action has been postponed, or within one hour thereafter;

3. When, after a demurrer to the complaint has been sustained, the plaintiff fails to amend it within the time allowed by the court;

4. When the action is brought in the wrong subdivision.

SEC. 463. ENTRY OF JUDGMENT OF DISMISSAL.—Judgment of dismissal must be entered whenever the plaintiff fails to bring the action to trial within two years after the case is brought to an issue of law or fact, except where the parties have stipulated in writing that the time may be extended.

Entry of.

SEC. 464. ENTRY OF JUDGMENT IN THIRTY DAYS.—Judgment must be entered within thirty days after the submission of the case to the court.

Entry within thirty days.

SEC. 465. FORM OF MAGISTRATE'S JUDGMENT; NOTICE.—The judgment of a magistrate must be entered substantially in the form required in section 333, and where the defendant is subject to arrest and imprisonment thereon the fact must be stated in the judgment. No judgment shall have effect for any purpose until so entered.

Form of magistrate's judgment.

Notice of the rendition of judgment must be given to the parties to the action in writing signed by the magistrate. Where any of the parties are represented by an attorney, notice shall be given to the attorney. Said notice shall be served by mail or personally, and shall be substantially in the form of the abstract of judgment required in section 469. When served by mail the magistrate shall deposit copies thereof in a sealed envelope in the post office not later than five days after the rendition of the judgment, addressed to each of the persons on whom notice is to be served at their places of residence, or place of business if on an attorney. When served personally said notice shall be served within five days after the

Notice.

rendition of the judgment. Entry of the date of mailing shall be made by the magistrate in his docket.

Excess remitted if sum found due exceeds magistrate's jurisdiction.

SEC. 466. IF THE SUM FOUND DUE EXCEEDS THE JURISDICTION OF THE MAGISTRATE, THE EXCESS MAY BE REMITTED.—When the amount found due to either party exceeds the sum for which the magistrate is authorized to enter judgment, such party may remit the excess, and judgment may be rendered for the residue.

Offer to compromise before trial.

SEC. 467. OFFER TO COMPROMISE BEFORE TRIAL.—If the defendant, at any time before the trial, offers, in writing, to allow judgment to be taken against him for a specified sum, the plaintiff may immediately have judgment therefor, with the costs then accrued; but if he does not accept such offer before the trial, and fails to recover in the action a sum in excess of the offer, he can not recover costs incurred after the offer, but costs must be adjudged against him, and, if he recovers, be deducted from his recovery. The offer and failure to accept it can not be given in evidence nor affect the recovery, otherwise than as to costs.

Costs included in judgment.

SEC. 468. COSTS MAY BE INCLUDED IN THE JUDGMENT.—The magistrate must tax and include in the judgment the costs allowed by law to the prevailing party.

Abstract of judgment.

SEC. 469. ABSTRACT OF JUDGMENT.—The magistrate, on the demand of a party in whose favor judgment is rendered, must give him an abstract of the judgment in substantially the following form (filling blanks according to the facts):

Form.

"Canal Zone, magistrate's court, subdivision of _____, _____, plaintiff, v. _____, defendant. Judgment entered for plaintiff (or defendant) for \$_____, on the _____ day of _____."

"I certify that the foregoing is a correct abstract of a judgment rendered in said action in this court."

"_____, Magistrate."

"Date of abstract _____."

Correction of clerical mistakes.

SEC. 470. CORRECTION OF CLERICAL MISTAKES IN JUDGMENT.—The magistrate shall have power upon motion of the injured party and notice to the adverse party to correct any clerical mistakes in his judgment as entered, so as to conform to the judgment ordered. Said magistrate shall have power to set aside any void judgment upon motion of either party to the action after notice to the adverse party, and thereupon said action shall be treated as if no judgment had been entered.

Executions from magistrates' courts.

EXECUTIONS FROM MAGISTRATES' COURTS

May issue at any time within five years.

SEC. 471. EXECUTION MAY ISSUE AT ANY TIME WITHIN FIVE YEARS.—Execution for the enforcement of a judgment of a magistrate's court may be issued by the magistrate who entered the judgment, or his successor in office, on the application of the party entitled thereto, at any time within five years from the entry of judgment.

Stay of execution.

SEC. 472. STAY OF EXECUTION OF JUDGMENT.—The court, or the magistrate thereof, may stay the execution of any judgment, including any judgment in a case of forcible entry or unlawful detainer, for a period not exceeding ten days.

Contents of.

SEC. 473. CONTENTS OF EXECUTION.—The execution must be directed to the constable, and must be subscribed by the magistrate and bear date the day of its delivery to the officer. It must intelligibly refer to the judgment, by stating the names of the parties, and the name of the magistrate before whom, and of the subdivision where, and the time when it was rendered; the amount of judgment, if it be for money; and, if less than the whole is due, the true amount due thereon. It must contain, in like cases, similar directions to the

constable, as are required by the provisions of chapter 12, of this code, in an execution to the marshal.

Ante, p. 969.

SEC. 474. RENEWAL OF EXECUTION.—An execution may, at the request of the judgment creditor, be renewed before the expiration of the time fixed for its return, by the word "renewed" written thereon, with the date thereof, and subscribed by the magistrate. Such renewal has the effect of an original issue, and may be repeated as often as necessary. If an execution is returned unsatisfied, another may be afterwards issued.

Renewal of.

SEC. 475. DUTY OF OFFICER RECEIVING EXECUTION.—The constable to whom the execution is directed must execute the same in the same manner as the marshal is required by the provisions of chapter 12 of this code, to proceed upon executions directed to him; and the constable, when the execution is directed to him, is vested for that purpose with all the powers of the marshal.

Duty of officer receiving.

Ante, p. 968.

SEC. 476. PROCEEDINGS SUPPLEMENTARY TO EXECUTION.—The sections of this code, from 387 to 394, both inclusive, are applicable to magistrates' courts, the word "constable" being substituted, to that end, for the word "marshal," and the word "magistrate" for "judge." If the judgment debtor does not reside in the subdivision wherein the judgment was entered, an abstract of the judgment, in the form prescribed by section 469, may be filed in the office of the magistrate of the subdivision wherein the defendant resides, and such magistrate may issue execution on such judgment, and may take and exercise such jurisdiction in proceedings supplemental to execution, as if such judgment were originally entered in his court.

Proceedings supplementary to.

Ante, p. 977.

CONTEMPTS IN MAGISTRATES' COURTS

Contempts in magistrates' courts.

SEC. 477. WHAT SECTIONS GOVERN CONTEMPTS.—Contempts in magistrates' courts are governed by sections 634 to 647.

Sections governing.

Post, p. 1018.

DOCKETS OF MAGISTRATES

Dockets of magistrates.

SEC. 478. DOCKET, WHAT TO CONTAIN.—Each magistrate must keep a book, denominated a "docket," in which he must enter:

Contents.

1. The title of every action or proceeding.
2. The object of the action or proceeding; and if a sum of money be claimed, the amount thereof.
3. The date of the summons, and the time of its return; and if an order to arrest the defendant be made, or a writ of attachment be issued, a statement of the fact.
4. The time when the parties, or either of them, appear, or their nonappearance, if default be made; a minute of the pleadings and motions; if in writing, referring to them; if not in writing, a concise statement of the material parts of the pleading.
5. Every adjournment, stating on whose application and to what time.
6. The judgment of the court, specifying the costs included and the time when rendered.
7. The issuing of the execution, when issued and to whom; the renewals thereof, if any, and when made, and a statement of any money paid to the magistrate, when and by whom.
8. The receipt of a notice of appeal, if any be given, and of the appeal bond.

SEC. 479. ENTRIES THEREIN PRIMA FACIE EVIDENCE OF THE FACT.—The several particulars of the last section specified must be entered under the title of the action to which they relate, and (unless otherwise in this chapter provided) at the time when they occur. Such

Entries, prima facie evidence of fact.

entries in a magistrate's docket, or a transcript thereof, certified by the magistrate, or his successor in office, are prima facie evidence of the facts so stated.

Index must be kept.

SEC. 480. AN INDEX TO THE DOCKET MUST BE KEPT.—A magistrate must keep an alphabetical index to his docket, in which must be entered the names of the parties to each judgment, with a reference to the page of entry. The names of the plaintiffs must be entered in the index, in the alphabetical order of the first letter of the family name.

Delivery to successor.

SEC. 481. DOCKETS MUST BE DELIVERED BY MAGISTRATE TO HIS SUCCESSOR.—Every magistrate, upon the expiration of his term of office, must deposit with his successor his official dockets and all papers filed in his office, as well his own as those of his predecessors, or any other which may be in his custody to be kept as public records.

General provisions relating to magistrates' courts.

GENERAL PROVISIONS RELATING TO MAGISTRATES' COURTS

Subpoenas; final process.

SEC. 482. MAGISTRATES MAY ISSUE SUBPŒNAS AND FINAL PROCESS TO ANY PART OF THE SUBDIVISION.—Magistrates may issue subpoenas in any action or proceeding in the courts held by them, and final process on any judgment recovered therein, to any part of the subdivision.

Filling in blanks.

SEC. 483. BLANKS MUST BE FILLED IN ALL PAPERS ISSUED BY A MAGISTRATE, EXCEPT SUBPŒNAS.—The summons, execution, and every other paper made or issued by a magistrate, except a subpoena, must be issued without a blank left to be filled by another, otherwise it is void.

Receipt and payment of moneys.

SEC. 484. MAGISTRATES TO RECEIVE ALL MONEYS COLLECTED AND PAY THE SAME TO PARTIES.—Magistrates must receive from the constables, all moneys collected on any process or order issued from their courts respectively, and must pay the same, and all moneys paid to them in their official capacity, over to the parties entitled or authorized to receive them, without delay.

Disability of magistrate; substitutions.

SEC. 485. IN CASE OF DISABILITY OF MAGISTRATE, OTHER MAGISTRATE MAY ATTEND ON HIS BEHALF.—In case of the sickness or other disability or necessary absence of a magistrate, the other magistrate may, at his request, attend in his behalf, and thereupon is vested with the power and may perform all the duties and issue all the papers or process of the absent magistrate. In case of a trial the proper entry of the proceedings before the attending magistrate, subscribed by him, must be made in the docket of the magistrate before whom the summons was returnable. If the case is adjourned, the magistrate before whom the summons was returnable may resume jurisdiction.

Security for costs.

SEC. 486. MAGISTRATES MAY REQUIRE SECURITY FOR COSTS.—Magistrates may in all cases require a deposit of money or an undertaking, as security for costs of court, before issuing a summons.

Deposit in lieu of undertaking.

SEC. 487. DEPOSIT IN LIEU OF UNDERTAKING.—In all civil cases arising in magistrates' courts, wherein an undertaking is required as prescribed in this code, the plaintiff or defendant may deposit with said magistrate a sum of money in United States currency equal to the amount required by the said undertaking, which said sum of money shall be taken as security in place of said undertaking.

Code provisions applicable to magistrates' courts.

SEC. 488. WHAT PROVISIONS OF CODE APPLICABLE TO MAGISTRATES' COURTS.—Magistrates' courts being courts of limited jurisdiction, only those provisions of this code which are, in their nature, applicable to the organization, powers, and course of proceedings in magistrates' courts, or which have been made applicable by special provisions in this chapter, are applicable to magistrates' courts and the proceedings therein.

CHAPTER 15.—APPEALS IN CIVIL ACTIONS

APPEALS IN
CIVIL ACTIONS.

REVIEW BY JUDGE OF ORDERS MADE OUT OF COURT

SEC. 489. ORDERS MADE OUT OF COURT, WITHOUT NOTICE, MAY BE REVIEWED BY THE JUDGE.—An order made out of court, without notice to the adverse party, may be vacated or modified, without notice, by the judge who made it; or may be vacated or modified on notice, in the manner in which other motions are made.

Review of orders
made out of court.

APPEALS TO UNITED STATES CIRCUIT COURT OF APPEALS

SEC. 490. APPEALS TO CIRCUIT COURT OF APPEALS, HOW GOVERNED.—Appeals from the district court to the United States Circuit Court of Appeals for the Fifth Circuit are governed by section 9 of the Panama Canal Act, as amended, and by § 1 of Act Apr. 11, 1928, C. 354, 45 Stat. 422.

Appeals to U. S. Cir-
cuit Court of Appeals.

How governed.

Vol. 45, p. 422.

CROSS REFERENCE

Time for making application for appeal, see United States Code, title 28, section 230.

U. S. C., p. 896.

APPEALS TO DISTRICT COURT

SEC. 491. APPEALS TO DISTRICT COURT.—Any party dissatisfied with the judgment rendered in a civil action in a magistrate's court, may appeal therefrom to the district court, at any time within thirty days after notice of the rendition of the judgment. The appeal is taken by filing a notice of appeal with the magistrate, and serving a copy on the adverse party. The notice must state whether the appeal is taken from the whole or a part of the judgment, and if from a part, what part, and whether the appeal is taken on questions of law or fact or both.

Appeals to district
court.

SEC. 492. APPEAL ON QUESTION OF LAW.—When a party appeals to the district court on a question of law alone, he must, within ten days after notice of the rendition of judgment, prepare a statement of the case and file the same with the magistrate. The statement must contain the grounds upon which the party intends to rely upon the appeal, and so much of the evidence, as may be necessary to explain the grounds, and no more. Within ten days after receiving notice that the statement is filed, the adverse party, if dissatisfied with the same, may file amendments. The proposed statement and amendments must be settled by the magistrate, and if no amendment be filed the original statements stand as adopted. The statement thus adopted or as settled by the magistrate, with a copy of the docket of the magistrate, and all motions filed with him by the parties, during the trial and the notice of appeal, may be used on the hearing of the appeal before the district court.

On question of law.

SEC. 493. APPEAL ON QUESTIONS OF FACT, OR LAW AND FACT.—When a party appeals to the district court on questions of fact, or on questions of both law and fact, no statement need be made, but the action must be tried anew in the district court.

On questions of fact,
or law and fact.

SEC. 494. TRANSMISSION OF PAPERS TO DISTRICT COURT.—Upon receiving the notice of appeal, and on payment of the fees of the magistrate, payable on appeal and not included in the judgment, and filing an undertaking as required in the next section, and after settlement or adoption of statement, if any, the magistrate must, within five days, transmit to the clerk of the district court, if the appeal be on questions of law alone, a certified copy of his docket, the statement as admitted or as settled, the notice of appeal, and the undertaking filed; or, if the appeal be on questions of fact, or both law and fact, a certified copy of his docket, the pleadings, all notices, motions, and all other papers filed in the cause, the notice

Transmission of pa-
pers to district court.

of appeal, and the undertaking filed; and the magistrate may be compelled by the district court, by an order entered upon motion, to transmit such papers, and may be fined for neglect or refusal to transmit the same. A certified copy of such order may be served on the magistrate by the party or his attorney. In the district court, either party may have the benefit of all legal objections made in the magistrate's court.

Undertaking on appeal.

SEC. 495. UNDERTAKING ON APPEAL.—An appeal from a magistrate's court is not effectual for any purpose, unless an undertaking be filed with two or more sureties in the sum of \$25 for the payment of the costs on the appeal, or, if a stay of proceedings be claimed, in the sum of \$25 plus a sum equal to the amount of the judgment, including costs, when the judgment is for the payment of money; or plus twice the value of the property including costs, when the judgment is for the recovery of specific personal property; and must be conditioned, when the action is for the recovery of money, that the appellant will pay the amount of the judgment appealed from, and all costs, if the appeal be withdrawn or dismissed, or the amount of any judgment and all costs that may be recovered against him in the action in the district court.

When the action is for the recovery of or to enforce or foreclose a lien on specific personal property, the undertaking must be conditioned that the appellant will pay the judgment and costs appealed from, and obey the order of the court made therein, if the appeal be withdrawn or dismissed, or any judgment and costs that may be recovered against him in said action in the district court, and will obey any order made by the court therein.

When the judgment appealed from directs the delivery of possession of real property, the execution of the same can not be stayed unless a written undertaking be executed on the part of the appellant, with two or more sureties, to the effect that during the possession of such property by the appellant, he will not commit, or suffer to be committed any waste thereon, and that if the appeal be dismissed or withdrawn, or the judgment affirmed, or judgment be recovered against him in the action in the district court, he will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession thereof; or that he will pay any judgment and costs that may be recovered against him in said action in the district court, not exceeding a sum to be fixed by the magistrate of the court from which the appeal is taken, and which sum must be specified in the undertaking.

A deposit of the sum of \$50 plus the amount of the judgment, including all cost appealed from, or plus the value of the property, including all costs, in actions for the recovery of specific personal property, with the magistrate, is equivalent to the filing of the undertaking, and in such cases the magistrate must transmit the money to the clerk of the district court to be by him paid out on the order of the court.

Filing of undertaking; exception to and justification of sureties.

SEC. 496. FILING OF UNDERTAKING; EXCEPTION TO AND JUSTIFICATION OF SURETIES.—The undertaking on appeal must be filed within five days after the filing of the notice of appeal, and notice of the filing of the undertaking must be given to the respondent. The adverse party may except to the sufficiency of the sureties within five days after the filing of the undertaking, and unless they or other sureties justify before the magistrate within five days thereafter, upon notice to the adverse party, to the amounts stated in their affidavits, the appeal must be regarded as if no such undertaking had been given.

SEC. 497. STAY OF PROCEEDINGS ON FILING UNDERTAKING.—If an execution be issued on the filing of the undertaking staying proceedings, the magistrate must, by order, direct the officer to stay all proceedings on the same. Such officer must, upon payment of his fees for services rendered on the execution, thereupon relinquish all property levied upon and deliver the same to the judgment debtor, together with all moneys collected from sales or otherwise. If his fees be not paid, the officer may retain so much of the property or proceeds thereof as may be necessary to pay the same.

Stay of proceedings.

SEC. 498. POWERS OF DISTRICT COURT ON APPEAL.—Upon an appeal heard upon a statement of the case, the district court may review all orders affecting the judgment appealed from, and may set aside, or confirm, or modify any or all of the proceedings subsequent to and dependent upon such judgment, and may, if necessary or proper, order a new trial. When the action is tried anew, on appeal, the trial must be conducted in all respects as other trials in the district court. The provisions of this code as to changing the place of trial, and all the provisions as to trials in the district court, are applicable to trials on appeal in the district court. For a failure to prosecute an appeal, or unnecessary delay in bringing it to a hearing, the district court, after notice, may order the appeal to be dismissed, with costs; and if it appear to such court that the appeal was made solely for delay, it may add to the costs such damages as may be just, not exceeding 25 per cent of the judgment appealed from. Judgments rendered in the district court on appeal shall have the same force and effect and may be enforced in the same manner as judgments in actions commenced in the district court.

Powers of district court on appeal.

SEC. 499. NO APPEAL EFFECTIVE UNLESS FEES FOR FILING ARE PAID.—No appeal taken from a judgment rendered in a magistrate's court in civil matters shall be effectual for any purpose whatever unless the appellant shall, at the time of filing the notice of appeal, pay to the magistrate, in addition to the fee payable to the magistrate on appeal, a docket fee of \$5 for filing the appeal and for placing the action on the calendar in the district court. Upon transmitting the papers on appeal, the magistrate shall transmit to the clerk of the district court the sum thus deposited for filing the appeal in the district court and for placing the action on the calendar. No notice of appeal shall be filed unless the fees herein provided for are paid in accordance with the provisions of this section.

No appeal effective unless fees for filing paid.

SEC. 500. DISMISSAL OF APPEALS FROM MAGISTRATE'S COURT WHERE NOT BROUGHT TO TRIAL WITHIN ONE YEAR.—No action heretofore or hereafter appealed from the magistrate's court to the district court, shall be further prosecuted, and no further proceedings shall be had therein, and all such actions heretofore, or hereafter appealed, must be dismissed by the court to which the same shall have been appealed, on its own motion, or on the motion of any party interested therein, whether named in the complaint as a party or not, where the appealing party fails to bring such appeal to trial within one year from the date of filing such appeal in said district court, unless such time be otherwise extended by a written stipulation by the parties to the action filed with the clerk of the district court to which the appeal is taken.

Time limitation on appeal from magistrate's court.

SEC. 501. PAPERS RETURNED ON DISMISSAL OF APPEAL.—Upon dismissal of the appeal the clerk of the district court shall return all the papers to the court from which the appeal was taken, and the magistrate of said court shall have jurisdiction the same as if no appeal had been taken.

Papers returned on dismissal.

MISCELLANEOUS PROVISIONS.

CHAPTER 16.—MISCELLANEOUS PROVISIONS

PROCEEDINGS AGAINST JOINT DEBTORS

Proceedings against joint debtors.

Summons after judgment.

Ante, p. 925.

Contents.

Affidavit to accompany.

Answer; contents.

What constitute pleadings in the case.

Trial of issues; verdict.

Offer of defendant to compromise.

Proceedings on, after suit brought.

SEC. 502. PARTIES NOT SUMMONED IN ACTION ON JOINT CONTRACT MAY BE SUMMONED AFTER JUDGMENT.—When a judgment is recovered against one or more of several persons, jointly indebted upon an obligation, by proceeding as provided in section 120, those who were not originally served with the summons, and did not appear to the action, may be summoned to show cause why they should not be bound by the judgment, in the same manner as though they had been originally served with the summons.

SEC. 503. SUMMONS IN THAT CASE, WHAT TO CONTAIN, AND HOW SERVED.—The summons, as provided in the last section, must describe the judgment, and require the person summoned to show cause why he should not be bound by it, and must be served in the same manner, and returnable within the same time, as the original summons. It is not necessary to file a new complaint.

SEC. 504. AFFIDAVIT TO ACCOMPANY SUMMONS.—The summons must be accompanied by an affidavit of the plaintiff, his agent, representative, or attorney, that the judgment, or some part thereof, remains unsatisfied, and must specify the amount due thereon.

SEC. 505. ANSWER; WHAT IT MAY CONTAIN.—Upon such summons, the defendant may answer within the time specified therein, denying the judgment, or setting up any defense which may have arisen subsequently; or he may deny his liability on the obligation upon which the judgment was recovered, by reason of any defense existing at the commencement of the action.

SEC. 506. WHAT CONSTITUTE THE PLEADINGS IN THE CASE.—If the defendant, in his answer, denies the judgment, or sets up any defense which may have arisen subsequently, the summons, with the affidavit annexed, and the answer, constitute the written allegations in the case; if he denies his liability on the obligation upon which the judgment was recovered, a copy of the original complaint and judgment, the summons, with the affidavit annexed, and the answer, constitute such written allegations, subject to the right of the parties to amend their pleadings as in other cases.

SEC. 507. ISSUES, HOW TRIED; VERDICT, WHAT TO BE.—The issues formed may be tried as in other cases; but when the defendant denies, in his answer, any liability on the obligation upon which the judgment was rendered, if a verdict be found or a decision rendered against him, it must be for not exceeding the amount remaining unsatisfied on such original judgment, with interest thereon.

OFFER OF DEFENDANT TO COMPROMISE

SEC. 508. PROCEEDINGS ON OFFER OF THE DEFENDANT TO COMPROMISE AFTER SUIT BROUGHT.—The defendant may, at any time before the trial or judgment, serve upon the plaintiff an offer to allow judgment to be taken against him for the sum or property, or to the effect therein specified. If the plaintiff accept the offer, and give notice thereof within five days, he may file the offer, with proof of notice of acceptance, and the clerk must thereupon enter judgment accordingly. If the notice of acceptance be not given, the offer is to be deemed withdrawn, and can not be given in evidence upon the trial; and if the plaintiff fail to obtain a more favorable judgment, he can not recover costs, but must pay the defendant's costs from the time of the offer.

INSPECTION OF WRITINGS

Inspection of writings.

SEC. 509. A PARTY MAY DEMAND INSPECTION AND COPY OF A BOOK, PAPER, AND SO FORTH.—Any court in which an action is pending, or the judge thereof may, upon notice, order either party to give to the other, within a specified time, an inspection and copy, or permission to take a copy, of entries of accounts in any book, or of any document or paper in his possession, or under his control, containing evidence relating to the merits of the action, or the defense therein. If compliance with the order be refused, the court may exclude the entries of accounts of the book, or the document, or paper from being given in evidence, or if wanted as evidence by the party applying may presume them, or direct the jury to presume them, to be such as he alleges them to be; and the court may also punish the party refusing for a contempt. This section is not to be construed to prevent a party from compelling another to produce books, papers, or documents, when he is examined as a witness.

May be demanded, etc.

MOTIONS AND ORDERS

Motions and orders.

SEC. 510. ORDER AND MOTION DEFINED.—Every direction of a court or judge, made or entered in writing, and not included in a judgment, is denominated an order. An application for an order is a motion.

Defined.

SEC. 511. MOTIONS AND ORDERS, WHERE MADE.—Motions must be made in the division, in which the action is pending. Orders made out of court may be made by the judge of the court in either division.

Where made.

SEC. 512. NOTICE OF MOTION, WHEN TO BE GIVEN.—When a written notice of a motion is necessary, it must be given five days before the time appointed for the hearing.

Notice.

SEC. 513. ORDER FOR PAYMENT OF MONEY, HOW ENFORCED.—Whenever an order for the payment of a sum of money is made by a court pursuant to the provisions of this code, it may be enforced by execution in the same manner as if it were a judgment.

Order for payment of money.

NOTICES AND FILING AND SERVICE OF PAPERS

Notices, filing and service of papers.

SEC. 514. NOTICES AND PAPERS, HOW SERVED.—Notices must be in writing, and the notice of a motion, other than for a new trial, must state when, and the grounds upon which it will be made, and the papers, if any, upon which it is to be based. If any such paper has not previously been served upon the party to be notified and was not filed by him, a copy of such paper must accompany the notice. Notices and other papers may be served upon the party or attorney in the manner prescribed in this subchapter, when not otherwise provided by this code.

Form and contents.

SEC. 515. NOTICES AND PAPERS, WHEN AND HOW SERVED.—The service may be personal, by delivery to the party or attorney on whom the service is required to be made, or it may be as follows:

Service.

1. If upon an attorney, it may be made during his absence from his office, by leaving the notice or other papers with his clerk therein, or with a person having charge thereof; or when there is no person in the office, by leaving them between the hours of nine in the morning and five in the afternoon, in a conspicuous place in the office; or, if it is not open so as to admit of such service, then by leaving them at the attorney's residence, with some person of not less than eighteen years of age, if his residence is in the same division with his office; and if his residence is not known, or is not in the same division with his office, or being in the same division it is not open, or there is not found thereat any person of not less than eighteen years of age, then

Manner of service.

On attorney.

by putting the same, inclosed in a sealed envelope, into the post office directed to such attorney at his office, if known; otherwise to his residence, if known; and if neither his office nor his residence is known, then by delivering the same to the clerk of the court for the attorney;

On party. 2. If upon a party, it may be made by leaving the notice or other paper at his residence, between the hours of eight in the morning and six in the evening, with some person of not less than eighteen years of age; if at the time of attempted service between the said hours no such person can be found at his residence, the same may be served by mail; and, if his residence is not known, then by delivering the same to the clerk of the court for such party.

Service by mail, when. SEC. 516. SERVICE BY MAIL, WHEN.—Service by mail may be made where the person making the service and the person on whom it is to be made reside or have their offices in different places between which there is a regular communication by mail.

How. SEC. 517. SERVICE BY MAIL, HOW.—In case of service by mail, the notice or other paper must be deposited in the post office, in a sealed envelope addressed to the person on whom it is to be served, at his office or place of residence. The service is complete at the time of the deposit.

Appearance of defendant. SEC. 518. APPEARANCE; NOTICES AFTER APPEARANCE.—A defendant appears in an action when he answers, demurs, or gives the plaintiff written notice of his appearance, or when an attorney gives notice of appearance for him. After appearance, a defendant or his attorney is entitled to notice of all subsequent proceedings of which notice is required to be given. But where a defendant has not appeared, service of notice or papers need not be made upon him unless he is imprisoned for want of bail.

Service on nonresidents. SEC. 519. SERVICE ON NONRESIDENTS.—When a plaintiff or a defendant, who has appeared, resides out of the Canal Zone, and has no attorney in the action or proceeding, the service may be made on the clerk for him. But in all cases where a party has an attorney in the action or proceeding, the service of papers, when required, must be upon the attorney instead of the party, except service of subpoenas, of writs, and other process issued in the suit, and of papers to bring him into contempt. If the sole attorney for a party is removed or suspended from practice, then the party has no attorney within the meaning of this section. If his sole attorney has no known office in the Canal Zone, notices and papers may be served by leaving a copy thereof with the clerk of the court, unless such attorney shall have filed in the cause an address of a place at which notices and papers may be served on him, in which event they may be served at such place.

Preceding provisions not to apply in contempt proceedings. SEC. 520. PRECEDING PROVISIONS NOT TO APPLY TO PROCEEDING TO BRING PARTY INTO CONTEMPT.—The foregoing provisions of this subchapter do not apply to the service of a summons or other process, or of any paper to bring a party into contempt.

General provisions.

GENERAL PROVISIONS

Lost papers, how supplied.

SEC. 521. LOST PAPERS, HOW SUPPLIED.—If an original pleading or paper be lost, the court may authorize a copy thereof to be filed and used instead of the original.

Title of action not necessary on papers.

SEC. 522. PAPERS WITHOUT THE TITLE OF THE ACTION, OR WITH DEFECTIVE TITLE, MAY BE VALID.—An affidavit, notice, or other paper, without the title of the action or proceeding in which it is made, or with a defective title, is as valid and effectual for any purpose as if duly entitled, if it intelligibly refer to such action or proceeding.

SEC. 523. SUCCESSIONE ACTIONS ON THE SAME CONTRACT, ETC.—Successive actions may be maintained upon the same contract or transaction, whenever, after the former action, a new cause of action arises therefrom.

Successive actions on same contract, etc.

SEC. 524. SEVERANCE AND CONSOLIDATION.—An action may be severed and actions may be consolidated, in the discretion of the court, whenever it can be done without prejudice to a substantial right.

Severance and consolidation of actions.

SEC. 525. ACTIONS, WHEN DEEMED PENDING.—An action is deemed to be pending from the time of its commencement until its final determination upon appeal, or until the time for appeal has passed, unless the judgment is sooner satisfied.

Action, when deemed pending.

SEC. 526. ACTIONS TO DETERMINE ADVERSE CLAIMS, AND BY SURETIES.—An action may be brought by one person against another for the purpose of determining an adverse claim, which the latter makes against the former for money or property upon an alleged obligation; and also against two or more persons, for the purpose of compelling one to satisfy a debt due to the other, for which plaintiff is bound as a surety.

Action by adverse claimant; surety.

SEC. 527. TESTIMONY; WHO MAY TAKE DOWN.—On the trial of an action in the district court, if there is no shorthand reporter of the court in attendance, the testimony may be taken down in writing by anyone agreed to by the parties.

Recording of testimony.

SEC. 528. THE CLERK SHALL KEEP MINUTE BOOKS.—The clerk shall in person or by assistant attend all sessions of the court and keep minute books, in which he shall record, under the direction of the judge, all the proceedings of the court.

Clerk to keep minutes.

SEC. 529. TWO OF THREE REFEREES, AND SO FORTH, MAY DO ANY ACT.—When there are three referees, all must meet, but two of them may do any act which might be done by all.

Authority of two of three referees to act.

SEC. 530. EXTENSION OF TIME WITHIN WHICH AN ACT IS TO BE DONE; NOT TO EXCEED THIRTY DAYS; EXCEPTION.—When an act to be done, as provided in this code, relates to the pleadings in the action, or the undertakings to be filed, or the justifications of sureties, or the preparation of bills of exceptions, or of amendments thereto, or to the service of notices other than of appeal, the time allowed by this code, unless otherwise expressly provided, may be extended, upon good cause shown, by the judge of the district court; but such extension shall not exceed thirty days, without the consent of the adverse party.

Extension of time for filing pleadings, etc.

SEC. 531. ACTION AGAINST OFFICER FOR OFFICIAL ACTS.—If an action is brought against any officer or person for an act for the doing of which he had theretofore received any valid bond or covenant of indemnity, and he gives seasonable notice thereof in writing to the persons who executed such bond or covenant, and permits them to conduct the defense of such action, the judgment recovered therein is conclusive evidence against the persons so notified; and the court may, on motion of the defendant, upon notice of five days, and upon proof of such bond or covenant, and of such notice and permission, enter judgment against them for the amount so recovered and costs.

Action against officer for official acts.

SEC. 532. CORPORATIONS MAY BECOME SURETIES ON UNDERTAKINGS AND BONDS.—In all cases where an undertaking or bond, with any number of sureties, is authorized or required by any provision of this code, or of any law of the Canal Zone, any corporation with a paid-up capital of not less than \$100,000, incorporated under the laws of any State of the United States for the purpose of making, guaranteeing, or becoming a surety upon bonds or undertakings required or authorized by law, or which, by the laws of the State

Corporations as sureties.

where it was incorporated has such power, and which shall have complied with all the requirements of the law of the Canal Zone regulating the admission of these corporations to transact such business in the Canal Zone, may become and shall be accepted as surety or as sole and sufficient surety upon such undertaking or bond, and such corporate surety shall be subject to all the liabilities and entitled to all the rights of natural persons' sureties.

Requisites of undertakings.

SEC. 533. UNDERTAKINGS MENTIONED IN THIS CODE, REQUISITES OF.—In any case where an undertaking or bond is authorized or required by any law of the Canal Zone, the officer taking the same must, except in the case of such a corporation as is mentioned in the next preceding section, require the sureties to accompany it with an affidavit that they are each residents of the Canal Zone, and are each worth the sum specified in the undertaking or bond, over and above all their just debts and liabilities, exclusive of property exempt from execution; but when the amount specified in the undertaking or bond exceeds \$3,000, and there are more than two sureties thereon, they may state in their affidavits that they are severally worth amounts less than the amount specified in the undertaking or bond, if the whole amount is equivalent to that of two sufficient sureties.

Any corporation such as is mentioned in the next preceding section may become sole surety on such bond.

New undertaking.

NEW UNDERTAKING.—Whenever an undertaking has been given and approved in any action or proceeding, and it is thereafter made to appear to the satisfaction of the court that any surety upon such undertaking has for any reason become insufficient, the court may, upon notice, order the giving of a new undertaking, with sufficient sureties, in lieu of such insufficient undertaking. In case such new undertaking so required shall not be given within the time required by such order, or in case the sureties thereon fail to justify thereon when required, all rights obtained by the filing of such original undertaking shall immediately cease.

Justification by corporate surety.

SEC. 534. JUSTIFICATION BY CORPORATE SECURITY ON BONDS.—Whenever the surety on a bond or undertaking authorized or required by any law of the Canal Zone is a foreign corporation, authorized to become surety on bonds or undertakings in the Canal Zone, and exception is taken to the sufficiency of such surety as required by law, such corporate surety may justify on such bond or undertaking as follows:

Procedure.

PROCEDURE.—Any agent, attorney in fact, or officer of such corporation shall submit to the court, judge, officer, board, or other person before whom the justification is to be made:

Production of power of attorney.

First. The original, or a certified copy of, the power of attorney, by-laws or other instrument showing the authority of the person or persons who executed the bond or undertaking to execute the same;

Certificate of authority.

Second. A certified copy of the certificate of authority, showing that the corporation is authorized to transact business;

Continuation of such authority.

Third. A certificate from the executive secretary showing that the said certificate of authority has not been surrendered, revoked, canceled, annulled, or suspended, or in the event that it has been, that renewed authority to act under such certificate has been granted;

Financial statement.

Fourth. A financial statement showing the assets and liabilities of such corporation at the end of the quarter calendar year prior to forty-five days next preceding the date of the execution of the bond or undertaking; such financial statement must be verified under oath by the president, or a vice president and attested by the secretary or an assistant secretary of such corporation.

JUSTIFICATION WHEN COMPLETE.—Upon complying with the foregoing provisions and it appearing that the bond or undertaking was duly executed, that the corporation is authorized to transact business in the Canal Zone, and that its assets exceed its liabilities in an amount equal to or in excess of the amount of the bond or undertaking, the justification of the surety shall be complete and it shall be accepted as the sole and sufficient surety on the bond or undertaking.

Justification, when complete.

SEC. 535. CLERK MAY ACCEPT CASH DEPOSIT IN LIEU OF BOND.—In all proceedings in which a bond is required the clerk of the district court may accept a cash deposit in the sum of the bond. Where a cash bond is given, such moneys or any part thereof may be withdrawn only upon order of the court.

Cash deposit in lieu of bond.

SEC. 536. CLERK TO COPY CERTAIN BONDS IN APPROPRIATE BOOK.—All bonds of every nature and description required in civil actions or proceedings, except bonds for arrest or appeal from inferior courts, shall be copied in full by the clerk in an appropriate book, and such copy, duly authenticated by him, shall have the force and effect of the original.

Bonds to be copied in appropriate book.

SEC. 536a. CLERK TO BE EX OFFICIO REGISTRAR OF PROPERTY.—The clerk of the district court is ex officio registrar of property of the Canal Zone, and the assistant clerks shall have and exercise like powers in the name of their principal. The clerk and his assistants shall have the duties of registrar so as to give constructive notice in all cases where provision is made for such notice by law. They shall keep proper books of record, which shall at all reasonable hours be open to the public.

Clerk ex officio registrar of property.

SEC. 537. GOVERNMENT NOT REQUIRED TO GIVE BONDS WHEN A PARTY.—In any civil action or proceeding wherein the Government is a party plaintiff, or any government officer, in his official capacity or on behalf of the Government, is a party plaintiff or defendant, no bond, written undertaking, or security can be required of the Government, or any officer thereof; but on complying with the other provisions of this code the Government, or any government officer acting in his official capacity, have the same rights, remedies, and benefits as if the bond, undertaking, or security were given and approved as required by this code.

Government not required to give bond.

SEC. 538. SURETY ON APPEAL SUBSTITUTED TO RIGHTS OF JUDGMENT CREDITOR.—Whenever any surety on an undertaking on appeal, executed to stay proceedings upon a money judgment, pays the judgment, either with or without action, after its affirmation by the appellate court, he is substituted to the rights of the judgment creditor, and is entitled to control, enforce, and satisfy such judgment, in all respects as if he had recovered the same.

Subrogation of surety on appeal bond.

DECLARATORY RELIEF

SEC. 539. DECLARATORY RELIEF.—Any person interested under a deed, will or other written instrument, or under a contract, or who desires a declaration of his rights or duties with respect to another or in respect to, in, over or upon property, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an action in the district court for a declaration of his rights and duties in the premises, including a determination of any question of construction or validity arising under such instrument or contract. He may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of such rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and such declaration

Declaratory relief.

shall have the force of a final judgment. Such declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought.

Powers not exercised, when.

SEC. 540. POWER NOT EXERCISED WHEN.—The court may refuse to exercise the power granted by this subchapter in any case where its declaration or determination is not necessary or proper at the time under all the circumstances.

Other remedies not affected.

SEC. 541. OTHER REMEDIES NOT AFFECTED.—The remedies provided by this sub-chapter are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party to such action, and no judgment under this sub-chapter shall preclude any party from obtaining additional relief based upon the same facts.

FEES, COSTS, ETC., DISTRICT AND MAGISTRATES' COURTS.

CHAPTER 17.—FEES; COSTS AND SECURITY FOR COSTS IN THE DISTRICT AND MAGISTRATES' COURTS

Fees in general.

FEES IN GENERAL

Specific fees only, to be demanded.

SEC. 542. LAWFUL TO DEMAND SPECIFIC FEES ONLY.—It shall be lawful for the clerk of the district court, referees, and commissioners appointed by the district court, the marshal, magistrates, constables, and other officers and persons hereinafter mentioned, together with their assistants and deputies, to demand, and receive, the hereinafter mentioned fees and no more; but all fees collected by officers drawing a regular salary or fixed compensation from the Government shall be paid over to the Collector of the Panama Canal.

Docket fees, etc., for services of clerk or magistrate.

SEC. 543. DOCKET FEES AND OTHER DEPOSITS FOR SERVICES OF CLERK OR MAGISTRATE.—The United States of America, the Government of the Canal Zone, and the Panama Canal, or any officer thereof who sues or is sued in his official capacity, shall not be required to pay any costs for the bringing or defending of an action. Every other plaintiff in a civil action commenced in the district court, except as hereinafter designated, shall deposit with the clerk or assistant clerk thereof a docket fee of \$8 upon the filing of the complaint. An intervenor who is allowed to intervene therein shall deposit \$5 upon the filing of the petition of intervention. A plaintiff in a habeas corpus, mandamus, certiorari, or prohibition proceeding, or any other special proceeding, except a probate or guardianship proceeding, shall deposit \$3 upon the filing of the complaint. Such sum or sums so deposited shall be full compensation for the clerk or assistant clerk for all services performed in any such action or proceeding, except lawful copy fees for furnishing copies of any paper or record therein. Any other plaintiff in a civil action commenced in a magistrate's court at the time of commencing the action shall deposit a docket fee of \$3. An intervenor who intervenes therein shall deposit a fee of \$1 at the time of appearance. Such sum or sums so deposited shall be full compensation for all services of the magistrate in said action; except that lawful copy fees may be charged and collected for furnishing copies of any paper or record therein.

Jury fees.

SEC. 544. JURY FEE.—Any party to a civil case in the district court, who demands a trial by jury, shall accompany said demand with a deposit of \$10 as a jury fee; and unless such deposit is made, the case shall be tried without the intervention of a jury.

Probate, etc., fees.

SEC. 545. FEES IN PROBATE AND GUARDIANSHIP MATTERS.—The fees for the services of the clerk or assistant clerk of the district court in probate and guardianship matters shall be as follows: Where the value of the estate does not exceed \$1,000, \$3; where the value of

the estate exceeds \$1,000, and does not exceed \$5,000, \$5; where the value of the estate exceeds \$5,000, \$8.

Such fees shall be in full of the services of the clerk or assistant clerk in such proceedings, except that they shall be entitled to charge lawful fees for furnishing copies of papers and records therein. The judge of the district court shall have the power, in his discretion, in any case where the estate is small and the circumstances warrant, to waive the payment of any fee to the clerk or assistant clerk for services to be performed in such proceedings.

SEC. 546. CLERK OF DISTRICT COURT; FEES FOR VARIOUS SERVICES; COPIES OF PAPERS AND RECORDS.—For certifying the official act of a magistrate or other certificate, with seal, 25 cents.

Clerk, district court, fees of.

For certified copies of any paper, record, decree, judgment, or entry, for each one hundred words or fraction thereof, 10 cents, and the further sum of 25 cents for each certification: *Provided, however,* That where copies are furnished by those desiring the same, the certification fee alone shall be collected.

Certifications, etc.

Provido.
When copies furnished by applicant.

For all copies of records, or bills of exception, or testimony, or of other documents for transmission to the circuit court of appeals, 10 cents for each one hundred words or fraction thereof, and the further sum of 25 cents for each certification thereof: *Provided, however,* That where copies are furnished by those desiring the same, the certification fee alone shall be collected.

Copies of records, etc., for transmission to circuit court of appeals.

Provido.
When copies furnished by applicant.

SEC. 547. MARSHAL, CONSTABLES, AND OTHER PERSONS SERVING PROCESS.—For executing process, preliminary and final judgments, and decrees of any court, for each mile of travel in the service of process going one way, reckoned from the place of service to the place to which the process is returnable, 10 cents; for serving an attachment against the property of the defendant, \$1, together with a reasonable allowance to be made by the court for expenses, if any, necessarily incurred in caring for the property attached; for arresting each defendant, 50 cents; for serving summons and copy of complaint for each defendant, \$1; but in special proceedings, testamentary or administrative, where several members of a family residing at the same place are defendants the fee for each defendant shall be 50 cents; for serving subpoenas, for each witness served, 25 cents besides travel fees; for each copy of any process necessarily deposited in the office of Registrar of Property, 10 cents for each one hundred words, but not less than 50 cents in each case; for taking bonds or other instruments of indemnity or security, for each, 25 cents; for executing a writ of process to put a person in possession of real estate, \$1; for attending with prisoner on habeas corpus trial, each day, \$1; for transporting each prisoner on habeas corpus or otherwise, when required, for every mile going and returning, 10 cents; for advertising sale, besides printer's charge, 50 cents; for taking inventory of goods levied upon, to be charged only when the inventory is necessary, a sum fixed by the court not exceeding the actual reasonable cost of the same to be shown by vouchers; for levying an execution on property, \$1.

Fees for service of process.

On all money collected by him by order or any decree, execution, attachment, or any other process, the following sums, to wit:

For collection of money.

On the first \$100 or less, 2 per centum.

On the second \$100, 1½ per centum; on all sums between \$200 and \$1,000, 1 per centum; on all sums in excess of \$1,000, ½ per centum.

SEC. 548. SAME; ATTEMPTS TO SERVE PROCESS.—The following fees shall be charged for return on and mileage in attempts to serve

For attempted service.

process, or any order, judgment, or decree of any court in civil cases:

(a) For each return, \$1.

(b) For mileage going one way in attempting to serve or execute any process, order, judgment, or decree of any court, for each mile traveled one way, 10 cents.

(c) No such fees shall be charged against the United States or The Panama Canal or an officer thereof sued in his official capacity.

Magistrates' fees.

SEC. 549. **MAGISTRATES.**—For all services of a magistrate in a civil case, the fees prescribed in section 543; for administering oath upon any affidavit or other paper with certificate of oath, 20 cents; for an appeal, with proceedings taking bond, making and forwarding transcript of record, 75 cents; for each certificate not otherwise provided for, 15 cents; for writing and certifying deposition, including the administration of oath to the witness, 10 cents for each one hundred words in the deposition and certificate; for certified copies of any record of proceeding of which any person is entitled to receive a copy, 10 cents for each one hundred words.

Account of fees to be rendered.

A magistrate upon receiving payment of fees allowed to him by law, must render to the person or persons so paying an itemized account thereof.

Witness fees, district court.

SEC. 550. **WITNESS FEES.**—Witnesses in the district court, either in actions or special proceedings, shall be entitled to \$1 per day and 10 cents for each mile going to the place of trial from their homes by the nearest route of usual travel; but mileage shall be charged but once in the action unless witness is compelled to attend more than one term of court, nor shall any allowance be made for mileage except that traveled within the Canal Zone.

Magistrates', etc., courts.

Witnesses before magistrates' courts and other inferior tribunals shall be allowed 50 cents per day and the travel fees above provided and no more.

Allowance of, on affidavit of witness.

Fees to which witness may be entitled in a civil action shall be allowed, on the affidavit of the witness, stating the number of days he has attended, the amount of mileage to which he is entitled, to be taken and preserved by the clerk of the court, magistrate, or other officer before whom the witness was called to testify, and a certificate of the allowance shall be given to the witness. But on final taxation of costs the truth of the affidavit may be contested and this allowance may be set aside in whole or in part as the facts require. A witness shall not be allowed compensation for his attendance in more than one case or on more than one side of the same case at the same time, but may elect in which of several cases or on which side of the case, when he is summoned by both sides, to claim his attendance; a person who is compelled to attend court on other business shall not be paid as a witness.

Referee's fees.

SEC. 551. **REFEREE'S FEES.**—The fees of referees are \$5 to each for every day spent in the business of the reference; but the parties may agree, in writing, upon any other rate of compensation, and thereupon such rates shall be allowed.

Additional fees.

SEC. 552. **OTHER FEES TO BE FIXED BY GENERAL RULES OF THE DISTRICT COURT.**—If it shall appear that services are required of clerks of court, marshals or officers of the court, other than those for which specific fees have been provided in this subchapter, the district judge shall by general rules provide for a scale of fees for such other services, which scale shall be proportionate to the fees in this subchapter provided for similar services.

COSTS

Costs.

Responsibility for.

SEC. 553. EACH PARTY RESPONSIBLE FOR HIS COSTS; FEES FOR SERVICE OF PROCESS PAYABLE IN ADVANCE.—Each party to any civil suit instituted in the district court or any magistrate's court of the Canal Zone shall be responsible for the costs incurred by him in such suit, and the marshal, constable or other officer, authorized to execute any process in such cases, shall not execute the same unless the fees allowed by law for the service of such process, shall be paid in advance by the party seeking such process, unless such party to the suit is entitled to prosecute the same in forma pauperis, as provided in section 554.

SEC. 554. PROSECUTION OR DEFENSE OF SUITS IN FORMA PAUPERIS.—Any citizen of the United States, entitled to commence any suit or action in any court in the Canal Zone, may commence and prosecute or defend to conclusion any such suit or action, without being required to prepay fees or costs or give security therefor, before or after bringing such suit or action, upon filing in the said court a statement, under oath, in writing, that because of his poverty he is unable to pay the costs of said suit or action, or to give security for same, and that he believes that he is entitled to the redress he seeks by such suit or action, and setting forth the nature of the said cause of action.

Suits in forma pauperis.

The opposing party in the suit, the clerk of the district court, or his assistant, or the magistrate, as the case may be, may contest the inability of the party to pay costs or his inability to furnish security for same; and the contest shall be heard at such time as the court or magistrate may determine.

Right to contest inability to pay costs.

If no contest is made upon the affidavit, or if the same is admitted by the court or magistrate after the contest, it shall be the duty of the officers of the court thereafter to issue and serve all processes and perform all duties on behalf of such party as in other cases.

If no contest, court to issue, etc., process, etc.

SEC. 555. COSTS ORDINARILY ALLOWED TO PREVAILING PARTY.—Costs shall ordinarily be allowed to the prevailing party as a matter of course, but the court shall have power for special reasons to adjudge that either party shall pay the costs of an action, or that the same be divided as may be equitable.

Allowance of costs to prevailing party.

SEC. 556. BILL OF COSTS AND TAXING OF COSTS IN DISTRICT COURT.—The party in whose favor judgment is rendered in the district court and who claims his costs, must within five days after the verdict or notice of the decision of the court deliver to the clerk and to the adverse party, or his attorney, a memorandum of the items of his costs in the action or proceeding, which memorandum must be verified by the oath of the party, or his attorney or agent, or by the clerk of his attorney, stating that to the best of his knowledge and belief the items are correct and that the disbursements have been necessarily incurred in the action or proceeding. A party dissatisfied with the costs so claimed, may, within five days after notice of filing of the bill of costs, file a motion to have the same taxed by the court or the judge thereof in said action.

Bill of costs and taxing of.

SEC. 557. WHAT COSTS MAY BE RECOVERED IN DISTRICT COURT.—In an action pending in the district court, the prevailing party may recover the following costs and no others:

Costs recoverable in district court.

For each witness necessarily produced by him, for each day's necessary attendance of such witness at the trial, the witness' lawful fees.

For each deposition lawfully taken by him, and produced in evidence, \$2.50.

For original documents, deeds, or papers of any kind produced by him, nothing.

For official copies of such documents, deeds, or papers, the lawful fees necessarily paid for obtaining such copies.

The lawful fees paid by him for the service of any process in the action, and all lawful clerk's fees paid by him.

Magistrate to tax costs in his court.

SEC. 558. **MAGISTRATE TO TAX COSTS IN HIS COURT.**—The costs in the magistrate's court shall be taxed by the magistrate without the filing and service of a memorandum of costs as provided in section 556, and upon such information as to magistrate and constable costs and other costs and fees and mileage of witnesses as the magistrate may require.

Costs recoverable in magistrates' courts.

SEC. 559. **WHAT COSTS MAY BE RECOVERED IN MAGISTRATES' COURTS.**—In an action pending before a magistrate, the plaintiff may recover the following costs, and no others:

For each witness produced by him, for each day's necessary attendance at the trial, the witness' lawful fees.

For each deposition lawfully taken by him and produced in evidence, \$2.50.

For original documents, deeds, or papers of any kind produced by him, nothing.

For official copies of such documents, deeds, or papers, the lawful fees necessarily paid for obtaining such copies.

The lawful fees paid by him for service of the summons and other process in the action.

The lawful docket fee paid by him.

If the judgment is for the defendant, he may recover the following costs, and no others:

For each witness produced by him, for each day's necessary attendance at the trial, the witness' lawful fees.

For each deposition lawfully taken by him and produced in evidence, \$2.50.

For original documents, deeds, or papers of any kind produced by him, nothing.

For official copies of such deeds or papers, the lawful fees necessarily paid for obtaining such copies.

The lawful fees paid by him for service of any process in the action.

Costs on continuance.

SEC. 560. **CONTINUANCE, COSTS MAY BE IMPOSED AS CONDITION OF.**—When an application is made to a court or referee to postpone a trial, the payment of costs occasioned by the postponement may be imposed, in the discretion of the court or referee, as a condition of granting the same.

When action dismissed for want of jurisdiction.

SEC. 561. **WHEN ACTION DISMISSED FOR WANT OF JURISDICTION.**—If an action is dismissed for want of jurisdiction, courts nevertheless shall have power to render judgment for costs as justice may require.

Security for costs.

SECURITY FOR COSTS

Plaintiff may be required to give.

SEC. 562. **PLAINTIFF MAY BE REQUIRED TO GIVE.**—The plaintiff in any civil suit or proceedings in the district court or in either of the magistrates' courts may be ruled to give security for the costs upon motion of the opposing party or of any officer of the court interested in the costs accruing in said suit; and it shall be the duty of the court to require the plaintiff to give such security for costs within a reasonable time thereafter and not later than ten days after the motion is presented to the court; and if the plaintiff shall fail to comply with the order of the court within the time prescribed by the court or judge thereof, the suit shall be dismissed.

CROSS REFERENCE

See also section 568.¹

SEC. 563. NEW OR ADDITIONAL UNDERTAKING BY PLAINTIFF; FORM OF SECURITY.—A new or additional undertaking may be ordered, within such time as the court or judge may prescribe, upon proof that the original undertaking is insufficient security, and failure on the part of the plaintiff to comply with the order of the court, or judge, within the time prescribed, shall cause the dismissal of the suit.

Additional undertakings by plaintiff.

The security for costs required by this subchapter may consist of a money deposit, bond of a surety company, or cost bond with two or more good and sufficient sureties; the form of such security to be determined by the judge or magistrate of the court before whom the proceedings are pending. If personal security is furnished, the sureties must be residents of the Canal Zone, and no officer of the court or attorney practicing before the court shall be accepted as surety.

Nature of.

SEC. 564. BONDS, WHAT TO AUTHORIZE.—All bonds given as security for costs shall authorize judgment against all of the obligors of the said bonds, jointly and severally, for such costs, to be entered in the final judgment of the case or special proceedings.

Bonds to authorize judgment for costs.

SEC. 565. SECURITY NOT REQUIRED FROM GOVERNMENT.—No security for costs shall be required of the United States, the Panama Canal, or any of its dependencies or from the public administrator of the Panama Canal.

Security not required from Government.

SEC. 566. SECURITY BY INTERVENOR OR COUNTERCLAIMANT.—The provisions of this subchapter, relating to security for costs, shall apply to an intervenor; and shall also apply to a defendant who seeks a judgment against the plaintiff on a counterclaim, after the defendant shall have discontinued his suit.

Of intervenor or counterclaimant.

SEC. 567. COSTS SECURED BY ATTACHMENT OR OTHER BOND.—When the costs are secured by the provisions of an attachment or other bond, filed by the party required to give satisfactory security for costs, no further security shall be required.

Security by attachment or other bond.

CHAPTER 18.—WRITS OF REVIEW, MANDATE, AND PROHIBITION

WRITS OF REVIEW, MANDATE, AND PROHIBITION.

WRIT OF REVIEW

SEC. 569. WRIT OF REVIEW DEFINED.—The writ of certiorari may be denominated the writ of review.

"Writ of review," defined.

SEC. 570. WHEN GRANTED BY DISTRICT COURT.—A writ of review may be granted by the district court, when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy.

When granted.

SEC. 571. APPLICATION FOR WRIT, HOW MADE.—The application must be made on the verified petition of the party beneficially interested, and the court may require a notice of the application to be given to the adverse party, or may grant an order to show cause why it should not be allowed, or may grant the writ without notice.

Application for.

SEC. 572. THE WRIT TO BE DIRECTED TO THE INFERIOR TRIBUNAL, ETC.—The writ may be directed to the inferior tribunal, board, or officer, or to any other person having the custody of the record or proceedings to be certified. When directed to a tribunal, the clerk, if there be one, must return the writ with the transcript required.

Direction of.

SEC. 573. CONTENTS OF THE WRIT.—The writ of review must command the party to whom it is directed to certify fully to the district

Contents.

¹ So in original.

court, at a specified time and place, a transcript of the record and proceedings (describing or referring to them with convenient certainty), that the same may be reviewed by the court; and requiring the party, in the meantime, to desist from further proceedings in the matter to be reviewed.

Stay of proceedings. SEC. 574. PROCEEDINGS IN INTERIOR COURT MAY BE STAYED, OR NOT.—If a stay of proceedings be not intended, the words requiring the stay must be omitted from the writ; these words may be inserted or omitted, in the sound discretion of the court, but if omitted, the power of the inferior court or officer is not suspended or the proceedings stayed.

Service. SEC. 575. SERVICE OF THE WRIT.—The writ must be served in the same manner as a summons in civil action, except when otherwise expressly directed by the court.

Extent of review under. SEC. 576. THE REVIEW UNDER THE WRIT, EXTENT OF.—The review upon this writ can not be extended further than to determine whether the inferior tribunal, board, or officer has regularly pursued the authority of such tribunal, board, or officer.

Perfection of return of. SEC. 577. A DEFECTIVE RETURN OF THE WRIT MAY BE PERFECTED; HEARING AND JUDGMENT.—If the return of the writ be defective, the court may order a further return to be made. When a full return has been made, the court must hear the parties, or such of them as may attend for that purpose, and may thereupon give judgment, either affirming or annulling, or modifying the proceedings below.

Hearing and judgment. SEC. 578. COPY OF THE JUDGMENT MUST BE SENT TO THE INTERIOR TRIBUNAL.—A copy of the judgment, signed by the clerk, must be transmitted to the inferior tribunal, board, or officer having the custody of the record or proceeding certified up.

Copy of judgment to inferior court. SEC. 579. JUDGMENT-ROLLS.—A copy of the judgment, signed by the clerk, entered upon or attached to the writ and return, constitute the judgment-roll.

Writ of mandate.

WRIT OF MANDATE

Mandamus denominated as. SEC. 580. MANDATE DEFINED.—The writ of mandamus may be denominated the writ of mandate.

Purpose for which issued. SEC. 581. WHEN ISSUED BY DISTRICT COURT.—It may be issued by the district court, to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled, and from which he is unlawfully precluded by such inferior tribunal, corporation, board, or person.

When to issue. SEC. 582. WRIT, WHEN AND UPON WHAT TO ISSUE.—The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon the verified petition of the party beneficially interested.

Alternative or peremptory. SEC. 583. WRIT MAY BE EITHER ALTERNATIVE OR PEREMPTORY; SUBSTANCE.—The writ may be either alternative or peremptory. The alternative writ must command the party to whom it is directed immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court at a specified time and place why he has not done so. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he has not done as commanded must be omitted and a return-day inserted.

Effect of notice. SEC. 584. IF THE APPLICATION BE WITHOUT NOTICE, THE ALTERNATIVE WRIT MAY ISSUE, OTHERWISE, THE PEREMPTORY; NOTICE AND DEFAULT.—When the application to the court is made without notice to the adverse party, and the writ is allowed, the alternative must be first

issued; but if the application is upon due notice and the writ is allowed, the peremptory may be issued in the first instance. With the alternative writ and also with any notice of an intention to apply for the writ, there must be served on each person against whom the writ is sought a copy of the petition. The notice of the application, when given, must be at least ten days. The writ can not be granted by default. The case must be heard by the court, whether the adverse party appears or not.

SEC. 585. THE ADVERSE PARTY MAY ANSWER UNDER OATH.—On the return of the alternative, or the day on which the application for the writ is noticed, the party on whom the writ or notice has been served may answer the petition under oath, in the same manner as an answer to a complaint in a civil action.

Answer under oath.

SEC. 586. APPLICANT NOT PRECLUDED BY ANSWER FROM OBJECTION TO ITS SUFFICIENCY.—On the trial, the applicant is not precluded by the answer from any valid objection to its sufficiency, and may countervail it by proof either in direct denial or by way of avoidance.

Applicant not precluded thereby from objection to sufficiency of answer.

SEC. 587. HEARINGS BY COURT.—If no answer be made, the case must be heard on the papers of the applicant.

Hearing.

SEC. 588. RECOVERY OF DAMAGES BY APPLICANT.—If judgment be given for the applicant, he may recover the damages which he has sustained as may be determined by the court or referee, upon a reference to be ordered, together with costs; and for such damages and costs an execution may issue; and a peremptory mandate must also be awarded without delay.

Recovery of damages.

SEC. 589. SERVICE OF THE WRIT.—The writ must be served in the same manner as a summons in a civil action, except when otherwise expressly directed by order of the court. Service upon a majority of the members of any board or body, is service upon the board or body, whether at the time of the service the board or body was in session or not.

Service of.

SEC. 590. PENALTY FOR DISOBEDIENCE TO THE WRIT.—When a peremptory mandate has been issued and directed to any inferior tribunal, corporation, board, or person, if it appear to the court that any member of such tribunal, corporation, or board, or such person upon whom the writ has been personally served, has, without just excuse, refused or neglected to obey the same, the court may, upon motion, impose a fine not exceeding \$1,000. In case of persistence in a refusal of obedience, the court may order the party to be imprisoned until the writ is obeyed, and may make any orders necessary and proper for the complete enforcement of the writ.

Penalty for disobedience to.

WRIT OF PROHIBITION

Writ of prohibition.

SEC. 591. WRIT OF PROHIBITION DEFINED.—The writ of prohibition is the counterpart of the writ of mandate. It arrests the proceedings of any tribunal, corporation, board, or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board, or person.

Defined.

SEC. 592. WHERE AND WHEN WRIT ISSUED.—It may be issued by the district court, to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

Issue of.

SEC. 593. WRIT MUST BE EITHER ALTERNATIVE OR PEREMPTORY; FORM OF.—The writ must be either alternative or peremptory. The alternative writ must command the party to whom it is directed to desist or refrain from further proceedings in the action or matter specified therein, until the further order of the district court, and to show

Either alternative or peremptory.

cause before such court, at a specified time and place, why such party should not be absolutely restrained from any further proceedings in such action or matter. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he should not be absolutely restrained, and so forth, must be omitted, and a return day inserted.

Provisions governing. *Ante*, p. 1010.

SEC. 594. CERTAIN PROVISIONS OF THE PRECEDING SUBCHAPTER APPLICABLE.—The provisions of sections 584 to 590 apply to this proceeding.

Issuance, return, and hearing.

ISSUANCE, RETURN, AND HEARING

Writs of review, mandate, and prohibition.

SEC. 595. WRITS OF REVIEW, MANDATE, AND PROHIBITION; ISSUANCE, RETURN, AND HEARING.—Writs of review, mandate, and prohibition issued by the district court, may, in the discretion of the court, be made returnable, and a hearing thereon be had at any time.

Rules of practice.

RULES OF PRACTICE

Ante, pp. 916-998, to govern.

SEC. 596. CERTAIN PRECEDING CHAPTERS APPLICABLE.—Except as otherwise provided in this chapter, the provisions of chapters 4 to 16 of this code are applicable to and constitute the rules of practice in the proceedings mentioned in this chapter.

SUMMARY PROCEEDINGS.

CHAPTER 19.—SUMMARY PROCEEDINGS

Confession of judgment without action.

CONFESSION OF JUDGMENT WITHOUT ACTION

For debt due or contingent liability.

SEC. 597. JUDGMENT MAY BE CONFESSED FOR DEBT DUE OR CONTINGENT LIABILITY.—A judgment by confession may be entered without action, either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this subchapter. Such judgment may be entered in any court having jurisdiction for like amounts.

Statement in writing required.

SEC. 598. STATEMENT IN WRITING, AND FORM THEREOF.—A statement in writing must be made, signed by the defendant and verified by his oath, to the following effect:

Contents.

1. It must authorize the entry of judgment for a specified sum;
2. If it be for money due, or to become due, it must state concisely the facts out of which it arose, and show that the sum confessed therefor is justly due, or to become due;
3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability, and show that the sum confessed therefor does not exceed the same.

Filing of statement and entering judgment, district court.

SEC. 599. FILING STATEMENT AND ENTERING JUDGMENT.—The statement must be filed with the clerk of the district court if the judgment is to be entered in that court, who must indorse upon it, and enter of record, a judgment of such court for the amount confessed, with \$10 costs. The statement and affidavit, with the judgment indorsed, thereupon becomes the judgment-roll.

Magistrate's court.

SEC. 600. HOW, IN MAGISTRATES' COURTS.—In a magistrate's court, where the court has authority to enter the judgment, the statement may be filed with the magistrate, who must thereupon enter in his docket a judgment of his court for the amount confessed, with \$3 costs.

Submitting controversy without action.

SUBMITTING A CONTROVERSY WITHOUT ACTION

By parties to question.

SEC. 601. CONTROVERSY, HOW SUBMITTED WITHOUT ACTION.—Parties to a question in difference, which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of

the same to any court which would have jurisdiction if an action had been brought; but it must appear, by affidavit, that the controversy is real and the proceedings in good faith, to determine the rights of the parties. The court must thereupon hear and determine the case, and render judgment thereon, as if an action were depending.

SEC. 602. JUDGMENT ON, AS IN OTHER CASES, BUT WITHOUT COSTS PRIOR TO NOTICE OF TRIAL.—Judgment must be entered as in other cases, but without costs for any proceeding prior to the trial. The case, the submission, and a copy of the judgment constitute the judgment roll.

SEC. 603. JUDGMENT MAY BE ENFORCED OR APPEALED FROM AS IN AN ACTION.—The judgment may be enforced in the same manner as if it had been rendered in an action, and is in the same manner subject to appeal.

DISCHARGE OF PERSONS IMPRISONED ON CIVIL PROCESS

SEC. 604. PERSONS CONFINED MAY BE DISCHARGED.—Any person confined in jail, on an execution issued on a judgment rendered in a civil action, must be discharged therefrom upon the conditions in this subchapter specified.

SEC. 605. NOTICE OF APPLICATION FOR DISCHARGE FROM PRISON.—Such person must cause a notice in writing to be given to the plaintiff, his agent, or attorney, that at a certain time and place he will apply to the judge of the district court for the purpose of obtaining a discharge from his imprisonment.

SEC. 606. SERVICE OF NOTICE.—Such notice must be served upon the plaintiff, his agent, or attorney, one day at least before the hearing of the application.

SEC. 607. EXAMINATION BEFORE JUDGE.—At the time and place specified in the notice, such person must be taken before such judge, who must examine him under oath concerning his estate and property and effects, and the disposal thereof, and his ability to pay the judgment for which he is committed; and such judge may also hear any other legal and pertinent evidence that may be produced by the debtor or the creditor.

SEC. 608. INTERROGATORIES MAY BE IN WRITING.—The plaintiff in the action may, upon such examination, propose to the prisoner any interrogatories pertinent to the inquiry, and they must, if required by him, be proposed and answered in writing, and the answer must be signed and sworn to by the prisoner.

SEC. 609. OATH TO BE ADMINISTERED.—If, upon the examination, the judge is satisfied that the prisoner is entitled to his discharge, he must administer to him the following oath, to wit:

“I, _____, do solemnly swear that I have not any estate, real or personal, to the amount of \$50, except such as is by law exempted from being taken in execution; and that I have not any other estate now conveyed or concealed, or in any way disposed of, with design to secure the same to my use, or to hinder, delay, or defraud my creditors, so help me God.”

SEC. 610. ORDER OF DISCHARGE.—After administering the oath, the judge must issue an order that the prisoner be discharged from custody, and the officer, upon the service of such order, must discharge the prisoner forthwith, if he be imprisoned for no other cause.

SEC. 611. IF NOT DISCHARGED, PRISONER MAY AGAIN APPLY, WHEN.—If such judge does not discharge the prisoner, he may apply for his discharge at the end of every succeeding ten days, in the same

Affidavit that controversy is real.

Judgment on.

Enforcement of, and appeal from.

Persons imprisoned on civil process.

Discharge of.

Notice of application for.

Service of.

Examination before judge.

Interrogatories.

Oath.

Order of discharge.

Additional applications for.

manner as above provided, and the same proceedings must thereupon be had.

Discharge final.

SEC. 612. DISCHARGE FINAL.—The prisoner, after being so discharged, is forever exempted from arrest or imprisonment for the same debt, unless he be convicted of having willfully sworn falsely upon his examination before the judge, or in taking the oath before prescribed.

Judgment to remain in force.

SEC. 613. JUDGMENT REMAINS IN FORCE.—The judgment against any prisoner who is discharged remains in full force against any estate which may then or at any time afterward belong to him, and the plaintiff may take out a new execution against the goods and estate of the prisoner, in like manner as if he had never been committed.

Discharge ordered by plaintiff.

SEC. 614. PLAINTIFF MAY ORDER DISCHARGE OF PRISONER, WHO SHALL NOT THEREAFTER BE LIABLE TO IMPRISONMENT FOR THE SAME CAUSE OF ACTION.—The plaintiff in the action may at any time order the prisoner to be discharged, and he is not thereafter liable to imprisonment for the same cause of action.

Plaintiff to advance funds for support of prisoner.

SEC. 615. PLAINTIFF TO ADVANCE FUNDS FOR SUPPORT OF PRISONER.—Whenever a person is committed to jail on an execution issued on a judgment recovered in a civil action, the creditor, his agent, or attorney must advance to the jailer, on such commitment, sufficient money for the support of the prisoner for one week, and must make the like advance for every successive week of his imprisonment; and in case of failure to do so, the jailer must forthwith discharge such prisoner from custody, and such discharge has the same effect as if made by order of the creditor.

Summary proceedings, possession of real property.

SUMMARY PROCEEDINGS FOR OBTAINING POSSESSION OF REAL PROPERTY IN CERTAIN CASES

CROSS REFERENCE

Vol. 42, p. 1004.
U. S. C., p. 1641.

Magistrates' courts to have exclusive original jurisdiction of all actions for the forcible entry and detainer of real estate, see section 7 of the Panama Canal Act.

"Forcible entry," defined.

SEC. 616. FORCIBLE ENTRY DEFINED.—Every person is guilty of a forcible entry who either—

1. By breaking open doors, windows, or other parts of a house, or by any kind of violence or circumstance of terror enters upon or into any real property; or

2. Who, after entering peaceably upon real property, turns out by force, threats, or menacing conduct, the party in possession.

"Forcible detainer."

SEC. 617. FORCIBLE DETAINER DEFINED.—Every person is guilty of a forcible detainer who either—

1. By force, or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise; or

2. Who, in the nighttime, or during the absence of the occupant of any lands, unlawfully enters upon real property, and who, after demand made for the surrender thereof, for the period of five days, refuses to surrender the same to such former occupant.

The occupant of real property, within the meaning of this subdivision, is one who, within five days preceding such unlawful entry, was in the peaceable and undisturbed possession of such lands.

"Unlawful detainer."

SEC. 618. UNLAWFUL DETAINER DEFINED.—A tenant of real property, for a term less than life, is guilty of unlawful detainer:

By holding after termination of lease.

1. When he continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the

term for which it is let to him, without the permission of his landlord, or the successor in estate of his landlord, if any there be; but in case of a tenancy at will it must first be terminated by notice, as prescribed in the Civil Code.

2. When he continues in possession, in person or by subtenant, without the permission of his landlord, or the successor in estate of his landlord, if any there be, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment stating the amount which is due, or possession of the property, shall have been served upon him and if there is a subtenant in actual occupation of the premises, also upon such subtenant.

Such notice may be served at any time within one year after the rent becomes due.

3. When he continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him, and if there is a subtenant in actual occupation of the premises, also, upon such subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture: *Provided*, That if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to said lessee or his subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this subchapter, to obtain possession of the premises let to a subtenant, in case of his unlawful detention of the premises underlet to him.

4. Any tenant or subtenant assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his lease, thereby terminates the lease, and the landlord, or his successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of such demised premises under the provisions of this subchapter.

SEC. 619. SERVICE OF NOTICE.—The notices required by the preceding section may be served, either:

1. By delivering a copy to the tenant personally; or
2. If he be absent from his place of residence, and from his usual place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his place of residence; or
3. If such place of residence and business can not be ascertained, or a person of suitable age or discretion there can not be found, then by affixing a copy in a conspicuous place on the property, and also delivering a copy to a person there residing, if such person can be found; and also sending a copy through the mail addressed to the tenant at the place where the property is situated. Service upon a subtenant may be made in the same manner.

SEC. 620. PARTIES DEFENDANT.—No person other than the tenant of the premises and subtenant, if there be one, in the actual occupation of the premises when the complaint is filed, need be made parties

After default in rent.

Notice.

After breach of covenant.

Performance after notice.

Proviso.
When performance impossible.

Proceedings against subtenant.

After subletting, etc., contrary to conditions of lease.

Notice.

Service of.

Parties defendant.

defendant in the proceeding, nor shall any proceeding abate, nor the plaintiff be nonsuited for the nonjoinder of any person who might have been made party defendant, but when it appears that any of the parties served with process, or appearing in the proceeding, are guilty of the offense charged, judgment must be rendered against him. In case a defendant has become a subtenant of the premises in controversy after the service of the notice provided for by part two of section 618 upon the tenant of the premises, the fact that such notice was not served on each subtenant shall constitute no defense to the action.

Married woman.

In case a married woman be a tenant, or a subtenant, her coverture shall constitute no defense; but in case her husband be not joined, or unless she be doing business as a sole trader, an execution issued upon a personal judgment against her can only be enforced against property on the premises at the commencement of the action.

Persons entering under tenant.

All persons who enter the premises under the tenant, after the commencement of the suit, shall be bound by the judgment, the same as if he or they had been made party to the action.

Ante, pp. 919-923, to govern.

SEC. 621. PARTIES GENERALLY.—Except as provided in the preceding section, the provisions of sections 86 to 110, relating to parties to civil actions, are applicable to this proceeding.

Verification of complaint.

SEC. 622. COMPLAINT MUST BE VERIFIED.—The plaintiff in his complaint, which shall be verified, must set forth the facts on which he seeks to recover, and describe the premises with reasonable certainty, and may set forth therein any circumstances of fraud, force, or violence, which may have accompanied the alleged forcible entry or forcible or unlawful detainer, and claim damages therefor. In case the unlawful detainer charged is after default in the payment of rent, the complaint must state the amount of such rent. Upon filing the complaint, a summons must be issued thereon.

Summons, form and service.

SEC. 623. SUMMONS, FORM AND SERVICE OF.—The summons must require the defendant to appear and answer within three days after the service of the summons upon him, and must notify him that if he fails to so appear and answer, the plaintiff will apply to the court for the relief demanded in the complaint. In all other respects the summons, or any alias summons in such proceedings, must be issued and served and returned in the same manner as summons in a civil action.

Arrest.

SEC. 624. ARREST.—If the complaint presented establishes, to the satisfaction of the magistrate, fraud, force, or violence, in the entry or detainer, and that the possession held is unlawful, he may make an order for the arrest of the defendant.

Judgment by default.

SEC. 625. JUDGMENT BY DEFAULT.—If, at the time appointed, the defendant do not appear and defend, the court must enter his default and render judgment in favor of the plaintiff as prayed for in the complaint.

Appearance of defendant.

SEC. 626. DEFENDANT MAY APPEAR, AND SO FORTH.—On or before the day fixed for his appearance, the defendant may appear and answer or demur.

Proof of charge of forcible entry or detainer.

SEC. 627. SHOWING REQUIRED OF PLAINTIFF IN FORCIBLE ENTRY OR DETAINER; OF DEFENDANT.—On the trial of any proceeding for any forcible entry or forcible detainer, the plaintiff shall only be required to show, in addition to the forcible entry or forcible detainer complained of, that he was peaceably in the actual possession at the time of the forcible entry, or was entitled to the possession at the time of the forcible detainer. The defendant may show in his defense that he or his ancestors, or those whose interest in such premises he claims, have been in the quiet possession thereof for the space of one whole year together next before the commencement of the proceed-

Defense.

ings, and that his interest therein is not then ended or determined; and such showing is a bar to the proceedings.

SEC. 628. COMPLAINT MUST BE AMENDED IN CERTAIN CASES; CONTINUANCE.—When, upon the trial of any proceeding under this subchapter, it appears from the evidence that the defendant has been guilty of either a forcible entry or a forcible or unlawful detainer, and other than the offense charged in the complaint, the magistrate must order that such complaint be forthwith amended to conform to such proofs; such amendment must be made without any imposition of terms. No continuance shall be permitted upon account of such amendment unless the defendant, by affidavit filed, shows to the satisfaction of the court good cause therefor.

Amendment of complaint; continuances.

SEC. 629. JUDGMENT, WHAT IT SHALL DECLARE.—If upon the trial the finding of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceedings be for an unlawful detainer after neglect or failure to perform the conditions or covenants of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of such lease or agreement.

Judgment, declaration of.

ASSESSMENT OF DAMAGES.—The court shall also assess the damages occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and find the amount of any rent due, if the alleged unlawful detainer be after default in the payment of rent. Judgment against the defendant guilty of the forcible entry, or forcible or unlawful detainer, may be entered in the discretion of the court either for the amount of the damages and rent found due, or for three times the amount so found.

Assessment of damages.

EXECUTION.—When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not be issued until the expiration of five days after the entry of the judgment, within which time the tenant, or any subtenant, or any mortgagee of the term, or any other party interested in its continuance, may pay into court, for the landlord, the amount found due as rent, with interest thereon, and the amount of the damages found by the court for the unlawful detainer, and the costs of the proceedings, and thereupon the judgment shall be satisfied and the tenant be restored to his estate.

Execution.

SATISFACTION OF JUDGMENT.—But if payment as here provided be not made within five days, the judgment may be enforced for its full amount, and for the possession of the premises. In all other cases the judgment may be enforced immediately.

Satisfaction of judgment.

SEC. 630. EFFECT OF AN APPEAL UPON THE JUDGMENT.—An appeal taken by the defendant shall not stay proceedings upon the judgment unless the magistrate before whom the same was rendered so directs.

Effect of appeal.

SEC. 631. RULES OF PRACTICE.—Except as otherwise provided in this subchapter the provisions of chapters 4 to 16 of this code are applicable to, and constitute the rules of practice in the proceedings mentioned in this subchapter.

Rules of practice. *Act*, pp. 916-998, to govern.

SEC. 632. APPEALS, HOW TAKEN, AND SO FORTH.—The provisions of sections 491 to 501 of this code, relative to appeals, except in so far as they are inconsistent with the provisions of this subchapter, apply to the proceedings mentioned in this subchapter.

Taking of appeal.

SEC. 633. RELIEF AGAINST FORFEITURE OF LEASE.—The court may relieve a tenant against a forfeiture of a lease, and restore him to his former estate, in case of hardship, where application for such

Relief against forfeiture of lease.

relief is made within thirty days after the forfeiture is declared by the judgment of the court, as provided in section 629. The application may be made by a tenant or subtenant, or a mortgagee of the term, or any person interested in the continuance of the term. It must be made upon petition, setting forth the facts upon which the relief is sought, and be verified by the applicant. Notice of the application, with a copy of the petition, must be served on the plaintiff in the judgment, who may appear and contest the application. In no case shall the application be granted except on condition that full payment of rent due, or full performance of conditions or covenants stipulated, so far as the same is practicable, be made.

CONTEMPTS.

CHAPTER 20.—CONTEMPTS

Summary punishment in certain cases.

SEC. 634. WHAT CONTEMPT OF COURT MAY BE PUNISHED SUMMARILY.—A person guilty of misbehavior in the presence of or so near a court, judge, or magistrate as to obstruct the administration of justice, including the refusal of a person present in court to be sworn as a witness or to answer as a witness when lawfully required, shall be guilty of contempt, which the court may punish summarily, by imprisonment in jail not exceeding ten days, or by fine not exceeding \$100, or by both such fine and imprisonment.

Order adjudging guilt.

SEC. 635. ORDER ADJUDGING GUILT UNDER PRECEDING SECTION.—When a contempt under section 634 is committed, an order must be made, reciting the facts as occurring in such presence or proximity, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein prescribed.

Further contempts.

SEC. 636. WHAT OTHER ACTS ARE CONTEMPTS OF COURT.—A person guilty of any of the following acts may be punished as for contempt:

1. Disobedience of or resistance to a lawful writ, process, order, judgment, or command of the district or a magistrate's court, or injunction granted by the district court or judge;
2. Misbehavior of an officer of a court in the performance of his official duties, or in his official transactions;
3. A failure to obey a subpoena duly served;
4. The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

Affidavit of facts constituting.

SEC. 637. AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT.—When a contempt under section 636 is committed, an affidavit shall be presented to the court, judge, or magistrate of the facts constituting the contempt.

Warrant of attachment may issue.

SEC. 638. A WARRANT OF ATTACHMENT MAY ISSUE, OR A NOTICE TO SHOW CAUSE.—When a contempt under section 636 is committed, a warrant of attachment may be issued to bring the person charged to answer, or, without a previous arrest, a warrant of commitment may, upon notice, or upon an order to show cause, be granted; and no warrant of commitment can be issued without such previous attachment to answer, or such notice or order to show cause.

Notice to show cause.

Bail, as matter of right.

SEC. 639. BAIL MAY BE GIVEN BY A PERSON ARRESTED UNDER SUCH WARRANT.—Whenever a warrant of attachment is issued, pursuant to this chapter, the court, judge, or magistrate must direct, by an indorsement on such warrant, that the person charged may be let to bail for his appearance, in an amount to be specified in such indorsement.

Arrest and detention by marshal, etc.

SEC. 640. MARSHAL OR CONSTABLE MUST, UPON EXECUTING THE WARRANT, ARREST AND DETAIN THE PERSON UNTIL DISCHARGED.—Upon executing the warrant of attachment, the marshal or constable must keep the person in custody, bring him before the court, judge, or

magistrate and detain him until an order be made in the premises, unless the person arrested entitle himself to be discharged, as provided in section 641.

SEC. 641. BAIL BOND, FORM AND CONDITIONS OF.—When a direction to let the person arrested to bail is contained in the warrant of attachment, or indorsed thereon, he must be discharged from the arrest, upon executing and delivering to the officer, at any time before the return day of the warrant, a written undertaking, with two sufficient sureties, to the effect that the person arrested will appear on the return of the warrant and abide the order of the court, judge, or magistrate thereupon; or they will pay as may be directed, the sum specified in the warrant.

Bail bond.

SEC. 642. OFFICER MUST RETURN WARRANT AND UNDERTAKING, IF ANY.—The officer must return the warrant of arrest and undertaking, if any, received by him from the person arrested, by the return day specified therein.

Return by officer.

SEC. 643. HEARING.—When the person arrested has been brought up or appeared, the court, judge, or magistrate must proceed to investigate the charge, and must hear any answer which the person arrested may make to the same, and may examine witnesses for or against him, for which an adjournment may be had from time to time, if necessary.

Hearing.

SEC. 644. JUDGMENT AND PUNISHMENT, IF GUILTY.—The court shall determine whether the accused is guilty of contempt, and, if he be adjudged guilty, he may be fined not exceeding \$100, or imprisoned not more than ten days, or both. If the contempt consists in the violation of an injunction, the person guilty of such contempt may also be ordered to make complete restitution to the party injured by such violation.

Judgment, punishment.

SEC. 645. IF THE CONTEMPT IS THE OMISSION TO PERFORM ANY ACT, THE PERSON MAY BE IMPRISONED UNTIL PERFORMANCE.—When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he have¹ performed it, and in that case the act must be specified in the warrant of commitment.

Imprisonment to enforce performance of act.

SEC. 646. IF A PARTY FAIL TO APPEAR, PROCEEDINGS.—When the warrant of arrest has been returned served, if the person arrested do not appear on the return-day, the court, judge, or magistrate may issue another warrant of arrest, or may order the undertaking to be prosecuted, or both. If the undertaking be prosecuted, the measure of damages in the action is the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the warrant was issued, and the costs of the proceedings.

Failure of defendant to appear.

SEC. 647. ILLNESS SUFFICIENT CAUSE FOR NONAPPEARANCE OF PARTY ARRESTED; CONFINEMENT UNDER ARRESTS FOR CONTEMPT.—Whenever, by the provisions of this chapter, an officer is required to keep a person arrested on a warrant of attachment in custody, and to bring him before a court, judge, or magistrate, the inability, from illness or otherwise, of the person to attend, is a sufficient excuse for not bringing him up; and the officer must not confine a person arrested upon the warrant in jail, or otherwise restrain him of personal liberty, except so far as may be necessary to secure his personal attendance.

Illness sufficient excuse. Confinement under arrests for contempt.

CHAPTER 21.—ESCHEAT OF PROPERTY

ESCHEAT OF PROPERTY.

SEC. 648. WHAT PROPERTY ESCHEATS.—If an intestate decedent leaves no husband, wife, or kindred, and there are no heirs to take his estate or any portion thereof, under subdivision 8 of section 402

What property escheats.

Post, p. 1179.

¹ So in original.

of the Civil Code, or if any person dies leaving any property in his estate not disposed of by will, and there are no persons entitled to succeed thereto under the laws of the Canal Zone, the same shall escheat to the United States.

Action to determine right of United States to property.

SEC. 649. ACTION TO DETERMINE RIGHT OF UNITED STATES TO ESCHEATED PROPERTY.—Whenever the district attorney is informed that any estate has escheated or is about to escheat to the United States or that the property involved in any action or special proceeding has escheated or is about to escheat to the United States, he may commence an action on behalf of the United States to determine its rights to said property or may intervene on its behalf in any action or special proceeding affecting any such estate and contest the rights of any claimant or claimants thereto. Such action shall be commenced by filing a petition.

Description.

DESCRIPTION OF PROPERTY.—There shall be set forth in such petition a description of the property, the name of the person last possessed thereof, the name of the person, if any, claiming such property, or any portion thereof, and the facts and circumstances by virtue of which it is claimed the property has escheated.

Order requiring appearance of interested parties to issue.

ORDER REQUIRING INTERESTED PARTIES TO APPEAR.—Upon the filing of such petition, the court must make an order requiring all persons interested in the estate to appear and show cause, if any there be, within sixty days from the date of the order, why such estate should not vest in the United States. Notice of such order must be given by posting in three public places in the Canal Zone for four successive weeks prior to the date set for the hearing. Upon the giving of such notice the court shall have full and complete jurisdiction over the estate, the property, and the person of everyone having or claiming any interest in the said property, and shall have full and complete jurisdiction to hear and determine the issues therein, and render the appropriate judgment thereon.

Custody of property.

CUSTODY OF SUCH PROPERTY.—The property in such estates shall, in the discretion of the court, be sold in the manner provided in chapters 23 to 36 for the sale of property of a decedent's estate, and the proceeds deposited with the collector of the Panama Canal, to be held for a period of five years from the date of the judgment under section 650.

Joinder of parties and actions.

JOINDER OF PARTIES AND ACTIONS.—In any proceeding brought by the district attorney under this title any two or more causes of action may be joined in the same proceedings and in the same petition without being separately stated, and it shall be sufficient to allege in the petition that the decedent left no heirs to take the estate and the failure of the heirs to appear and set up their claims in any such proceeding, or in any proceeding for the administration of such estate, shall be sufficient proof upon which to base the judgment in any such proceeding or such decree of distribution.

Appearance, pleadings, and judgment.

SEC. 650. APPEARANCE, PLEADINGS, AND JUDGMENT.—All persons named in the petition may appear and answer, and traverse or deny the facts stated therein at any time before the time for answering expires, and any other person claiming an interest in such estate may appear and be made a defendant, by motion for that purpose in open court within the time allowed for answering, and if no such person appears and answers within the time, then judgment must be rendered that the United States is the owner of the property in such petition claimed;

Trial upon denial of title set up by United States.

But if any person appears and denies the title set up by the United States, or traverses any material fact set forth in the petition, the issue of fact must be tried as issues of fact are tried in civil actions.

If, after the issues are tried, it appears from the facts found or admitted that the United States has good title to the property in the petition mentioned, or any part thereof, judgment must be rendered that the United States is the owner and entitled to the possession thereof.

SEC. 651. CLAIM TO ESCHEATED PROPERTY.—Within five years after judgment in any proceeding had under this chapter, a person not a party or privy to such proceeding may file a petition in the district court, showing his claim or right to the property, or the proceeds thereof.

Claim to escheated property, by petition.

Said petition shall be verified, and, among other things, must state the full name and the place and date of birth of the decedent; whether or not such decedent was ever married, and if so, where, when, and to whom; how, when, and where such marriage, if any, was dissolved; whether or not said decedent was ever remarried, and, if so, where, when, and to whom; the full names and the dates of birth of lineal descendents and ascendants and of all other known heirs, and the names and places of residence of all who are then surviving; and such other information as may be required by the court. If for any reason the petitioner is unable to set forth any of the matters or things hereinabove required, he shall clearly state such reason in his petition.

Verification, contents, etc.

A copy of such petition must be served on the district attorney at least twenty days before the hearing of the petition, who must answer the same;

Service of.

And the court must thereupon try the issue as issues are tried in civil actions, and if it is determined that such person is entitled to the property, or the proceeds thereof, it must order the property, if it has not been sold, to be delivered to him, or if it has been sold and the proceeds paid to the Collector of the Panama Canal, then it must order the collector to pay the same.

Trial of issue.

All persons who fail to appear and file their petitions within the time limited are forever barred.

Limitation on action.

SEC. 652. PROCEEDS OF PROPERTY TO BE COVERED INTO TREASURY.—If no claim to the property or the proceeds thereof is filed within the time specified in the preceding section, the court may, on application of the district attorney, direct that the proceeds be covered into the Treasury of the United States as miscellaneous receipts.

Proceeds from escheated property covered into Treasury.

CHAPTER 22.—CHANGE OF NAMES

CHANGE OF NAMES.

SEC. 653. JURISDICTION.—Applications for change of names must be heard and determined by the district court.

Jurisdiction for.

SEC. 654. APPLICATION TO CHANGE NAME, MADE TO DISTRICT COURT.—All applications for change of names must be made to the division of the district court where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under twenty-one years of age, if a male, and under the age of eighteen years of age, if a female, by one of the parents, if living, or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend.

Application.

Minor, through parent, etc.

The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name, and must, if the father of such person be not living, name, as far as known to the petitioner, the near relatives of such person, and their place of residence.

Contents of petition.

SEC. 655. ORDER TO SHOW CAUSE; PUBLICATION OF ORDER; PROOF OF PUBLICATION.—Upon the filing of the said petition the court shall thereupon make an order reciting the filing of the application, the name of the person by whom it is filed and the name proposed, and

Order to show cause

Publication.

Proof thereof.

directing all persons interested in said matter to appear before the court, at a time and place specified, not less than four or more than eight weeks from the time of making such order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the division in which the court is held, for a period of four successive weeks. Proof must be made to the satisfaction of the court, of such posting, at the time of the hearing of the application.

ESTATES OF DECEDENTS.

CHAPTER 23.—JURISDICTION OF DISTRICT COURT OVER ESTATES OF DECEDENTS

Jurisdiction of district court over.

SEC. 656. JURISDICTION OF DISTRICT COURT OVER THE ESTATE, WHEN EXERCISED.—Wills must be proved, and letters testamentary or of administration granted—

1. In the division of the district court of which the decedent was a resident at the time of his death, in whatever place he may have died;

2. In the division in which the decedent may have died, leaving estate therein, he not being a resident of the Canal Zone;

3. In the division in which any part of the estate may be, the decedent having died out of the Canal Zone, and not resident thereof at the time of his death;

4. In the division in which any part of the estate may be, the decedent not being a resident of the Canal Zone, and not leaving estate in the division in which he died;

5. In all other cases, in the division where application for letters is first made:

Proviso. Probate matters handled by public administrator.

Provided, however, That all matters of probate handled by the public administrator may be conducted in the Balboa division, regardless of the residence of the decedent or the location of the estate.

Jurisdiction decided by application.

SEC. 657. WHEN JURISDICTION OF DISTRICT COURT OVER ESTATES DECIDED BY FIRST APPLICATION.—When the estate of the decedent is in more than one division, he having died out of the Canal Zone, and not having been a resident thereof at the time of his death, or being such nonresident, and dying within the Canal Zone, and not leaving estate in the division where he died, the division of the district court in which application is first made, for letters testamentary or of administration, has exclusive jurisdiction of the settlement of the estate.

PROBATE OF WILLS.

CHAPTER 24.—PROBATE OF WILLS

Petition, notice, and proof.

PETITION, NOTICE, AND PROOF

Custodian to deliver will to district court.

SEC. 658. CUSTODIAN OF WILL TO DELIVER SAME TO WHOM; PENALTY.—Every custodian of a will, within thirty days after receipt of information that the maker thereof is dead, must deliver the same to the division of the district court having jurisdiction of the estate, or to the executor named therein. A failure to comply with the provisions of this section makes the person failing responsible for all damages sustained by anyone injured thereby.

Penalty on failure.

Petition for probate.

SEC. 659. WHO MAY PETITION FOR PROBATE OF WILL.—Any executor, devisee, or legatee named in any will, or any other person interested in the estate, may, at any time after the death of the testator, petition the division of the court having jurisdiction to have the will proved, whether the same be in writing, in his possession or not, or is lost or

destroyed, or beyond the jurisdiction of the Canal Zone, or a nuncupative will.

SEC. 660. WHAT PETITION FOR PROBATE OF WILL MUST SHOW.— Contents.
A petition for the probate of a will must show:

1. The jurisdictional facts;
2. Whether the person named as executor consents to act, or renounces his right to letters testamentary;
3. The names, ages, and residences of the heirs, legatees, and devisees of the decedent, so far as known to the petitioner;
4. The probable value and character of the property of the estate;
5. The name of the person for whom letters testamentary are prayed.

No defect of form or in the statement of jurisdictional facts actually existing, shall make void the probate of a will.

SEC. 661. WHEN EXECUTOR FORFEITS RIGHT TO LETTERS.—If the person named in a will as executor, for thirty days after he has knowledge of the death of the testator, and that he is named as executor, fails to petition the proper division of the court for the probate of the will, and that letters testamentary be issued to him, he may be held to have renounced his right to letters, and the court may appoint any other competent person administrator, unless good cause for delay is shown. Forfeiture of right to letters by executor.

SEC. 662. POSSESSION OF WILL BY THIRD PERSON; PRODUCTION OF.— Possession of will by third party.
If it is alleged in any petition that any will is in the possession of a third person, and the court is satisfied that the allegation is correct, an order must be issued and served upon the person having possession of the will, requiring him to produce it at a time named in the order. If he has possession of the will and neglects or refuses to produce it in obedience to the order, he may by warrant from the court be committed to jail, and be kept in close confinement until he produces it. Order for production to issue.

SEC. 663. NOTICE OF PETITION FOR PROBATE OF WILLS, HOW GIVEN.— Notice of petition.
When the petition is filed, and the will produced, the clerk of the court must set the petition for hearing by the court upon some day not less than ten nor more than thirty days from the production of the will. Notice of the hearing shall be given by such clerk by publishing the same in a newspaper of general circulation in the Canal Zone. If the notice is published in a weekly newspaper, it must appear therein on at least three different days of publication; and if in a newspaper published oftener than once a week, it shall be so published that there must be at least ten days from the first to the last day of publication, both the first and the last day being included.

SEC. 664. NOTIFICATION OF TIME FOR PROBATE OF WILL.—Copies of the notice of the time appointed for the probate of the will must be addressed to the heirs of the testator and the devisees and legatees named in the will at their places of residence, if known to the petitioner, and deposited in the post office, at least ten days before the hearing. If their places of residence be not known, the copies of notice may be addressed to them, and deposited in the post office at the place where the proceedings are pending. A copy of the same notice must in like manner be mailed to the person named as executor, if he be not the petitioner; also, to any person named as coexecutor not petitioning, if their places of residence be known. Proof of mailing the copies of the notice must be made at the hearing. Personal service of copies of the notice at least ten days before the day of hearing is equivalent to mailing. Notice of time for probate.

Production of wills and attendance of witnesses.

SEC. 665. ORDER TO ENFORCE PRODUCTION OF WILLS OR ATTENDANCE OF WITNESSES.—The judge of the district court may at any time make and issue all necessary orders and writs to enforce the production of wills and the attendance of witnesses.

Hearing proof of will.

SEC. 666. HEARING PROOF OF WILL AFTER PROOF OF SERVICE OF NOTICE.—At the time appointed for the hearing, or the time to which the hearing may have been postponed, the court, unless the parties appear, must require proof that the notice has been given, which being made, the court must hear testimony in proof of the will.

Contest of will.

SEC. 667. WHO MAY APPEAR AND CONTEST THE WILL.—Any person interested may appear and contest the will. Devisees, legatees, or heirs of an estate may contest the will through their guardians, or attorneys appointed by themselves or by the court for that purpose; but a contest made by an attorney appointed by the court does not bar a contest after probate by the party so represented, if commenced within the time provided in section 682; nor does the nonappointment of an attorney by the court of itself invalidate the probate of a will.

Probate, when uncontested.

SEC. 668. PROBATE OF WILLS NOT CONTESTED.—If no person appears to contest the probate of a will, the court may admit it to probate on the testimony of one of the subscribing witnesses only, if he testifies that the will was executed in all particulars as required by law, and that the testator was of sound mind at the time of its execution. If it appears at the time fixed for the hearing that none of the subscribing witnesses reside in the Canal Zone, but that the deposition of one of them can be taken elsewhere, the court may direct it to be taken, and may authorize a photographic copy of the will to be made and to be presented to such witnesses on his examination, who may be asked the same questions with respect to it and the handwriting of himself, the testator, and the other witness, as would be pertinent and competent if the original will were present. If neither the attendance in court nor the deposition of any of the subscribing witnesses can be procured, the court may admit the will to probate upon the testimony of any other witness as provided in section 675.

Clerk's record.

SEC. 669. CLERK'S RECORD.—When the court admits a will to probate it must be recorded in the minutes by the clerk, with the notation: "Admitted to probate (giving date)."

Olographic wills, proof of.

SEC. 670. OLOGRAPHIC WILLS.—An olographic will may be proved in the same manner that other private writings are proved.

Probate of, detained outside Zone.

SEC. 671. PROBATE OF WILL DETAINED OUTSIDE ZONE.—If it is alleged in any petition that any will of any person who at the time of his death was a resident of the Canal Zone is detained beyond the jurisdiction of the zone, in a court of any State or foreign country, and that such will can not be produced for probate in the zone, and the court is satisfied that the allegations are true, a copy of the will duly authenticated may be proved, allowed, and admitted to probate in the zone in lieu of the original will, and have the same force and effect as the original will. The same proof shall be required in order to admit the will to probate in the zone as would be required under the provisions of this chapter if the original will were produced.

Authenticated copy admissible.

The court may authorize a photographic copy of the will to be presented to the subscribing witness upon his examination in court, or by deposition as provided in section 668, and such witness may be asked the same questions with respect to it, and the handwriting of himself, the testator, and the other witness, as would be pertinent and competent if the original will were present.

Subscribing witnesses may testify upon photographic copy.

CONTESTING PROBATE OF WILL

Contesting probate.

SEC. 672. CONTESTANTS TO FILE GROUNDS OF CONTEST, AND PETITIONER TO REPLY.—If anyone appears to contest the will, he must file written grounds of opposition to the probate thereof, and serve a copy on the petitioner and other residents of the Canal Zone interested in the estate, any one or more of whom may demur thereto, upon any of the grounds of demurrer provided for in sections 135 to 139. If the demurrer is sustained, the court must allow the contestant a reasonable time, not exceeding ten days, within which to amend his written opposition. If the demurrer is overruled, the petitioner and others interested may jointly or separately answer the contestant's grounds, traversing, or otherwise obviating or avoiding the objections. Any issues of fact thus raised, involving:

Grounds of, to be filed.

Demurrer thereto.

Answer.

Issues of fact involved.

1. The competency of the decedent to make a last will and testament;
2. The freedom of the decedent at the time of the execution of the will from duress, menace, fraud, or undue influence;
3. The due execution and attestation of the will by the decedent or subscribing witnesses; or,
4. Any other questions substantially affecting the validity of the will;

Must, on request of either party in writing (filed at least ten days prior to the day set for the hearing), be tried by a jury. If no jury is demanded, the court must try and determine the issues joined. On the trial, the contestant is plaintiff and the petitioner is defendant.

Right to trial by jury.

SEC. 673. HOW JURY OBTAINED AND TRIAL HAD.—When a jury is demanded, the district court must impanel a jury to try the case, in the manner provided for impaneling trial juries in said court, and the trial must be conducted in accordance with the provisions of sections 279 to 303. A trial by the court must be conducted as provided in sections 304 to 307.

Impanelling, etc., of jury.

SEC. 674. VERDICT OF THE JURY; JUDGMENT.—The jury, after hearing the case, must return a special verdict upon the issues submitted to them by the court, upon which the judgment of the court must be rendered, either admitting the will to probate or rejecting it. In either case, the proofs of the subscribing witnesses must be reduced to writing. If the will is admitted to probate, the judgment, will, and proofs must be recorded.

Verdict and judgment thereon.

SEC. 675. WITNESSES, WHO AND HOW MANY TO BE EXAMINED; PROOF OF HANDWRITING ADMITTED, WHEN.—If the will is contested, all the subscribing witnesses who are present in the Canal Zone, and who are of sound mind, must be produced and examined; and the death, absence, or insanity of any of them must be satisfactorily shown to the court. If none of the subscribing witnesses reside in the Canal Zone at the time appointed for proving the will, the court may admit the testimony of other witnesses to prove the sanity of the testator and the execution of the will; and, as evidence of the execution, it may admit proof of the handwriting of the testator and of the subscribing witnesses, or any of them.

Witnesses, examination of, etc.

Proof of handwriting

SEC. 676. TESTIMONY REDUCED TO WRITING FOR FUTURE EVIDENCE.—The testimony of each witness, reduced to writing and signed by him, shall be good evidence in any subsequent contests concerning the validity of the will, or the sufficiency of the proof thereof, if the witness be dead, or has permanently removed from the Canal Zone.

Testimony reduced to writing as evidence.

SEC. 677. IF PROVED, CERTIFICATE TO BE ATTACHED.—If the court is satisfied, upon the proof taken, or from the facts found by the jury, that the will was duly executed, and that the testator at the

Certificate to be attached to will, if proved.

time of its execution was of sound and disposing mind, and not acting under duress, menace, fraud, or undue influence, a certificate of the proof and the facts found, signed by the judge and attested by the seal of the court, must be attached to the will.

Filing and recording.

SEC. 678. WILL AND PROOF TO BE FILED AND RECORDED.—The will, and a certificate of the proof thereof, must be filed and recorded by the clerk, and the same, when so filed and recorded, shall constitute part of the record in the cause or proceeding. All testimony shall be filed by the clerk.

Foreign wills.

PROBATE OF FOREIGN WILLS

Probated in any State or foreign country to be allowed and recorded.

SEC. 679. WILLS PROVED IN STATES OR FOREIGN COUNTRIES.—All wills duly proved and allowed in any State of the United States, or in any foreign country or State, may be allowed and recorded in the division of the district court in which the testator shall have left any estate, or shall have been a resident, at the time of his death.

Probate of.

SEC. 680. PROBATE OF FOREIGN WILL.—When a copy of the will, and the order or decree admitting same to probate, duly authenticated, shall be produced by the executor, or by any other person interested in the will, with a petition for letters, the same must be filed, and the clerk of the court must appoint a time for the hearing; notice whereof must be given as hereinbefore provided for an original petition for the probate of a will.

Hearing proofs of.

SEC. 681. HEARING PROOFS OF PROBATE OF FOREIGN WILL.—If, on the hearing, it appears upon the face of the record that the will has been proved, allowed, and admitted to probate in any State of the United States, or in any foreign country, and that it was executed according to the law of the place in which the same was made, or in which the testator was at the time domiciled, or in conformity with the laws of the Canal Zone, it must be admitted to probate, and have the same force and effect as a will first admitted to probate in the zone, and letters testamentary or of administration issued thereon.

Contesting will after probate.

CONTESTING WILL AFTER PROBATE

Limitation.

SEC. 682. THE PROBATE MAY BE CONTESTED WITHIN ONE YEAR.—When a will has been admitted to probate, any person interested may, at any time within one year after such probate, contest the same or the validity of the will. For that purpose he must file in the division of the court in which the will was proved a petition in writing, containing his allegations against the validity of the will or against the sufficiency of the proof, and praying that the probate may be revoked.

Citation to interested parties.

SEC. 683. CITATION TO BE ISSUED TO PARTIES INTERESTED.—Upon filing the petition, and within one year after such probate, a citation must be issued to the executor of the will, or to the administrator with the will annexed, and to all the legatees and devisees mentioned in the will, and heirs residing in the Canal Zone, so far as known to the petitioner or to their guardians, if any of them are minors, or to their personal representatives, if any of them are dead, requiring them to appear before the court on some day therein specified, to show cause why the probate of the will should not be revoked.

Hearing, on proof of service.

SEC. 684. THE HEARING HAD ON PROOF OF SERVICE.—At the time appointed for showing cause, or at any time to which the hearing is postponed, proof having been made of service of the citation upon

all of the persons named therein, the court must proceed to try the issues of fact joined in the same manner as an original contest of a will.

SEC. 685. PETITIONS TO REVOKE PROBATE OF WILL TRIED BY JURY OR COURT; JUDGMENT, WHAT.—In all cases of petitions to revoke the probate of a will, wherein the original probate was granted without a contest, on written demand of either party, filed three days prior to the hearing, a trial by jury must be had, as in cases of the contest of an original petition to admit a will to probate. If, upon hearing the proofs of the parties, the jury shall find, or, if no jury is had, the court shall decide, that the will is for any reason invalid, or that it is not sufficiently proved to be the last will of the testator, the probate must be annulled and revoked.

Trial by jury or court.

Judgment thereon.

SEC. 686. ON REVOCATION OF PROBATE, POWERS OF EXECUTOR, AND SO FORTH, CEASE, BUT NOT LIABLE FOR ACTS IN GOOD FAITH.—Upon the revocation being made, the powers of the executor or administrator with the will annexed, must cease; but such executor or administrator shall not be liable for any act done in good faith previous to the revocation.

Powers of executor to cease on revocation of probate.

No liability for acts in good faith.

SEC. 687. COSTS AND EXPENSES, BY WHOM PAID.—The fees and expenses must be paid by the party contesting the validity or probate of the will, if the will or probate is confirmed. If the probate is revoked, the costs must be paid by the party who resisted the revocation, or out of the property of the decedent, as the court directs.

Costs and expenses.

SEC. 688. PROBATE, WHEN CONCLUSIVE; ONE YEAR AFTER REMOVAL OF DISABILITY GIVEN TO INFANTS AND OTHERS.—If no person, within one year after the probate of a will, contest the same or the validity thereof, the probate of the will is conclusive; saving to infants and persons of unsound mind, a like period of one year after their respective disabilities are removed.

Probate, when conclusive.

Saving period to infants and lunatics.

PROBATE OF LOST OR DESTROYED WILL

SEC. 689. PROOF OF LOST OR DESTROYED WILL TO BE TAKEN.—Whenever any will is lost or destroyed, the district court must take proof of the execution and validity thereof and establish the same; notice to all persons interested being first given, as prescribed in regard to proofs of wills in other cases. All the testimony given must be reduced to writing, and signed by the witnesses.

Lost or destroyed will.

Proof of.

SEC. 690. PROBATE OF WILLS LOST; PUBLIC CALAMITY.—No will shall be proved as a lost or destroyed will, unless the same is proved to have been in existence at the time of the death of the testator, or is shown to have been fraudulently or by public calamity destroyed in the lifetime of the testator, without his knowledge, or unless its provisions are clearly and distinctly proved by at least two credible witnesses: *Provided, however,* That if the testator be committed to any hospital for the insane in the Canal Zone and after such commitment his last will and testament be destroyed by public calamity, and the testator is never restored to competency, then after the death of the said testator, his said last will may be probated as though it were in existence at the time of the death of the testator.

Matter to be shown.

Proviso. Will destroyed when testator insane.

SEC. 691. TO BE CERTIFIED, RECORDED, AND LETTERS THEREON GRANTED.—When a lost will is established, the provisions thereof must be distinctly stated and certified by the judge, under his hand and seal of the court, and the certificate must be filed and recorded as other wills are filed and recorded, and letters testamentary or of administration, with the will annexed, must be issued thereon in the same manner as upon wills produced and duly proved. The testimony must be reduced to writing, signed, certified, and filed as in

Certification and recordation.

Letters thereon granted.

Preservation of testimony.

other cases, and shall have the same effect as evidence as provided in section 676.

Restraint of injurious acts of executors, etc., during proceedings.

SEC. 692. COURT TO RESTRAIN INJURIOUS ACTS OF EXECUTORS OR ADMINISTRATORS DURING PROCEEDINGS TO PROVE LOST WILL.—If, before or during the pendency of an application to prove a lost or destroyed will, letters of administration are granted on the estate of the testator, or letters testamentary of any previous will of the testator are granted, the court may restrain the administrators or executors, so appointed, from any acts or proceedings which would be injurious to the legatees or devisees claiming under the lost or destroyed will.

Nuncupative will.

PROBATE OF NUNCUPATIVE WILL

Probate of.

SEC. 693. NUNCUPATIVE WILLS, WHEN AND HOW ADMITTED TO PROBATE.—Nuncupative wills may at any time, within six months after the testamentary words are spoken by the decedent, be admitted to probate, on petition and notice as provided in sections 658 to 671. The petition, in addition to the jurisdictional facts, must allege that the testamentary words or the substance thereof were reduced to writing within thirty days after they were spoken, which writing must accompany the petition.

Ante, pp. 1022-1024.

Additional requirements for.

SEC. 694. ADDITIONAL REQUIREMENTS IN PROBATE OF NUNCUPATIVE WILLS.—The district court must not receive or entertain a petition for the probate of a nuncupative will until the lapse of ten days from the death of the testator, nor must such petition at any time be acted on until the testamentary words are, or their substance is, reduced to writing and filed with the petition, nor until the surviving husband or wife (if any), and all other persons resident in the Canal Zone interested in the estate are notified as hereinbefore provided.

Contests, appointments, to conform to provisions.

SEC. 695. CONTESTS AND APPOINTMENTS TO CONFORM TO PROVISIONS AS TO OTHER WILLS.—Contests of the probate of nuncupative wills and appointments of executors and administrators of the estate devised thereby must be had, conducted, and made as hereinbefore provided in cases of the probate of written wills.

EXECUTORS AND ADMINISTRATORS.

CHAPTER 25.—EXECUTORS AND ADMINISTRATORS, THEIR LETTERS, BONDS, REMOVALS, AND SUSPENSIONS

Letters testamentary, etc.

LETTERS TESTAMENTARY AND OF ADMINISTRATION WITH THE WILL ANNEXED, HOW AND TO WHOM ISSUED

Trust companies eligible as executors.

SEC. 696. TRUST COMPANIES AS EXECUTORS.—Corporations or associations authorized to conduct the business of a trust company in the Canal Zone may be appointed to act as an executor, administrator, guardian of estates, assignee, receiver, depository, or trustee in like manner as individuals.

Oath, by officer of corporation.

OATH.—In all cases in which it is required that an executor, administrator, guardian of estates, assignee, receiver, depository or trustee, shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath be taken and subscribed or such affidavit be made by the president, vice-president, secretary, manager, trust officer, or assistant trust officer; provided, any such appointment as guardian shall apply to the estate only, and not to the person.

Appointment as guardian to apply to estate only.

Issue of letters.

SEC. 697. ISSUE OF LETTERS.—If no objection is made as provided in section 700, the court admitting a will to probate, after the same is proved and allowed, must issue letters thereon to the persons named therein as executors who are competent to discharge the trust, unless they or either of them have renounced their right to letters.

SEC. 698. WHO INCOMPETENT AS EXECUTOR.—No person is competent to serve as executor who, at the time the will is admitted to probate, is:

Persons incompetent as executor.

- 1. Under the age of majority;
- 2. Convicted of an infamous crime;
- 3. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity.

SEC. 699. WHEN NO EXECUTOR IS NAMED IN WILL.—If no executor is named in the will, or if the sole executor or all the executors therein named are dead, or incompetent, or renounce, or fail to apply for letters, or to appear and qualify, letters of administration with the will annexed must be issued as designated and provided for in granting of letters in case of intestacy.

When no executor named, etc.

To proceed as in intestacy.

SEC. 700. INTERESTED PARTIES MAY FILE OBJECTIONS.—Any person interested in the estate or will may file objections in writing to granting letters testamentary to the persons named as executors or any of them, and the objections must be heard and determined by the court; a petition may, at the same time, be filed for letters of administration with the will annexed.

Objections by interested parties.

SEC. 701. MARRIED WOMAN MAY BE EXECUTRIX.—A married woman may be appointed an executrix. The authority of an executrix, who was unmarried when appointed, is not extinguished nor affected by her marriage.

Married woman as executrix.

SEC. 702. EXECUTOR OF AN EXECUTOR.—No executor of an executor shall, as such, be authorized to administer on the estate of the first testator, but on the death of the sole or surviving executor of any last will, letters of administration with the will annexed, of the estate of the first testator, left unadministered, must be issued.

Executor of an executor.

SEC. 703. LETTERS OF ADMINISTRATION WHERE MINOR EXECUTOR.—Where a person absent from the Canal Zone, or a minor, is named executor—if there is another executor who accepts the trust and qualifies—the latter may have letters testamentary and administer the estate until the return of the absentee or the majority of the minor, who may then be admitted as joint executor. If there is no other executor, letters of administration, with the will annexed, must be granted; but the court may, in its discretion, revoke them on the return of the absent executor or the arrival of the minor at the age of majority.

Letters of administration. Granting of, when person named minor, or absent from Zone.

SEC. 704. ACTS OF A PORTION OF EXECUTORS VALID.—When all the executors named are not appointed by the court, those appointed have the same authority to perform all acts and discharge the trust, required by the will, as effectually for every purpose as if all were appointed and should act together; where there are two executors or administrators, the act of one alone shall be effectual, if the other is absent from the Canal Zone, or laboring under any legal disability from serving, or if he has given his co-executor or co-administrator authority, in writing, to act for both; and where there are more than two executors or administrators, the act of a majority is valid.

Validity of acts of portion of executors.

SEC. 705. AUTHORITY OF ADMINISTRATORS WITH WILL ANNEXED; LETTERS, HOW ISSUED.—Administrators with the will annexed have the same authority over the estates which executors named in the will would have, and their acts are as effectual for all purposes. Their letters must be signed by the clerk of the court, and bear the seal thereof.

Authority of administrators, c. t. a.

FORM OF LETTERS

Form of letters.

SEC. 706. FORM OF LETTERS TESTAMENTARY.—Letters testamentary must be substantially in the following form:

Letters testamentary.

“ Canal Zone, ——— division

“ The last will of A. B., deceased, a copy of which is hereto annexed, having been proved and recorded in the ——— division of the district court, C. D., who is named therein as such, is hereby appointed executor.

“ Witness, G. H., clerk of the district court, with the seal of the court affixed the ——— day of ———, A. D., 19—.

“ [SEAL.]

“ By order of the court :

“ G. H., Clerk.”

Letters of administration, c. t. a.

SEC. 707. FORM OF LETTERS OF ADMINISTRATION WITH THE WILL ANNEXED.—Letters of administration, with the will annexed, must be substantially in the following form :

“ Canal Zone, ——— division

“ The last will of A. B., deceased, a copy of which is hereto annexed, having been proved and recorded in the ——— division of the district court, and there being no executor named in the will (or as the case may be), C. D. is hereby appointed administrator with the will annexed.

“ Witness, G. H., clerk of the district court, with the seal of the court affixed, the ——— day of ———, A. D., 19—.

“ [SEAL.]

“ By order of the court :

“ G. H., Clerk.”

Letters of administration.

SEC. 708. FORM OF LETTERS OF ADMINISTRATION.—Letters of administration must be signed by the clerk, under the seal of the court, and substantially in the following form :

“ Canal Zone, ——— division

“ C. D. is hereby appointed administrator of the estate of A. B., deceased.

“ [SEAL.]

“ Witness, G. H., clerk of the district court, with the seal thereof affixed, the ——— day of ———, A. D. 19—.

“ By order of the court :

“ G. H., Clerk.”

To whom, and order in which granted.

LETTERS OF ADMINISTRATION, TO WHOM AND THE ORDER
IN WHICH THEY ARE GRANTED

Order of.

SEC. 709. ORDER OF PERSONS ENTITLED TO ADMINISTER.—Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, the relatives of the deceased being entitled to administer only when they are entitled to succeed to his estate or some portion thereof; and they are, respectively, entitled thereto in the following order :

1. The surviving husband or wife, or some competent person whom he or she may request to have appointed.

2. The children.
3. The father and mother.
4. The brothers and sisters.
5. The grandchildren.
6. The next of kin entitled to share in the distribution of the estate.
7. The public administrator.
8. The creditors.
9. Any person legally competent.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate. This section shall apply to the relatives of the previously deceased spouse of decedent when entitled to succeed to some portion of the estate under subdivision 8 of section 402 of the Civil Code.

SEC. 710. RELATIVES OF WHOLE BLOOD PREFERRED TO HALF BLOOD.—Of several persons claiming and equally entitled to administer, relatives of the whole blood must be preferred to those of the half blood.

Relatives of whole blood entitled to preference.

SEC. 711. IN DISCRETION OF COURT TO APPOINT ADMINISTRATOR, WHEN.—When there are several persons equally entitled to the administration, the court may grant letters to one or more of them; and when a creditor is claiming letters the court may, in its discretion, at the request of another creditor, grant letters to any other person legally competent.

Discretion in court with respect to parties equally eligible, etc.

SEC. 712. WHEN MINOR OR INCOMPETENT ENTITLED, WHO APPOINTED ADMINISTRATOR.—If any person entitled to administration is a minor, or an incompetent person, letters must be granted to his or her guardian, or any other person entitled to letters of administration, in the discretion of the court.

When minor or incompetent entitled.

SEC. 713. WHO ARE INCOMPETENT TO ACT AS ADMINISTRATORS.—No person is competent or entitled to serve as administrator or administratrix who is:

Persons incompetent to act.

1. Under the age of majority.
2. Not a bona fide resident of the Canal Zone.
3. Convicted of an infamous crime.
4. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity.

SEC. 714. MARRIED WOMAN MAY BE ADMINISTRATRIX.—A married woman may be appointed administratrix. When an unmarried woman appointed administratrix marries, her authority is not thereby extinguished.

Married woman as administratrix.

PETITION AND CONTEST FOR LETTERS AND ACTION THEREON

Letters and action thereon.

SEC. 715. PETITION FOR LETTERS, HOW MADE.—Petitions for letters of administration must be in writing, signed by the applicant or his counsel, and filed with the clerk of the court, stating the facts essential to give the court jurisdiction of the case, and when known to the applicant, he must state the names, ages, and residences of the heirs of the decedent, and the value and character of the property. If the jurisdictional facts exist, and are proved at the hearing but are not fully set forth in the petition, the decree or order of administration and subsequent proceedings are not void on account of such want of jurisdictional averments.

Petition for.

SEC. 716. LETTERS OF ADMINISTRATION, WHEN GRANTED.—Letters of administration may be granted by the court at any time appointed

Granting of.

for the hearing of the application, or at any time to which the hearing is continued or postponed.

Notice of hearing on.

SEC. 717. DATE FOR AND NOTICE OF HEARING.—When a petition praying for letters of administration is filed, the clerk of the court must set the petition for hearing by the court, and give notice thereof by causing a notice to be posted at the courthouse which notice shall contain the name of the decedent, the name of the applicant, and the time at which the application will be heard. Such notice must be given at least ten days before the hearing. The clerk shall cause similar notice to be mailed to the heirs of the decedent named in the petition, at least ten days before the hearing, addressed to them at their respective post-office addresses, as set forth in the petition, otherwise at the place where the proceedings are pending.

Contest of.

SEC. 718. CONTESTING APPLICATION.—Any person interested may contest the petition, by filing written opposition thereto, on the ground of the incompetency of the applicant, or may assert his own rights to the administration and pray that letters be issued to himself. In the latter case the contestant must file a petition and give the notice required for an original petition, and the court must hear the two petitions together.

Hearing of application.

SEC. 719. HEARING OF APPLICATION.—On the hearing, it being first proved that notice has been given as herein required, the court must hear the allegations and proofs of the parties, and order the issuing of letters of administration to the party best entitled thereto.

Evidence of notice.

SEC. 720. EVIDENCE OF NOTICE.—An entry in the minutes of the court, that the required proof was made and notice given, shall be conclusive evidence of the fact of such notice.

Grant to any applicant.

SEC. 721.—GRANT TO ANY APPLICANT.—Letters of administration must be granted to any applicant, though it appears that there are other persons having better rights to the administration, when such persons fail to appear and claim the issuing of letters to themselves.

Proofs before grant of letters.

SEC. 722. WHAT PROOFS MUST BE MADE BEFORE GRANTING LETTERS OF ADMINISTRATION.—Before letters of administration are granted on the estate of any person who is represented to have died intestate, the fact of his dying intestate must be proved by the testimony of the applicant or others: and the court may also examine any other person concerning the time, place, and manner of his death, the place of his residence at the time, the value and character of his property, and whether or not the decedent left any will, and may compel any person to attend as a witness for that purpose.

Letters granted to other than those entitled.

SEC. 723. LETTERS MAY BE GRANTED TO OTHERS THAN THOSE ENTITLED.—Administration may be granted to one or more competent persons, although not otherwise entitled to the same, at the written request of the person entitled, filed in the court. When the person entitled is a nonresident of the Canal Zone, affidavits, taken ex parte before any officer authorized by the laws of the Canal Zone, to take acknowledgment and administer oaths out of the Canal Zone, may be received as prima facie evidence of the identity of the party, if free from suspicion, and the fact is established to the satisfaction of the court.

Requests for special notice of proceedings.

SEC. 724. REQUESTS FOR SPECIAL NOTICE OF PROCEEDINGS; GIVING NOTICES; FINDING REGARDING NOTICES.—At any time after the issuance of letters testamentary or of administration upon the estate of any decedent, any person interested in said estate, whether as heir, devisee, legatee or creditor, or the attorney for any such person may serve upon the executor or administrator, or upon the attorney for the executor or administrator, and file with the clerk of the court wherein administration of such estate is pending, a written

request, stating that he desires special notice of any or all of the following mentioned matters, steps or proceedings in the administration of said estate, to wit:

- (1) Filing of petitions for sales, leases or mortgages and confirmation of sales of any property of the estate;
- (2) Filing of accounts;
- (3) Filing of petitions for distribution;
- (4) Filing of petitions for partition of any property of the estate.

Such request shall state the post-office address of the person making same.

GIVING OF NOTICES.—And thereafter a brief notice of the filing of any of such petitions, or accounts, except petitions for sale of perishable property or other personal property which will incur expense or loss by keeping, shall be addressed to such person making such request, or his attorney, at his stated post-office address, and deposited in the post office with the postage thereon prepaid, within two days after the filing of such petition or account; or personal service of such notices may be made on the person making such request or his attorney, within said two days, and such personal service shall be equivalent to such deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of such petition or account.

Giving of notices.

FINDING REGARDING NOTICES.—If upon the hearing it shall appear to the satisfaction of the court that said notice has been regularly given, the court shall so find in its order or judgment, and such judgment shall be final and conclusive upon all persons.

Finding regarding notices.

SEC. 725. UNITED STATES AS A PARTY TO ESTATES, PROCEEDINGS, ETC.—Where compensation, pensions, insurance or other allowance is made or awarded by the United States Government or a department or bureau thereof, to estates of decedents or to minor or incompetent persons for whom guardians have been appointed, or to their estates, the department or bureau of the United States Government making or awarding such allowance, compensation, pension, or insurance shall have the same right to commence and prosecute actions on executors, administrators, and guardians' bonds, and shall have the same right to petition the court for appointment or removal of guardians of minor and incompetent persons, and shall have the same right to file exceptions in writing to accounts of executors, administrators, and guardians and to contest same, as is provided in this code for interested parties, heirs at law, and relatives.

United States as party, etc.

REVOCATION OF LETTERS, AND PROCEEDINGS THEREFOR

SEC. 726. REVOCATION OF LETTERS OF ADMINISTRATION.—When letters of administration have been granted to any other person than the surviving husband or wife, child, father, mother, brother, or sister of the intestate, any one of them who is competent, or any competent person at the written request of any one of them, may obtain the revocation of the letters, and be entitled to the administration, by presenting to the court a petition praying the revocation, and that letters of administration may be issued to him.

Revocation of letters, etc.

Proceedings; petition.

SEC. 727. WHEN PETITION FILED, CITATION TO ISSUE.—When such petition is filed, the clerk must, in addition to the notice provided in section 717, issue a citation to the administrator to appear and answer the same at the time appointed for the hearing.

Citation to issue.

SEC. 728. HEARING OF PETITION FOR REVOCATION.—At the time appointed, the citation having been duly served and returned, the court must proceed to hear the allegations and proofs of the parties;

Hearing of petition.

and if the right of the applicant is established, and he is competent, letters of administration must be granted to him, and the letters of the former administrator revoked.

Assertion of prior rights of relatives.

SEC. 729. PRIOR RIGHTS OF RELATIVES ENTITLE THEM TO REVOKE PRIOR LETTERS.—The surviving husband or wife, when letters of administration have been granted to a child, father, brother, or sister of the intestate; or any of such relatives, when letters have been granted to any other of them, may assert his prior right, and obtain letters of administration, and have the letters before granted revoked in the manner prescribed in sections 726 to 728.

Ante, p. 1033.

Oaths and bonds, executors and administrators.

OATHS AND BONDS OF EXECUTORS AND ADMINISTRATORS

Oath; recording letters.

SEC. 730. OATH OF EXECUTOR OR ADMINISTRATOR; RECORDING LETTERS.—Before letters testamentary or of administration are issued to the executor or administrator, he must take and subscribe an oath before some officer authorized to administer oaths, that he will perform, according to law, the duties of executor or administrator, which oath must be attached to the letters. All letters testamentary and of administration, with the affidavits and certificates thereon, must be forthwith recorded by the clerk of the court, in books to be kept by him in his office for that purpose.

Bond.

SEC. 731. BOND OF EXECUTOR OR ADMINISTRATOR.—Every person to whom letters testamentary or of administration are directed to issue, must, before receiving them, execute a bond to the government of the Canal Zone, with two or more sufficient sureties, to be approved by the district court, or the judge thereof. In form the bond must be joint and several, and the penalty shall be in such reasonable sum as the court shall direct.

Conditions of.

SEC. 732. CONDITIONS OF BONDS.—The bond must be conditioned that the executor or administrator shall faithfully execute the duties of the trust according to law.

Separate bonds, when more than one administrator, required.

SEC. 733. SEPARATE BONDS, WHEN MORE THAN ONE ADMINISTRATOR.—When two or more persons are appointed executors or administrators, the district court, or the judge thereof, must require and take a separate bond from each of them.

Several recoveries on same bond.

SEC. 734. SEVERAL RECOVERIES MAY BE HAD ON SAME BOND.—The bond shall not be void upon the first recovery, but may be sued and recovered upon from time to time, by any person aggrieved, in his own name, until the whole penalty is exhausted.

Justification of sureties.

SEC. 735. JUSTIFICATION OF SURETIES.—In all cases where bonds or undertakings are required to be given, under chapters 23 to 36, the sureties must justify thereon in the same manner and in like amounts as required by section 533, and the certificate thereof must be attached to and filed with the bond or undertaking. All such bonds and undertakings must be approved by the judge of the district court before being filed. Upon filing, the clerk shall thereupon enter in the register of actions the date and amount of such bond or undertaking and the name or names of the surety or sureties thereon. In the event of the loss of such bond or undertaking, such entries so made shall be prima facie evidence of the due execution of such bond or undertaking as required by law.

Citation and requirements of judge on deficient bond.

SEC. 736. CITATION AND REQUIREMENTS OF JUDGE ON DEFICIENT BOND; ADDITIONAL SECURITY.—Before the judge approves any bond required under chapters 23 to 36, and after its approval, he may, of his own motion, or upon the motion of any person interested in the estate, supported by affidavit that the sureties, or some one or more of them, are not worth as much as they have justified to, order a citation to issue requiring such sureties to appear before him at

a designated time and place, to be examined touching their property and its value; and the judge must, at the same time, cause a notice to be issued to the executor or administrator requiring his appearance on the return of the citation; and on its return he may examine the sureties and such witnesses as may be produced, touching the property of the sureties and its value; and if, upon such examination, he is satisfied that the bond is insufficient, he must require sufficient additional security.

Additional security required.

SEC. 737. RIGHT CEASES WHEN SUFFICIENT SECURITY NOT GIVEN.—If sufficient security is not given within the time fixed by the judge's order, the right of such executor or administrator to the administration shall cease, and the person next entitled to the administration on the estate, who will execute a sufficient bond, must be appointed to the administration.

Upon failure to give sufficient security, right to cease.

SEC. 738. WHEN BOND MAY BE DISPENSED WITH.—When it is expressly provided in the will that no bond shall be required of the executor, letters testamentary may issue without any bond, unless the court, for good cause, require one to be executed; but the executor may at any time afterwards (if it appear from any cause necessary or proper) be required to file a bond, as in other cases.

Bond dispensed with.

SEC. 739. PETITION SHOWING FAILING SURETIES AND ASKING FOR FURTHER BONDS.—Any person interested in an estate may, by verified petition, represent to the district court, or the judge thereof, that the sureties of the executor or administrator thereof have become, or are becoming, insolvent, or that they have removed, or are about to remove, from the Canal Zone, or that from any other cause the bond is insufficient, and ask that further security be required.

Failing sureties; further bonds.

SEC. 740. CITATION TO EXECUTOR, ETC., TO SHOW CAUSE AGAINST SUCH APPLICATION.—If the court, or the judge thereof, is satisfied that the matter requires investigation, a citation must be issued to the executor or administrator requiring him to appear, at a time and place to be therein specified, to show cause why he should not give further security. The citation must be served personally on the executor or administrator, at least five days before the return-day. If he has absconded, or can not be found, it may be served by leaving a copy of it at his place of residence, or by such publication as the court, or the judge thereof, may order.

Citation to executor, etc., to show cause against application.

SEC. 741. FURTHER SECURITY MAY BE ORDERED.—On the return of the citation, or at such other time as the judge may appoint, he must proceed to hear the proofs and allegations of the parties. If it satisfactorily appears that the security is, from any cause, insufficient, he may make an order requiring the executor or administrator to give further security, or to file a new bond in the usual form within a reasonable time, not less than five days.

Further security ordered.

SEC. 742. NEGLECTING TO OBEY ORDER.—If the executor or administrator neglects to comply with the order within the time prescribed, the judge must, by order, revoke his letters, and his authority must thereupon cease.

Neglect to obey order, letters revoked.

SEC. 743. SUSPENDING POWERS OF EXECUTOR, AND SO FORTH.—When a petition is presented praying that an executor or administrator be required to give further security, or to give bond, where, by the terms of the will, no bond was originally required, and it is alleged, on oath, that the executor or administrator is wasting the property of the estate, the judge may, by order, suspend his powers until the matter can be heard and determined.

Suspension of executor's, etc., powers.

SEC. 744. FURTHER SECURITY ORDERED WITHOUT APPLICATION OF PARTY IN INTEREST.—When it comes to his knowledge that the bond of any executor or administrator is from any cause insufficient, the judge, without any application, must cause him to be cited to appear

Further security on initiative of judge.

and show cause why he should not give further security, and must proceed thereon as upon the application of any person interested.

Release of sureties.

SEC. 745. RELEASE OF SURETIES.—When a surety of any executor or administrator desires to be released from responsibility on account of future acts, he may make application to the district court, or the judge thereof, for relief. The court or judge must cause a citation to the executor or administrator to be issued, and served personally, requiring him to appear at a time and place, to be therein specified, and to give other security. If he has absconded, left, or removed from the Canal Zone, or if he can not be found, after due diligence and inquiry, service may be made as provided in section 740.

New sureties.

SEC. 746. NEW SURETIES.—If new sureties be given to the satisfaction of the judge, he may thereupon make an order that the sureties who applied for relief shall not be liable on their bond for any subsequent act, default, or misconduct of the executor or administrator.

Neglect to give, to act as forfeiture of letters.

SEC. 747. NEGLIGENCE TO GIVE NEW SURETIES FORFEITS LETTERS.—If the executor or administrator neglects or refuses to give new sureties, to the satisfaction of the judge, on the return of the citation, or within such reasonable time as the judge shall allow, unless the surety making the application shall consent to a longer extension of time, the court or judge must, by order, revoke his letters.

Time of acting on applications.

SEC. 748. APPLICATIONS TO BE DETERMINED AT ANY TIME.—The applications authorized by the nine preceding sections of this chapter may be heard and determined at any time. All orders made therein must be entered upon the minutes of the court.

Liability on bond.

SEC. 749. LIABILITY ON BOND.—The liability of principal and sureties upon the bond of any executor, administrator, or guardian, is in all cases to pay in the kind of money or currency in which the principal is legally liable.

Special administrators; powers and duties.

SPECIAL ADMINISTRATORS, AND THEIR POWERS AND DUTIES

When appointed.

SEC. 750. SPECIAL ADMINISTRATOR, WHEN APPOINTED.—When there is delay in granting letters testamentary or of administration from any cause, or when such letters are granted irregularly, or no sufficient bond is filed as required, or when no application is made for such letters, or when an executor or administrator dies, or is suspended, or removed, the district court or judge, must appoint a special administrator to collect and take charge of the estate of the decedent in whatever division the same may be found, and to exercise such other powers as may be necessary for the preservation of the estate; or he may direct the public administrator to take charge of the estate.

Appointment of, issuance of letters.

SEC. 751. APPOINTMENT OF—ISSUANCE OF LETTERS.—The appointment may be made at any time upon such notice to such of the persons interested in the estate as the court may deem reasonable. After the person appointed has given bond, the clerk must issue special letters of administration to such person.

Preference in appointment.

SEC. 752. PREFERENCE IN APPOINTMENT.—In making the appointment of a special administrator the court must give preference to the person entitled to letters testamentary, or of administration.

Bond and oath.

SEC. 753. BOND AND OATH OF.—Before any letters issue to any special administrator, except to the public administrator, he must give bond in such sum as the court or judge may direct, with sureties to the satisfaction of the court or judge, conditioned for the faithful performance of his duties; and he must take the usual oath, and have the same indorsed on his letters.

Powers and duties.

SEC. 754. POWERS AND DUTIES.—The special administrator must collect and preserve for the executor or administrator, all the goods,

chattels, debts, and effects of the decedent, all incomes, rents, issues, and profits, claims, and demands of the estate; must take the charge and management of, enter upon, and preserve from damage, waste, and injury, the real estate, and for any such and all necessary purposes may commence and maintain or defend suits and other legal proceedings as an administrator; he may sell such perishable property as the court may order to be sold, and exercise such other powers as are conferred upon him by his appointment, but except when appointed with the powers, duties, and obligations of a general administrator, as hereinafter provided, he is not liable to an action by any creditor on a claim against the decedent.

When a special administrator is appointed pending determination of a contest of a will instituted prior to the probate thereof, or pending an appeal from an order appointing, suspending, or removing an executor or administrator, such special administrator shall have the same powers, duties, and obligations as a general administrator, and the letters of administration issued to him shall recite that such special administrator is appointed with the powers of a general administrator.

SEC. 755. WHEN LETTERS TESTAMENTARY OR OF ADMINISTRATION ARE GRANTED, SPECIAL ADMINISTRATOR'S POWERS CEASE.—When letters testamentary or of administration on the estate of the decedent have been granted, the powers of the special administrator cease, and he must forthwith deliver to the executor or administrator all the property and effects of the decedent in his hands; and the executor or administrator may prosecute to final judgment any suit commenced by the special administrator.

SEC. 756. ACCOUNT.—The special administrator must render an account on oath of his proceedings in like manner as other administrators are required to do.

His fees and those of his attorney shall be fixed by the court: *Provided, however,* That the total fees paid to the special administrator and executor, or to the special administrator and general administrator of an estate must not, together, exceed the sums provided for in section 858, including the further allowance therein provided; and that the total fees paid to the attorneys both of the special administrator and executor, or of the special administrator and general administrator, must not, together, exceed the sums provided for in section 859, including the further allowance therein provided.

And when the same person does not act as both special administrator and executor, or as special administrator and general administrator, of the estate, such fees shall be divided between the special administrator and executor, or between the special administrator and general administrator of the estate, in such proportions as the court shall determine to be just and reasonable.

And when the same attorney does not act for both the special administrator and executor, or for the special administrator and general administrator of the estate, such fees shall be divided between the attorneys in such proportion as the court shall determine to be just and reasonable.

SEC. 757. PAYMENT OF SECURED DEBTS BY SPECIAL ADMINISTRATORS.—If it shall appear by the verified petition of any special administrator, or other person interested in any estate in the charge of any special administrator, that any of the property of said estate is subject to any mortgage, lien or deed of trust, to secure the payment of money, and that any amount so secured, either principal or interest, is past due and unpaid; that the holder of the security threatens or is about to enforce or foreclose the same and that the

Special administrator, pending court action on estate.

Powers, duties, etc., of.

Termination of power, etc.

Account to be rendered.

Fees of.
Provido.
Limitation on.
Post, p. 1058.

Total fees allowable.
Limitation on.
Post, p. 1059.

Division of.

Attorney's fees.

Payment of secured debts.

said property exceeds in value the amount of the entire obligation thereon, and an order is asked directing or permitting said special administrator to pay all or any part of the amount so secured, the court or judge shall fix a time for the hearing of said petition and shall direct notice of not less than ten days to be given by posting in three public places and by personal service on all parties who have appeared or their attorneys. At the time so appointed, if the allegations of such petition shall be proven to the satisfaction of the court and it shall appear to be for the best interests of said estate, the court may order the special administrator to pay interest or other portions or the whole of the secured debt, and, in its discretion, may direct the special administrator to take proceedings to secure funds for such purpose. Any such order for payment of interest may also direct that interest not yet accrued be paid as it becomes due and such order shall remain in effect and cover such future interest until and unless thereafter for good cause set aside or modified by the court upon similar petition and notice to that hereinabove provided.

By court order.

Interest.

Will found subsequently.

WILLS FOUND AFTER LETTERS OF ADMINISTRATION GRANTED AND MISCELLANEOUS PROVISIONS

Letters revoked on admission to probate.

SEC. 758. PREEXISTING GRANT OF LETTERS, WHEN REVOKED.—Upon the admission to probate of a will after a grant of letters of administration on the ground of intestacy, or upon the admission to probate of a later will than the one before admitted to probate, the preexisting grant of letters testamentary or of administration must be revoked, and the administrator or executor whose grant of authority is thus terminated must render an account of his administration within such time as the court may direct.

Powers of executor.

SEC. 759. POWER OF EXECUTOR IN SUCH A CASE.—In such case, the executor or the administrator with the will annexed is entitled to demand, sue for, recover, and collect all the rights, goods, chattels, debts, and effects of the decedent remaining unadministered, and may prosecute to final judgment any suit commenced by the administrator before the revocation of his letters of administration.

Remaining administrator or executor.

SEC. 760. REMAINING ADMINISTRATOR OR EXECUTOR TO CONTINUE WHEN HIS COLLEAGUES ARE DISQUALIFIED.—In case any one of several executors or administrators, to whom letters are granted, dies, becomes lunatic, is convicted of an infamous crime, or otherwise becomes incapable of executing the trust; or in case the letters testamentary or of administration are revoked or annulled, with respect to any one executor or administrator, the remaining executor or administrator must proceed to complete the execution of the will or administration.

When no executor, etc., competent.

SEC. 761. WHO TO ACT WHEN ALL ACTING ARE INCOMPETENT.—If all such executors or administrators die or become incapable, or the power and authority of all of them is revoked, the court must issue letters of administration, with the will annexed or otherwise, to the widow or next of kin, or others, in the same order and manner as is directed in relation to original letters of administration. The administrators so appointed must give bond in the like penalty, with like sureties and conditions, as hereinbefore required of administrators, and shall have the like power and authority.

Resignation.

SEC. 762. EXECUTOR OR ADMINISTRATOR MAY RESIGN, WHEN; COURT TO APPOINT SUCCESSOR; LIABILITY OF OUTGOER.—Any executor or administrator may, at any time, by writing, filed in the district court, resign his appointment, having first settled his accounts and delivered up all the estate to the person whom the court shall appoint

to receive the same. If, however, by reason of any delays in such settlement and delivery up of the estate, or for any other cause, the circumstances of the estate or the rights of those interested therein require it, the court may, at any time before settlement of accounts and delivering up of the estate is completed, revoke the letters of such executor or administrator, and appoint in his stead an administrator, either special or general, in the same manner as is directed in relation to original letters of administration. The liability of the outgoing executor or administrator, or of the sureties on his bond, shall not be in any manner discharged, released, or affected by such appointment or resignation.

Appointment of successor.

Liability of person resigning.

SEC. 763. ALL ACTS OF EXECUTOR, AND SO FORTH, VALID UNTIL HIS POWER IS REVOKED.—All acts of an executor or administrator, as such, before the revocation of his letters testamentary or of administration, are as valid, to all intents and purposes, as if such executor or administrator had continued lawfully to execute the duties of his trust.

Validity of executor's acts, etc.

SEC. 764.—TRANSCRIPT OF COURT MINUTES TO BE EVIDENCE.—A transcript from the minutes of the court, showing the appointment of any person as executor or administrator, together with the certificate of the clerk, under his hand and the seal of his court, that such person has given bond and been qualified, and that letters testamentary or of administration have been issued to him and have not been revoked, shall have the same effect in evidence as the letters themselves.

Court minutes as evidence.

DISQUALIFICATION OF JUDGE

Disqualification of judge.

When interested party.

SEC. 765.—WHEN JUDGE NOT TO ACT.—No will shall be admitted to probate, or letters testamentary or of administration granted, before any judge who is interested as next of kin to the decedent, or as a legatee or devisee under the will, or when he is named as executor or trustee in the will, or is a witness thereto, or is in any other manner interested or disqualified from acting.

REMOVALS AND SUSPENSIONS IN CERTAIN CASES

Removals and suspensions.

For fraud, waste, etc.

SEC. 766. SUSPENSION OF POWERS OF EXECUTOR OR ADMINISTRATOR.—Whenever the district judge has reason to believe from his own knowledge, or from credible information, that any executor or administrator has wasted, embezzled, or mismanaged, or is about to waste or embezzle the property of the estate committed to his charge, or has committed or is about to commit a fraud upon the estate, or is incompetent to act, or has removed or is about to remove from the Canal Zone, or has wrongfully neglected the estate, or has long neglected to perform any act as such executor or administrator, he must, by an order entered upon the minutes of the court, direct such executor or administrator to be cited to appear and show cause why his letters should not be revoked, and may also suspend the powers of such executor or administrator, until the matter is investigated.

SEC. 767.—REVOCATION OF LETTERS.—If the executor or administrator fails to appear in obedience to the citation, or, if he appears, and the court is satisfied from the evidence, that there exists cause for his removal, his letters must be revoked.

Revocation of letters for cause.

SEC. 768. ANY PARTY INTERESTED MAY APPEAR ON HEARING.—At the hearing, any person interested in the estate may appear and file his allegations in writing, showing that the executor or administrator should be removed; to which the executor or administrator may demur or answer, as hereinbefore provided. The issues raised must be heard and determined by the court.

Hearing, interested parties may appear.

Notice to absconding executors, etc.

SEC. 769. NOTICE TO ABSCONDING EXECUTORS AND ADMINISTRATORS.—If the executor or administrator has absconded or conceals himself, or has removed or absented himself from the Canal Zone, notice may be given him of the pendency of the proceedings by publication, in such manner as the court may direct, and the court may proceed upon such notice as if the citation had been personally served.

Power to compel attendance of executor, etc.

SEC. 770. MAY COMPEL ATTENDANCE.—In the proceedings authorized by the preceding sections of this subchapter, for the removal of an executor or administrator, the court may compel his attendance by attachment, and may compel him to answer questions, on oath, touching his administration, and, upon his refusal so to do, may commit him until he obey, or may revoke his letters, or both.

INVENTORY AND COLLECTION OF EFFECTS OF DECEDENTS.

CHAPTER 26.—INVENTORY AND COLLECTION OF EFFECTS OF DECEDENTS

INVENTORY, APPRAISEMENT, AND POSSESSION OF ESTATE

Inventory, appraisal, possession of estate.

Return of inventory and appraisal to court.

SEC. 771. INVENTORY AND APPRAISEMENT TO BE RETURNED.—Every executor or administrator must make and return to the court, within thirty days after his appointment, a true inventory, and, also, if the court so direct, an appraisal of all the estate of the decedent which has come to his possession or knowledge.

Appointment of appraisers.

SEC. 772. APPRAISERS OF ESTATES OF DECEASED PERSONS.—To make the appraisal, the court or judge must appoint three disinterested persons, any two of whom may act.

Compensation.

Each of said appraisers is entitled to receive from each estate he appraises, as compensation for his services, such sum as may be fixed by the court or judge.

Account of services, etc.

The appraisers or appraiser must, with the inventory, file a verified account of their or his services and disbursements.

Ineligible parties.

No clerk or deputy, nor any person related by consanguinity or affinity to or connected by marriage with, or being a partner or employee of the judge of the court, shall be appointed or shall be competent to act as appraiser in any estate, or matter or proceeding pending before said judge or in said court.

Oath of appraisers.

SEC. 773. OATH OF APPRAISERS; INVENTORY MUST SHOW WHAT.—Before proceeding to the execution of their duty, the appraisers must take and subscribe an oath, to be attached to the inventory, that they will truly, honestly, and impartially appraise the property exhibited to them, according to the best of their knowledge and ability.

Inventory.

They must then proceed to estimate and appraise the property; each item of property must be set down separately, with the value thereof in dollars and cents in figures, opposite the items respectively.

Contents.

The inventory must contain all the estate of the decedent, real and personal, a statement of all debts, bonds, mortgages, notes, and other securities for the payment of money belonging to the decedent, specifying the name of the debtor in each debt or security, the date, the sum originally payable, the indorsement thereon (if any), with their dates, and the sum which, in the judgment of the appraisers, may be collected on each debt or security; and a statement of the interest of the decedent in any partnership of which he was a member, to be appraised as a single item.

Interest of decedent in property.

The inventory must also show, so far as the same can be ascertained by the executor or administrator, what portion of the property is community property, and what portion is the separate property of the decedent.

Inventory to account for moneys.

SEC. 774. INVENTORY TO ACCOUNT FOR MONEYS; IF ALL MONEY, NO APPRAISEMENT NECESSARY.—The inventory must also contain an account of all moneys belonging to the decedent which have come

to the hands of the executor or administrator, and if none, the fact must be so stated in the inventory.

SEC. 775. EFFECT OF NAMING A DEBTOR EXECUTOR.—The naming of a person as executor does not thereby discharge him from any just claim which the testator has against him, but the claim must be included in the inventory, and the executor is liable for the same, as for so much money in his hands, when the debt or demand becomes due.

Effect of naming debtor executor.

SEC. 776. DISCHARGE OR BEQUEST OF DEBT AGAINST EXECUTOR.—The discharge or bequest in a will, of any debt or demand of the testator against the executor named, or any other person, is not valid against the creditors of the decedent, but is a specific bequest of the debt or demand. It must be included in the inventory, and, if necessary, applied in the payment of the debts. If not necessary for that purpose, it must be paid in the same manner and proportion as other specific legacies.

Discharge, etc., of debt against.

Not discharge as against creditors.

SEC. 777. TO MAKE OATH TO INVENTORY.—The inventory must be signed by the appraisers, if any there be, and the executor or administrator must take and subscribe an oath, before an officer authorized to administer oaths, that the inventory contains a true statement of all the estate of the decedent which has come to his knowledge and possession, and particularly of all money belonging to the decedent, and of all just claims of the decedent against the affiant. The oath must be indorsed upon or annexed to the inventory.

Inventory must be signed.

Oath by executor, etc., as to contents.

SEC. 778. LETTERS MAY BE REVOKED FOR NEGLIGENCE OF ADMINISTRATOR.—If an executor or administrator neglects or refuses to return the inventory within the time prescribed, or within such further time, not exceeding two months, which the court or judge shall, for reasonable cause, allow, the court may, upon notice, revoke the letters testamentary or of administration, and the executor or administrator is liable on his bond for any injury to the estate, or any person interested therein, arising from such failure.

Revocation of letters for neglect.

SEC. 779. INVENTORY OF AFTERDISCOVERED PROPERTY.—Whenever property not mentioned in an inventory that is made and filed, comes to the possession or knowledge of an executor or administrator, he must cause the same to be appraised in the manner prescribed in this subchapter, and an inventory thereof to be returned within two months after the discovery; and the making of such inventory may be enforced, after notice, by attachment or removal from office.

After discovered property.

Appraisal and inventory.

SEC. 780. EXECUTOR ENTITLED TO POSSESS ALL OF ESTATE OF DECEDENT.—The executor or administrator is entitled to the possession of all the real and personal estate of the decedent, and to receive the rents and profits of the real estate until the estate is settled or until delivered over by the order of the court to the heirs or devisees; and must keep in good tenantable repair all houses, buildings and fixtures thereon which are under his control. After the expiration of the time for the presentation of claims, he is not entitled to recover the possession of any property of the estate from any heir, who has succeeded to the property in his possession or from any devisee, or legatee, to whom the property has been devised or bequeathed, or from the assignee of any such heir, devisee, or legatee, unless he proves that the same is necessary for the payment of debts or legacies, or of expenses of administration already accrued, or for distribution to some other heir, devisee, or legatee entitled thereto. The heirs or devisees may themselves, or jointly with the executor or administrator, maintain an action for the possession of the real estate, or for the purpose of quieting title to the same,

Possession of estate.

against anyone except the executor or administrator; but this section shall not be so construed as requiring them so to do.

Surrender of real estate.

SEC. 781. EXECUTOR OR ADMINISTRATOR TO DELIVER REAL ESTATE TO HEIRS OR DEVISEES.—Unless it satisfactorily appear to the court that the rents, issues, and profits of the real estate for a longer period are necessary to be received by the executor or administrator, where-with to pay the debts of the decedent, or that it will probably be necessary to sell the real estate for the payment of such debts, the court at the end of the time limited for the presentation of claims against the estate, must direct the executor or administrator to deliver possession of all the real estate to the heirs at law or devisees.

Embezzlement and surrender of property of estate.

EMBEZZLEMENT AND SURRENDER OF PROPERTY OF ESTATE

Liability of embezzler.

SEC. 782. EMBEZZLING EFFECTS OF A DECEDENT.—If any person embezzles, conceals, smuggles, or fraudulently disposes of any of the moneys, goods, chattels, or effects of a decedent, he is chargeable therewith, and liable to an action by the executor or administrator of the estate for double the value of the property so embezzled, concealed, smuggled, or fraudulently disposed of, to be recovered for the benefit of the estate.

Citation of person suspected.

SEC. 783. CITATION TO PERSON SUSPECTED OF EMBEZZLEMENT, CONCEALMENT, AND SO FORTH, OF PROPERTY.—If any executor, administrator, or other person interested in the estate of a decedent, complains to the district court or judge, on oath, that any person is suspected to have concealed, embezzled, smuggled, or fraudulently disposed of any moneys, goods, or chattels of the decedent, or has in his possession or knowledge any deeds, conveyances, bonds, contracts, or other writings, which contain evidences of or tend to disclose the right, title, interest, or claim of the decedent to any real or personal estate, or any claim or demand, or any lost will, the said court or judge may cite such person to appear before such court, and may examine him on oath upon the matter of such complaint. But if he appears and is found innocent, his necessary expenses must be allowed him out of the estate.

Penalty for failure to obey.

SEC. 784. REFUSAL TO OBEY CITATION, PENALTY FOR, AND FOR EMBEZZLEMENT; MAY BE COMPELLED TO DISCLOSE BY IMPRISONMENT; LIABLE FOR DOUBLE DAMAGES.—If the person so cited refuses to appear and submit to an examination, or to answer such interrogatories as may be put to him, touching the matters of the complaint, the court may, by warrant for that purpose, commit him to jail, there to remain in close custody until he submits to the order of the court or is discharged according to law. If, upon such examination, it appears that he has concealed, embezzled, smuggled, or fraudulently disposed of any moneys, goods, or chattels of the decedent, or that he has in his possession or knowledge any deeds, conveyances, bonds, contracts, or other writings containing evidences of or tending to disclose the right, title, interest, or claim of the decedent to any real or personal estate, claim, or demand, or any lost will of the decedent, the court may make an order requiring such person to disclose his knowledge thereof to the executor or administrator, and may commit him to jail, there to remain until the order is complied with, or he is discharged according to law; and all such interrogatories and answers must be in writing, signed by the party examined, and filed in the court. In addition to the examination of the party, witnesses may be produced and examined on either side.

Discovery of property.

Citation of persons intrusted with estate.

SEC. 785. PERSONS INTRUSTED WITH ESTATE OF DECEDENT MAY BE CITED TO ACCOUNT.—The district court or judge, upon the complaint, on oath, of any executor or administrator, may cite any person who

has been intrusted with any part of the estate of the decedent to appear before such court, and require him to render a full account, on oath, of any moneys, goods, chattels, bonds, accounts, or other property or papers belonging to the estate, which have come to his possession in trust for the executor or administrator, and of his proceedings thereon; and if the person so cited refuses to appear and render such account, the court may proceed against him as provided in the preceding section.

CHAPTER 27.—PROVISION FOR THE SUPPORT OF THE FAMILY

SUPPORT OF FAMILY OF DECEDENT.

SEC. 786. WIDOW AND MINOR CHILDREN MAY REMAIN IN POSSESSION OF FURNITURE AND APPAREL.—When a person dies leaving a widow or minor children, the widow or children, until letters are granted and the inventory is returned, are entitled to remain in possession of all the wearing apparel of the family, and of all the household furniture of the decedent, and are also entitled to a reasonable provision for their support, to be allowed by the district court or judge.

Possession of furniture and apparel.

CROSS REFERENCE

Clothing of decedent and household effects not exceeding in value \$2,500 to go to surviving wife without administration, see Civil Code, section 418.

Post, p. 118L.

SEC. 787. ALL PROPERTY EXEMPT FROM EXECUTION TO BE SET APART FOR USE OF FAMILY.—Upon the return of the inventory, or at any subsequent time during the administration, the court may, on petition therefor, set apart for the use of the surviving husband or wife, or, in case of his or her death, to the minor children of the decedent, all the property exempt from execution.

Property exempt from execution set aside for, on petition.

SEC. 788. NOTICE OF HEARING; TO WHOM SENT.—When the petition mentioned in section 787 is filed the clerk of the court must set the petition for hearing by the court and give notice thereof by causing notices to be posted in at least three public places in the division, one of which must be at the place where the court is held, containing the name of the decedent, the name of the petitioner, the nature of the application, and the time at which the same will be heard. Such notice must be given at least ten days before the hearing, and a copy thereof must be mailed at least ten days before the day appointed for the hearing to the executor or administrator, if he be not the petitioner, and to any person named as coexecutor or coadministrator not petitioning, and upon the attorney of any person who has appeared or given notice of appearance (by an attorney) in the estate as heir, legatee, devisee, next of kin, or creditor, or as otherwise interested, addressed to them at their places of residence, or office, if known, and if not known, then to the place where the proceedings are pending. Proof of such posting and mailing must be made at the hearing.

Hearing on, notice.

SEC. 789. COURT MAY MAKE EXTRA ALLOWANCE.—If the property set apart is insufficient for the support of the widow and children, or either, the court or judge must take such reasonable allowance out of the estate as shall be necessary for the maintenance of the family, according to their circumstances, during the progress of the settlement of the estate, which, in case of an insolvent estate, must not be longer than one year after granting letters testamentary or of administration.

Extra allowance.

SEC. 790. PAYMENT OF ALLOWANCE.—Any allowance made by the court or judge, in accordance with the provisions of this chapter, must be paid in preference to all other charges; except funeral

Payment of, preferential.

charges and expenses of administration; and any such allowance, whenever made, may, in the discretion of the court or judge, take effect from the death of the decedent.

Apportionment of property.

SEC. 791. PROPERTY SET APART, HOW APPORTIONED.—When property is set apart to the use of the family, in accordance with the provisions of this chapter, such property, if the decedent left a surviving spouse and no minor child, is the property of such spouse. If the decedent left also a minor child or children, the one half of such property belongs to the surviving spouse, and the remainder to the child, or in equal shares to the children, if there are more than one. If there is no surviving spouse, the whole belongs to the minor child or children.

Administration when estate does not exceed \$1,000.

SEC. 792. ADMINISTRATION OF ESTATE NOT EXCEEDING \$1,000 IN VALUE.—If a deceased person leave a widow or minor child or minor children and upon the return of the inventory of the estate of such deceased person it shall appear to the court or judge by the verified petition of the personal representative of such deceased person or his widow or of the guardian of his minor children or of any of them that the net value of the whole estate of said deceased over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of \$1,000, not including the property excepted from administration under section 418 of the Civil Code, the court, or judge, shall, by order, require all persons interested to appear on a day fixed to show cause why the whole of said estate should not be assigned for the use and support of the family of the deceased.

Post, p. 1181.

Notice of hearing. Ante, p. 1043.

NOTICE OF HEARING.—Notice thereof shall be given and proceedings had in the same manner as provided in section 788.

Proceedings.

PROCEEDINGS ON HEARING.—If upon the hearing, the court finds that the net value of the estate over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of \$1,000, not including the property excepted from administration under section 418 of the Civil Code, it shall, by decree for that purpose, assign to the widow of the deceased, if there be a widow, or if there be no widow, then to the minor children of the deceased, if there be minor children, the whole of the estate, subject to whatever mortgages, liens, or encumbrances there may be upon said estate at the time of the death of said deceased, after the payment of the expenses of the last illness of the deceased, funeral charges, and expenses of administration, and the title thereof shall vest absolutely in such widow, if there is a widow, or if there is no widow, in the minor children or child, subject to whatever mortgages, liens or encumbrances there may be upon said estate at the time of the death of the deceased, and there must be no further proceedings in the administration, unless further estate be discovered.

When all property to go to children.

SEC. 793. WHEN ALL PROPERTY TO GO TO CHILDREN.—If the widow has a maintenance derived from her own property equal to the portion set apart to her by the preceding sections of this chapter, the whole property so set apart must go to the minor children.

CLAIMS AGAINST ESTATE.

CHAPTER 28.—CLAIMS AGAINST ESTATE

Notice to creditors, by publication.

SEC. 794. NOTICE TO CREDITORS OF DECEDENTS' ESTATES.—Every executor or administrator must, immediately after his letters are issued, cause to be published in some newspaper of general circulation in the Canal Zone, a notice to the creditors of the decedent, requiring all persons having claims against said decedent to file them, with the necessary vouchers, in the office of the clerk of the court, or to exhibit them, with the necessary vouchers, to the executor or administrator, at the place of his residence or business to be specified in the notice.

Such notice must be published not less than once a week for four weeks. In case such executor or administrator resigns, or is removed, before the time expressed in the notice, his successor must give notice only for the unexpired time allowed for such filing or presentation: *Provided, however,* That the publication may in the discretion of the court, be dispensed with, in which event the court may direct notice by posting in three public places in the Canal Zone for a period of four weeks.

Provido.
May be dispensed with, in discretion of court.

SEC. 795. TIME EXPRESSED IN THE NOTICE.—The time expressed in the notice must be ten months after its first publication, when the estate exceeds in value the sum of \$10,000, and four months when it does not.

Time expressed in notice.

SEC. 796. FILING COPY OF PRINTED NOTICE TO CREDITORS.—Within thirty days after the first publication of notice to creditors, the executor or administrator must file or cause to be filed in the court a copy of said notice to creditors accompanied by a statement, setting forth the date of the first publication thereof and the name of the newspaper in which the same is printed, or the dates and places of posting, if the posting of notices be directed.

Copy of notice to be filed.

SEC. 797. RECORDING DECREE OF NOTICE TO CREDITORS.—After the notice is given, as required by section 794, a copy thereof, with the affidavit of due publication or posting, must be filed and upon such affidavit or other testimony to the satisfaction of the court, an order or decree showing that due notice to creditors has been given, and directing that such order or decree be entered in the minutes, must be made by the court.

Recording decree of notice.

SEC. 798. CLAIMS NOT FILED ARE BARRED.—All claims arising upon contracts, whether the same be due, not due, or contingent, and all claims for funeral expenses and expenses of the last sickness must be filed or presented within a time limited in the notice, and any claim not so filed or presented is barred forever: *Provided, however,* That when it is made to appear by the affidavit of the claimant to the satisfaction of the court, or judge, that the claimant had no notice as provided in this chapter, by reason of being out of the Canal Zone, it may be filed or presented at any time before a decree of distribution is entered.

Unfiled claims barred.

Provido.
Claimants without notice.

A brief description of every claim filed must be entered by the clerk in the register, showing the name of the claimant, the amount and character of the claim, the rate of interest, if any, and the date of filing.

Description of claim.

SEC. 799. CLAIMS MUST BE SWORN TO.—Every claim which is due, when filed with the clerk, or presented to the executor or administrator, must be supported by the affidavit of the claimant, or some one in his behalf, that the amount is justly due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant. If the claim be not due when filed or presented, or be contingent, the particulars of such claim must be stated. When the affidavit is made by a person other than the claimant, he must set forth in the affidavit the reason why it is not made by the claimant. The oath may be taken before any officer authorized to administer oaths.

Affidavit on, required.

The executor or administrator may also require satisfactory vouchers or proofs to be produced in support of the claim.

Additional proof.

No greater rate of interest shall be allowed upon any claim after its approval by the administrator or executor and judge than is allowed on judgments obtained in the district court.

Rate of interest allowable.

SEC. 800. CLAIMS TO BE ALLOWED OR REJECTED.—When a claim, accompanied by the affidavit required in this chapter, has been filed with the clerk, the executor or administrator must allow or reject

Filing of.

- it, and his allowance or rejection thereof must be in writing and filed with the clerk. If the executor or administrator so allow the claim after filing, the clerk must, immediately after the filing of such allowance, present the claim, together with the allowance, to the judge, and must at the time of such presentation indorse on the claim the date thereof. The judge must indorse upon the claim so filed his allowance or rejection, with the date thereof. When a claim, accompanied by the affidavit required in this chapter, is presented to the executor or administrator before filing, he must indorse thereon his allowance or rejection, with the day and date thereof. If he allows the claim so presented, it must be presented to the judge for his approval, who must in the same manner indorse upon it his allowance or rejection, and, if allowed, it must, within thirty days thereafter, be filed with the clerk.
- PRESENTATION OF ALLOWED CLAIM TO COURT.**—
- ACTION BY JUDGE.**—
- PROCEDURE WHEN CLAIM PRESENTED TO EXECUTOR, ETC., BEFORE FILING.**—
- FAILURE OF EXECUTOR, ETC., TO ACT.**—
- REFUSAL OR NEGLECT OF EXECUTOR TO ALLOW OR REJECT CLAIM.**— If, where a claim has been filed without presentation, the executor or administrator refuse or neglect to file such allowance or rejection for ten days after the claim has been filed, or if, where a claim has been presented before filing, the executor or administrator refuse or neglect to indorse such allowance or rejection for ten days after the claim has been presented to him, or if the judge refuse or neglect to indorse such allowance or rejection for ten days after the claim has been presented to him, such refusal or neglect may, at the option of the claimant, be deemed equivalent to a rejection on the tenth day; and if the presentation be made before filing by a notary, the certificate of such notary, under seal, shall be prima facie evidence of such presentation and the date thereof.
- ACTION ON, WHEN FILED AFTER EXPIRATION OF TIME.**—
- ACTING ON CLAIM AFTER EXPIRATION OF TIME TO PRESENT.**—If the claim be filed with the clerk, or presented to the executor or administrator, before the expiration of the time limited for the filing or presentation of claims, the same is filed or presented in time, though acted upon by the executor or administrator, and by the judge, after the expiration of such time.
- PAYABLE IN PARTICULAR KIND OF MONEY.**—
- CLAIM PAYABLE IN PARTICULAR KIND OF MONEY.**—If the claim is payable in a particular kind of money or currency, it shall, if allowed, be payable only in such money or currency.
- EFFECT OF ALLOWANCE.**—
- EFFECT OF ALLOWANCE.**—Every claim allowed by the executor or administrator and approved by the judge shall be ranked among the acknowledged debts of the estate, to be paid in due course of administration.
- ENTRY OF DATE OF ALLOWANCE.**—
- ENTRY OF DATE OF ALLOWANCE.**—The dates of allowance of every such claim, together with the amount allowed, must be entered in the register by the clerk after the allowance thereof by the judge.
- ORIGINAL INSTRUMENT NEED NOT BE FILED.**—
- SEC. 801.—ORIGINAL INSTRUMENT NEED NOT BE FILED WITH CLAIM.**— If the claim be founded on a bond, bill, note, or any other instrument, the original need not be filed or presented, but a verified copy of such instrument with all indorsements must be attached to the statement of the claim and filed therewith, and the original instrument must be exhibited, if demanded by the executor or administrator or judge, unless it be lost or destroyed, in which case the claimant must accompany his claim when filed or presented by his affidavit, containing a copy or particular description of such instrument, and stating its loss or destruction.
- VERIFIED COPIES.**—
- MORTGAGES AND LIENS.**—
- If the claim, or any part thereof, be secured by a mortgage or other lien which has been recorded in the office of the Registrar of Property, it shall be sufficient to describe the mortgage or lien, and refer to the date, volume, and page of its record.

If, in any case, the claimant has left any original voucher in the hands of the executor or administrator, or suffered the same to be filed with the clerk, he may withdraw the same, when a copy thereof has been already, or is then, attached to his claim.

Withdrawal of original vouchers, etc.

SEC. 802. REJECTION OF CLAIM AGAINST ESTATES.—When a claim is rejected either by the executor or administrator, or the judge, written notice of such rejection shall be given by the executor or administrator to the holder of such claim or to the person filing or presenting the same, and the holder must bring suit in the proper court against the executor or administrator within three months after the date of service of such notice if the claim be then due or within two months after it becomes due, otherwise the claim shall be forever barred.

Rejection of.

Suit thereon, must be brought.

If the residence of the claimant is not known, and the same shall be made to appear to the satisfaction of the court, the court shall by its order require the notice to be served on the claimant by filing with the clerk.

Notice by filing with clerk.

SEC. 803. CLAIMS BARRED BY STATUTE.—No claim must be allowed by the executor or administrator, or by the district judge, which is barred by the statute of limitations. When a claim is presented to the judge for his allowance, he may, in his discretion, examine the claimant and others, on oath, and hear any legal evidence touching the validity of the claim.

Claims barred by statute.

ALLOWED CLAIMS NOT AFFECTED BY STATUTE OF LIMITATIONS.—No claim against any estate which has been filed and allowed, or presented and allowed, is affected by the statute of limitations, pending the proceedings for the settlement of the estate.

Allowed claims not affected by statute of limitations.

SEC. 804. ACTIONS ON CLAIMS.—No holder of any claim against an estate shall maintain any action thereon, unless the claim is first filed with the clerk, or presented to the executor or administrator, except in the following case: An action may be brought by any holder of a mortgage or lien to enforce the same against the property of the estate subject thereto, where all recourse against any other property of the estate is expressly waived in the complaint, but no counsel fees shall be recovered in such action unless such claim be so filed or presented.

Actions on.

SEC. 805. TIME OF LIMITATION.—The time during which there shall be a vacancy in the administration must not be included in any limitations herein prescribed.

Time of limitation.

SEC. 806. ACTION PENDING AT DECEDENT'S DEATH.—If an action is pending against the decedent at the time of his death, the plaintiff must in like manner file his claim with the clerk, or present it to the executor or administrator for allowance or rejection, authenticated as required in other cases; and no recovery shall be had in the action unless proof be made of such filing or presentation.

Actions pending at decedent's death.

SEC. 807. ALLOWANCE IN PART.—Whenever the executor or administrator or the judge shall act upon any claim that may be filed with the clerk, or presented to the executor or administrator, and is willing to allow the same in part, he must state in his allowance the amount he is willing to allow. If the creditor refuse to accept the amount allowed in satisfaction of his claim, he shall recover no costs in any action therefor brought against the executor or administrator, unless he recover a greater amount than that offered to be allowed.

Partial allowance.

SEC. 808. EFFECT OF JUDGMENT AGAINST EXECUTOR.—A judgment rendered against an executor or administrator, upon any claim for money against the estate of his testator or intestate, only establishes the claim in the same manner as if it had been allowed by the executor or administrator and the judge; and the judgment must be that

Effect of judgment against executor.

the executor or administrator pay, in due course of administration, the amount ascertained to be due. A certified transcript of the original docket of the judgment must be filed among the papers of the estate in court. No execution must issue upon such judgment, nor shall it create any lien upon the property of the estate, or give to the judgment creditor any priority of payment.

Against decedent.

SEC. 809. JUDGMENT AGAINST DECEDENT.—When any judgment has been rendered for or against the testator or intestate in his lifetime, no execution shall issue thereon after his death, except as provided in section 355. A judgment against the decedent for the recovery of money must be filed with the clerk, or presented to the executor or administrator, like any other claim. If execution is actually levied upon any property of the decedent before his death, the same may be sold for the satisfaction thereof; and the officer making the sale must account to the executor or administrator for any surplus in his hands. A judgment creditor having a judgment which was rendered against the testator or intestate in his lifetime, may redeem any real estate of the decedent from any sale under foreclosure, or execution, in like manner and with like effect as if the judgment debtor were still living.

Ante, p. 970.

Disputed claims referred to referee.

SEC. 810. DISPUTED CLAIM MAY BE REFERRED TO REFEREE.—If the executor or administrator doubts the correctness of any claim presented to him or filed with the clerk, he may enter into an agreement in writing with the claimant to refer the matter in controversy to some disinterested person, to be approved by the court or judge. Upon filing the agreement and approval of such court or judge, in the office of the clerk of the court, the clerk must enter a minute of the order referring the matter in controversy to the person so selected, or, if the parties consent, a reference may be had in the court; and the report of the referee, if confirmed, establishes or rejects the claim the same as if it had been allowed or rejected by the executor or administrator and judge.

Trial by, confirmation, and effect.

SEC. 811. TRIAL BY REFEREE, HOW CONFIRMED, AND ITS EFFECT.—The referee must hear and determine the matter, and make his report thereon to the court in which his appointment is entered. The same proceedings shall be had in all respects, and the referee shall have the same powers, be entitled to the same compensation and subject to the same control, as in other cases of reference. The court may remove the referee, appoint another in his place, set aside or confirm his report and adjudge costs, as in actions against executors or administrators, and the judgment of the court thereon shall be as valid and effectual, in all respects, as if the same had been rendered in a suit commenced by ordinary process.

Liability of executor, etc., for costs.

SEC. 812. LIABILITY OF EXECUTOR, AND SO FORTH, FOR COSTS.—When a judgment is recovered, with costs, against any executor or administrator, he shall be individually liable for such costs, but they must be allowed him in his administration accounts, unless it appears that the suit or proceeding in which the costs were taxed was prosecuted or defended without just cause.

Executor, etc., as claimant.

SEC. 813. EXECUTOR'S CLAIM.—If the executor or administrator is a creditor of the decedent, his claim duly authenticated by affidavit shall be filed with the clerk, and must be presented by the clerk for allowance or rejection to the judge, who shall allow or reject it, and its allowance by the judge is sufficient evidence of its correctness, and it must be paid as other claims in due course of administration. If, however, the judge reject the claim, action thereon may be had against the estate by the claimant, and summons must be served upon the

judge, who may appoint an attorney, at the expense of the estate, to defend the action. If the claimant recover no judgment, he must pay all costs, including defendant's reasonable attorney's fees, to be fixed by the court.

SEC. 814. EXECUTOR NEGLECTING TO GIVE NOTICE TO CREDITORS, TO BE REMOVED.—If an executor or administrator neglects for two months after his appointment to give notice to creditors, as prescribed by this chapter, the court must revoke his letters, and appoint some other person in his stead, equally or the next in order entitled to the appointment.

Removal of executor, if notice not given to creditors.

SEC. 815. STATEMENT OF CLAIMS AGAINST ESTATE.—At the same time at which he is required to return an inventory, the executor or administrator must also return a statement of all claims against the estate which have been filed with the clerk, or presented to the executor or administrator, if so required by the court, or judge, and from time to time thereafter he must present a statement of claims subsequently so filed or presented, if so required by the court or judge. In all such statements he must designate the names of the creditors, the nature of each claim, when it became due, or will become due, and whether it was allowed or rejected by him, or not yet acted upon.

Statement of claims to be filed.

SEC. 816. PAYMENT OF DEBTS BEARING INTEREST.—If there be any debt of the decedent bearing interest, whether filed or not, or whether presented or not, the executor or administrator may, by order of the court, pay the amount then accumulated and unpaid, or any part thereof, at any time when there are sufficient funds properly applicable thereto, whether said claim be then due or not; and interest shall thereupon cease to accrue upon the amount so paid.

Payment of debts bearing interest.

SEC. 817. WHEN CLAIMANT CAN NOT BE FOUND; DEPOSIT WITH COLLECTOR.—Whenever any claim has been filed or presented and shall have been approved by the executor or administrator and by the judge, but the same has not been paid, and the estate is in all other respects ready to be closed, if it be made to appear to the satisfaction of the court or judge, by affidavit, or by testimony, taken in open court, that the same can not be found, and has not been paid because the claimant can not be found, the court or judge shall make an order fixing the amount of said claim, with interest, if any, and directing the executor or administrator to deposit the amount with the collector of the Panama Canal, who shall give a receipt for the same, and who shall be liable upon his official bond therefor. Such executor or administrator shall at once make the deposit in accordance with such order of court and shall forthwith proceed to close up and settle such estate. Upon the final settlement of his accounts, the receipt of such collector shall be received as a proper voucher for the payment of such claim, and shall have the same force and effect as if executed by such claimant.

When claimant can not be found.

Deposit with collector.

Any person claiming to be entitled to any amount so deposited with the collector, may, within five years after such deposit, petition the court or judge for any order directing payment to the said claimant. A copy of such petition shall be served on the collector and thereafter no such amount shall be covered into the Treasury of the United States, as hereinafter directed, until so ordered by the court.

Petition by claimant for funds in collector's hands.

If no one claims the amount, as herein provided, or if a claim be made and disallowed and the court so directs, such amount devolves to the United States and shall be covered into the Treasury by the collector as miscellaneous receipts.

Unclaimed, covered into Treasury.

SALES, ETC.,
PROPERTY OF
DECEDENT.

CHAPTER 29.—SALES AND CONVEYANCES OF
PROPERTY OF DECEDENTS

Estate chargeable
with debts.

SEC. 818. ESTATE CHARGEABLE WITH DEBTS; NO PRIORITY.—All of the property of a decedent shall be chargeable with the payment of the debts of the deceased, the expenses of administration, and the allowance to the family, except as otherwise provided in this code and in the Civil Code. And the said property, personal and real, may be sold in the manner prescribed in this chapter. There shall be no priority as between personal and real property for the purposes of this section.

No priority between
realty and personalty.

Confirmation of sales.

SEC. 819. CONFIRMATION OF SALES.—All sales of property must be reported under oath to and confirmed by the court, before the title to the property passes.

Perishable, etc., prop-
erty.

SEC. 820. PERISHABLE AND DEPRECIATING PROPERTY TO BE SOLD.—At any time after receiving letters, the executor, administrator, or special administrator may sell perishable and other personal property likely to depreciate in value, or which will incur loss or expense by being kept, and so much other personal property as may be necessary to pay the allowance made to the family of the decedent. The executor, administrator, or special administrator is responsible for the property unless, after making a sworn return, and on a proper showing, the court shall approve the sale.

Personalty.

SEC. 821. SALE OF PERSONAL PROPERTY BY EXECUTOR OR ADMINISTRATOR.—If claims against the estate have been allowed, and a sale of property is necessary for their payment, or for the expenses of administration, or for the payment of legacies, the executor or administrator may sell all or so much of the personal property as may be necessary therefor. He may also make a sale from time to time, so long as any personal property remains in his hands, and sale thereof is necessary. If it appear for the best interests of the estate, he may, at any time after filing the inventory, in like manner sell the whole or any part of the personal property belonging to the estate, whether necessary to pay debts or not. Such sale to take effect only upon confirmation by the court.

Partnership inter-
ests, choses in action.

SEC. 822. PARTNERSHIP INTERESTS AND CHOSES IN ACTION, HOW SOLD.—Partnership interests or interests belonging to any estate by virtue of any partnership formerly existing, interest in personal property pledged, and choses in action, may be sold in the same manner as other personal property, when it appears to be for the best interest of the estate. Before confirming the sale of any partnership interest, whether made to the surviving partner or to any other person, the court or judge must carefully inquire into the condition of the partnership affairs, and must examine the surviving partner, if in the Canal Zone and able to be present in court.

Order of sales.

SEC. 823. ORDER OF SALES.—In making orders and sales for the payment of debts or family allowance, such articles as are not necessary for the support and subsistence of the family of the decedent, or are not specially bequeathed, must be first sold.

At public auction, or
private sale.

SEC. 824. SALE AT PUBLIC AUCTION OR PRIVATE SALE.—The sale of personal property may be made at public auction or private sale, for cash, and after public notice given for at least ten days by notices posted in three public places in the Canal Zone, or by publication in a newspaper of general circulation in the Canal Zone, or both, as the executor or administrator may determine, containing the time and place of sale, and a brief description of the property to be sold, unless the property to be sold be perishable property, in which latter case at least one day's notice by posting as aforesaid shall be given. Public sales must be made at the courthouse door, or at some other

Notice.

public place, or at the residence of the decedent; but no sale shall be made of any personal property which is not present at the time of sale, unless the court shall otherwise order.

SEC. 825. EXECUTOR AND GUARDIAN MAY BORROW ON CHATTEL MORTGAGE.—Whenever in any estate now being administered or that may hereafter be administered or in any guardianship proceeding now pending or that may hereafter be pending it shall appear to the district court or judge to be for the advantage of the estate to borrow and raise money upon a note or notes, to be secured by chattel mortgage or other lien upon the personal property of any decedent or of a minor or an incompetent person, or any part thereof, for the purpose of paying the debts of such decedent or such minor or incompetent person, the court or judge as often as occasion therefor shall arise in the administration of any estate or in the course of any guardianship may authorize, empower, and direct the executors or administrators or guardian of such minor or incompetent person to mortgage such personal property, or any part thereof, or to give other security by way of pledge or other lien upon such personal property, or any part thereof, and to execute a note or notes, to be secured by such mortgage, pledge, or lien: *Provided*, That in order to obtain such authorization, the proceedings to be taken and the effect thereof shall be as follows:

Authority to borrow on chattel mortgage.

First. VERIFIED PETITION.—The executor or administrator of any estate, or guardian of any minor or incompetent person, or any person interested in the estates of such decedents, minors, or incompetent persons, may file a verified petition showing:

Provided. Procedure to be followed.

Verified petition to be filed.

1. The particular purpose or purposes for which it is proposed to make the note or notes and the chattel mortgage or other lien, which shall be either to maintain the ward and his family or to maintain and educate the ward when a minor, or to pay the debts, legacies, or charges of administration, or to pay, reduce, extend, or renew some lien or mortgage already subsisting on said property or some part thereof.

Purpose.

2. A statement of the facts and circumstances showing the insufficiency of the income of the estate under guardianship to maintain the ward and his family or to maintain and educate the ward when a minor and the debts, legacies, charges of administration, liens or mortgages to be paid, reduced, extended, or renewed, as the case may be.

Statement of facts and circumstances.

3. The advantage that may accrue to the estate from raising the required money by note or notes and mortgage or other lien, or providing for the payment, reduction, extension, or renewal of the subsisting liens or mortgages, as the case may be.

Advantages to accrue.

4. The amount to be raised, with a general description of the property proposed to be mortgaged; and,

Amount to be raised and description of property.

5. The names of the legatees and the devisees, if any, and of the heirs of the deceased, or of the minor, or of the incompetent person, as the case may be, so far as known to the petitioner.

Names of legatees, etc.

Second. Upon filing such petition, an order shall be made by the court or judge, requiring all persons interested in the estate to appear before the court or judge, at a time and place specified, not less than four nor more than ten weeks thereafter, then and there to show cause why the property (briefly indicating it), or some part thereof, should not be hypothecated for the amount mentioned in the petition (stating such amount), or such lesser amount as to the court or judge shall seem meet, and referring to the petition on file for further particulars.

Order to issue from court.

Notice.

Third. The order to show cause may be personally served on the persons interested in the estate, at least ten days before the time appointed for hearing the petition, or may be published for four successive weeks in a newspaper of general circulation in the Canal Zone.

Hearing.

Fourth. PROCEEDINGS UPON HEARING.—Upon the hearing of the order to show cause, having first received satisfactory proof of personal service or publication of the order to show cause, the court or judge must proceed to hear the petition and any objections that may be filed or presented thereto. Upon such hearing, witnesses may be compelled to attend and testify, in the same manner, and with like effect, as in other cases; and if, after a full hearing, the court or judge is satisfied that it will be for the advantage of the estate to hypothecate the whole or any portion of the property, an order must be made authorizing, empowering, and directing the executor or administrator, or the guardian of such minor or incompetent person, to make such mortgage, pledge, or other lien, and a promissory note or notes to the lender, for the amount of the loan, to be secured by said mortgage or other lien.

Order to issue, to allow loan.

Contents.

WHAT ORDER MAY PRESCRIBE.—The order may direct that a lesser amount than that named in the petition be borrowed, and may prescribe the maximum rate of interest and period of the loan, and may direct in what coin or currency it shall be paid, and require that the interest and the whole or any part of the principal be paid, from time to time, out of the whole estate or any part thereof.

Execution of note and mortgage.

Fifth. EXECUTION OF NOTE AND MORTGAGE.—After the making of the order to mortgage, the executor, administrator, or guardian of a minor or of an incompetent person shall execute and deliver a promissory note or notes for the amount and period specified in the order, and shall execute a mortgage, pledge, or other lien setting forth therein that it is made by authority of the order, and giving the date of such order. The note or notes and mortgage or other lien shall be signed by the executor, administrator, or guardian as such, and shall create no personal liability against the person so signing.

To be valid as against all parties.

Sixth. Every note or notes and mortgage or other lien so made shall be effectual to mortgage and hypothecate all the right, title, and interest which the decedent, minor, or incompetent person has in the property described therein.

Irregularity in proceedings not to impair.

No irregularity in the proceedings shall impair or invalidate the same or the note or notes and mortgage or other lien given in the pursuance thereof, and the mortgagee, his heirs and assigns, shall have and possess the same rights and remedies on the note or notes and mortgage or other lien as if it had been made by the decedent prior to his death, the minor after reaching the age of maturity, or the incompetent person when legally competent.

Provision. Deficiency on foreclosure.

DEFICIENCY ON FORECLOSURE.—*Provided, however,* That upon any foreclosure, if the proceeds of the encumbered property are insufficient to pay the note or notes, and mortgage, or other lien, no judgment or claim for any deficiency of such proceeds to satisfy the note or notes and mortgage, or the costs or expenses of sale, shall be had or allowed, except in cases where the note or notes and mortgage were given to pay, reduce, extend, or renew a lien or mortgage subsisting on the property, or some part thereof, at the time of the death of the decedent, and the indebtedness secured by such lien or mortgage was an allowed and approved claim against his estate, or a lien upon the interest of the minor in said property at the time it vested in him, or upon the estate of the incompetent at the time the incompetency of the incompetent person was so declared by the court:

And provided also, That in cases affecting the estate of the deceased persons, the part of the indebtedness remaining unsatisfied must be classed and paid with other demands against the estate, as provided in sections 875 to 885, with respect to mortgages and other liens subsisting at the time of death.

Unsatisfied deficiency to be simple debt.

SEC. 826. WHEN EXECUTOR OR ADMINISTRATOR MAY SELL REAL PROPERTY.—When it is for the advantage, benefit, and best interests of the estate, and those interested therein, that the real estate, or some part thereof, or interest therein be sold, the executor or administrator may sell the same under such terms, conditions, and in the manner prescribed by the court.

Sale of real property.

SEC. 827. POWER OF EXECUTOR OR GUARDIAN TO BORROW MONEY UPON UNSECURED NOTES.—Whenever in any estate now being administered or that may hereafter be administered, or in any guardianship proceeding now pending, or that may hereafter be pending, it shall appear to the court or judge having jurisdiction of said estate, or said minor or incompetent person, to be for the advantage, benefit, or best interest of the estate of said minor or incompetent person, to borrow money upon a note or notes, without being secured, the court or judge, as often as occasion therefor shall arise in the administration of any estate, or in the course of any guardianship, may upon petition and notice of hearing, as provided in this section, authorize, empower, and direct the executor or administrator or guardian of such minor or incompetent person, to execute a note or notes, without security.

Authority to borrow on unsecured notes.

The proceeding to be taken to obtain an order to borrow said money and execute said note or notes shall be as follows:

Procedure.

First. The executor, or administrator of any estate, or guardian of any minor or incompetent person must file a verified petition showing,

Verified petition.

(a) The particular purpose or purposes for which it is proposed to borrow said money, and the purpose or purposes for which it is to be used.

Purpose.

(b) The advantage or advantages that may accrue to said estate from borrowing said money and executing said note or notes.

Advantages to accrue.

(c) The amount of money to be borrowed, the rate of interest to be paid, and the length of time said note or notes are to run.

Amount, interest, etc.

Second. Upon filing such petition, the clerk of the court shall fix a day for hearing the same by the court.

Hearing.

Third. The petitioner shall cause notice of the hearing to be mailed, postage prepaid, to the heirs at law of said decedent, and to the devisees and legatees resident in the Canal Zone, and to the nearest relatives of said minor or incompetent person, resident in the Canal Zone, at least ten days before the hearing, addressed to them at their respective post-office addresses, if known. Otherwise, at the place where the proceedings are pending.

Notice.

Fourth. At the time and place appointed for said hearing, or at such other time and place to which the hearing may be postponed by the court, the court must proceed to hear the petition, and any objections that may be filed or presented thereto, and, if, after a full hearing, the court is satisfied that it will be for the advantage, benefit, or best interest of the estate of said decedent, or of said minor or incompetent person, to borrow said money, and execute said note or notes, without security, an order must be made, authorizing, empowering, and directing the executor, or administrator, or the guardian of such minor or incompetent person to borrow said money, and to make and execute said note or notes, without security, specifying in said order the amount that may be borrowed, the rate of interest that is to be paid, and the length of time that said note or notes are to run.

Procedure on hearing.

Issue of notes, etc.

Fifth. After the making of the order to borrow said money and execute said note or notes, the executor, administrator, or guardian of the minor or incompetent person, shall execute and deliver a promissory note or notes, without security, for the amount, at the rate of interest, and for the period prescribed in said order, and said note or notes shall be signed by the executor, or administrator or guardian, as such, and shall create no personal liability against the person so signing.

To be valid as against all parties.

Sixth. Any note or notes so signed and executed, shall be effectual to create a valid obligation and debt against said estate, or said minor or incompetent person, and shall be payable out of the funds of said estate, and said note or notes shall specify that it is made by authority of such order, giving the date thereof.

POWERS AND DUTIES OF EXECUTORS, ETC., MANAGEMENT OF ESTATES.

CHAPTER 30.—POWERS AND DUTIES OF EXECUTORS AND ADMINISTRATORS, AND MANAGEMENT OF ESTATES.

Possession of estate.

SEC. 828. EXECUTORS TO TAKE POSSESSION OF THE ENTIRE ESTATE.—The executor or administrator must take into his possession all the estate of the decedent, real and personal, and collect all debts due to the decedent or to the estate. For the purpose of bringing suits to quiet title, or for partition of such estate, the possession of the executors or administrators is the possession of the heirs or devisees; such possession by the heirs or devisees is subject, however, to the possession of the executor or administrator, for the purposes of administration, as provided in chapters 23 to 36 of this code.

Actions by and against executors, etc.

SEC. 829. ACTIONS MAY BE MAINTAINED BY AND AGAINST EXECUTORS AND ADMINISTRATORS.—Actions for the recovery of any property, real or personal, or for the possession thereof, or to quiet title thereto, or to determine any adverse claim thereon, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases in which the same might have been maintained by or against their respective testators or intestates.

Actions by, for waste, conversion, and trespass.

SEC. 830. MAY MAINTAIN ACTIONS FOR WASTE, CONVERSION, AND TRESPASS.—Executors and administrators may maintain actions against any person who has wasted, destroyed, taken, or carried away, or converted to his own use, the goods of their testator or intestate, in his lifetime. They may also maintain actions for trespass committed on the real estate of the decedent in his lifetime.

Against, for waste or trespass of decedent.

SEC. 831. EXECUTOR AND ADMINISTRATOR MAY BE SUED FOR WASTE OR TRESPASS OF DECEDENT.—Any person or his personal representatives may maintain an action against the executor or administrator of any testator or intestate who in his lifetime has wasted, destroyed, taken, or carried away, or converted to his own use, the goods or chattels of any such person, or committed any trespass on the real estate of such person.

Surviving partner.

SEC. 832. SURVIVING PARTNER TO SETTLE UP BUSINESS; INTEREST THEREIN TO BE APPRAISED; ACCOUNT TO BE RENDERED.—When a partnership exists between the decedent, at the time of his death, and any other person, the surviving partner has the right to continue in possession of the partnership, and to settle its business, but the interest of the decedent in the partnership must be included in the inventory, and be appraised as other property. The surviving partner must settle the affairs of the partnership without delay, and account with the executor or administrator, and pay over such balances as may from time to time be payable to him, in right of the decedent. Upon the application of the executor or administrator, the court, or a judge thereof, may, whenever it appears necessary,

Interest in partnership of decedent to be appraised, etc.

Account may be required.

order the surviving partner to render an account, and in case of neglect or refusal may, after notice, compel it by attachment; and the executor or administrator may maintain against him any action which the decedent could have maintained.

SEC. 833. ACTIONS ON BOND OF EXECUTOR OR ADMINISTRATOR MAY BE BROUGHT BY ANOTHER ADMINISTRATOR.—An administrator may, in his own name, for the use and benefit of all parties interested in the estate, maintain actions on the bond of an executor, or of any former administrator of the same estate.

Action on bond of executor, etc.

SEC. 834. WHAT EXECUTORS ARE NOT PARTIES TO ACTIONS.—In actions by or against executors, it is not necessary to join those as parties to whom letters were issued, but who have not qualified.

Unqualified executors not parties to actions.

SEC. 835. MAY COMPOUND.—Whenever a debtor of the decedent is unable to pay all his debts, the executor or administrator, with the approbation of the court or judge, may compound with him and give him a discharge, upon receiving a fair and just dividend of his effects. A compromise may also be authorized when it appears to be just, and for the best interest of the estate.

Compounds and compromises.

SEC. 836. RECOVERY OF PROPERTY FRAUDULENTLY DISPOSED OF BY TESTATOR.—When there is a deficiency of assets in the hands of an executor or administrator, and when the decedent, in his lifetime, has conveyed any real estate, or any rights or interests therein, with intent to defraud his creditors, or to avoid any right, debt, or duty of any person, or has so conveyed such estate that by law the deeds or conveyances are void as against creditors, the executor or administrator must commence and prosecute to final judgment any proper action for the recovery of the same; and may recover for the benefit of the creditor all such real estate so fraudulently conveyed; and may also, for the benefit of the creditors, sue and recover all goods, chattels, rights, or credits which have been so conveyed by the decedent in his lifetime, whatever may have been the manner of such fraudulent conveyance.

Recovery of property fraudulently disposed of by testator.

SEC. 837. WHEN EXECUTOR TO SUE, AS PROVIDED IN PRECEDING SECTION.—No executor or administrator is bound to sue for such estate, as mentioned in section 836, for the benefit of the creditors, unless on application of creditors, who must pay such part of the costs and expenses of the suit, or give such security to the executor or administrator therefor, as the court or judge shall direct.

Suit to be instituted on application of creditors.

SEC. 838. DISPOSITION OF ESTATE RECOVERED.—All real estate so recovered must be sold for the payment of debts, in the same manner as if the decedent had died seised thereof, upon obtaining an order therefor from the court; and the proceeds of all goods, chattels, rights, and credits so recovered must be appropriated in payment of the debts of the decedent in the same manner as other property in the hands of the executor or administrator. The remainder of the proceeds, after all the debts of the decedent have been paid, must be paid to the person from whom such property was recovered.

Disposition of estate recovered.

SEC. 839. COURT MAY ORDER FUNDS DEPOSITED.—The court is empowered to order any executor or administrator to deposit any or all funds of an estate, coming into his hands, in a bank or banks, or other depository, to be designated by the court. The deposit shall be made in the name of the executor or administrator with a designation of his fiduciary capacity. The court may direct the executor or administrator to deposit any or all of such funds in an interest-bearing account: *Provided, however,* That nothing in this section shall be construed to relieve any executor or administrator from any duty otherwise imposed by law.

Deposit of funds on order of court.

Proviso.
Executors, etc., not relieved from duties, etc., thereby.

Investment of moneys, pending settlement, by court order.

SEC. 840. INVESTMENT OF MONEYS OF ESTATE PENDING SETTLEMENT.—Pending the settlement of any estate, on the petition of any person interested therein, and upon good cause shown therefor, the court may order any money in the hands of the executors or administrators to be invested for the benefit of the estate in securities of the United States.

Notice of hearing on petition.

Such order can only be made after ten days' notice of the hearing of the said petition, by notice posted in three public places in the Canal Zone, or by publication in a newspaper of general circulation therein, or both, as the court or judge shall direct.

CONVEYANCE AND TRANSFER OF PROPERTY, REAL AND PERSONAL.

CHAPTER 31.—CONVEYANCE OF REAL ESTATE AND TRANSFER OF PERSONAL PROPERTY BY EXECUTORS AND ADMINISTRATORS IN CERTAIN CASES

Completion of contracts for sale.

SEC. 841. EXECUTOR OR ADMINISTRATOR TO COMPLETE CONTRACTS FOR SALE OF REAL OR PERSONAL PROPERTY.—When a person who is bound by contract in writing to convey any real estate, or to transfer any personal property, dies before making conveyance or transfer, and in all cases when such decedent, if living, might be compelled to make such conveyance or transfer, the court having jurisdiction of the probate proceedings of the estate of such decedent, may make a decree authorizing and directing the executor or administrator of such deceased person to convey or transfer such real estate or personal property to the person entitled thereto.

Procedure to enforce.

SEC. 842. PETITION FOR EXECUTOR OR ADMINISTRATOR TO MAKE CONVEYANCE OR TRANSFER AND NOTICE OF HEARING.—On the presentation of a verified petition by the executor or administrator, or by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated, the court or judge shall appoint a time and place for hearing the petition, and shall order notice thereof to be served on the executor or administrator personally when he is not the petitioner, and to be published at least once a week for four successive weeks before such hearing, in a newspaper of general circulation in the Canal Zone.

Contest by interested parties.

SEC. 843. INTERESTED PARTIES MAY CONTEST.—At the time and place appointed for the hearing, or at such other time to which the same may be postponed, upon satisfactory proof by affidavit or otherwise, of the due publication of the notice, the court shall proceed to hear the said petition, and all persons interested in the estate may appear and contest such petition, by filing their objections in writing, and the court may examine, on oath, the petitioner and all who may be produced before him for that purpose.

Decree authorizing.

SEC. 844. DECREE AUTHORIZING CONVEYANCE.—If after a full hearing upon the petition and objections and examination of the facts and circumstances of the claim, the court is satisfied that the conveyance of the real estate described in the petition to the party entitled thereto should be made, a decree authorizing and directing the executor or administrator to execute a conveyance thereof to the party entitled thereto must be made.

Execution of conveyance, etc.

SEC. 845. EXECUTION OF CONVEYANCE OR TRANSFER, AND THE RECORDING OF THE ORDER THEREFOR.—The executor or administrator must execute the conveyance or transfer according to the directions contained in the decree, which decree shall be prima facie evidence of the correctness of the proceedings, and of the authority of the executor or administrator to make the conveyance or transfer.

SEC. 846. RIGHTS OF PETITIONER TO ENFORCE THE CONTRACT.—If upon the hearing, as hereinbefore provided, the right of the petitioner to have a specific performance of the contract is found to be doubtful, the court must dismiss the petition without prejudice to the rights of the petitioner, who may, at any time within six months after such dismissal, proceed by action to enforce a specific performance thereof.

Rights of petitioner to enforce contract.

SEC. 847. EFFECT OF CONVEYANCE OR TRANSFER.—Every conveyance or transfer made in pursuance of a decree as provided in this chapter, shall pass title to the property contracted for, as fully as if the contracting party himself was still living, and executed the conveyance or transfer.

Effect of conveyance or transfer.

SEC. 848. EFFECT OF RECORDING A COPY OF THE DECREE.—A copy of the decree for a conveyance or transfer as provided in this chapter, duly certified and recorded in the office of the registrar of property, gives the person entitled to the conveyance or transfer a right to the possession of the property contracted for, and to hold the same according to the terms of the intended conveyance or transfer, in like manner as if the same had been conveyed or transferred in pursuance of the decree.

Of recording copy of decree.

SEC. 849. RECORDING OF THE DECREE DOES NOT SUPERSEDE POWER OF COURT TO ENFORCE IT.—The recording of any decree, as provided in section 848 shall not prevent the court making the decree from enforcing the same by other process.

Recording decree not to supersede power of court to enforce.

SEC. 850. WHERE PARTY TO WHOM CONVEYANCE OR TRANSFER TO BE MADE IS DEAD.—If the person entitled to the conveyance or transfer dies before the commencement of the proceedings therefor under this chapter, or before the completion of the conveyance or transfer, any person entitled to succeed to his rights in the contract, or the executor or administrator of such decedent, may, for the benefit of the person so entitled, commence such proceedings or prosecute any already commenced, and the conveyance or transfer must be so made as to vest the property in the person or persons entitled thereto, or in the executor or administrator, for their benefit.

When transferee dead.

SEC. 851. DECREE MAY DIRECT POSSESSION TO BE SURRENDERED.—The decree provided for in this chapter may direct the possession of the property therein described to be surrendered to the person entitled thereto, upon his producing a certified copy of the decree, when, by the terms of the contract, possession is to be surrendered.

Surrender of possession.

CHAPTER 32.—ACCOUNTS RENDERED BY EXECUTORS AND ADMINISTRATORS, AND PAYMENT OF DEBTS

ACCOUNTS BY EXECUTORS, ETC. PAYMENT OF DEBTS.

LIABILITIES AND COMPENSATION OF EXECUTORS AND ADMINISTRATORS

Liabilities and compensation of executors, etc. Personal liability.

SEC. 852. WHEN EXECUTOR OR ADMINISTRATOR PERSONALLY LIABLE.—No executor or administrator is chargeable upon any special promise to answer in damages or to pay the debts of the testator or intestate out of his own estate, unless the agreement for that purpose, or some memorandum or note thereof, is in writing and signed by such executor or administrator, or by some other person by him thereunto specially authorized in writing.

SEC. 853. EXECUTOR TO BE CHARGED WITH ALL ESTATE, AND SO FORTH.—Every executor and administrator is chargeable in his account with the whole of the estate of the decedent which may come into his possession at the value of the appraisalment contained in the inventory, except as provided in the following sections, and with all the interest, profit, and income of the estate.

Executor, etc., chargeable with all estate, etc.

Not to profit or lose
by estate.

SEC. 854. NOT TO PROFIT OR LOSE BY ESTATE.—He shall not make profit by the increase, nor suffer loss by the decrease, or destruction, without his fault, of any part of the estate. He must account for the excess when he sells any part of the estate for more than the appraisal, and if any is sold for less than the appraisal, he is not responsible for the loss, if the sale has been justly made.

Uncollected debts
without fault.

SEC. 855. UNCOLLECTED DEBTS WITHOUT FAULT.—No executor or administrator is accountable for any debts due to the decedent, if it appears that they remain uncollected without his fault.

Allowance of ex-
penses.

SEC. 856. EXPENSES OF EXECUTORS.—The executor or administrator shall be allowed all necessary expenses in the care, management, and settlement of the estate, and for his services such fees as provided by this chapter; but when the decedent, by his will, makes some other provision for the compensation of his executor, that shall be a full compensation for his services, unless by a written instrument, filed in the court, he renounces all claim for compensation provided for in the will.

Allowance upon com-
missions.

ALLOWANCE UPON COMMISSIONS.—At any time during the administration any executor or administrator, may, upon such notice to the other parties interested in the estate as the court shall by order require, apply to the court for an allowance to himself upon his commissions, and the court shall on the hearing of such application make an order allowing such executor or administrator such portion of his commissions as to the court shall seem proper, and the portion so allowed may be thereupon charged against the estate.

Allowance to attor-
ney of fees.

ALLOWANCE TO ATTORNEY UPON FEE.—Any attorney who has rendered services to an executor or administrator may at any time during the administration, and upon such notice to the other parties interested in the estate as the court shall by order require, apply to the court for an allowance to himself, of compensation therefor, and the court shall on the hearing of such application make an order requiring the executor or administrator to pay such attorney out of the estate such compensation on account of services rendered by such attorney up to the date of such order as to the court shall seem proper, and such payment shall be forthwith made.

Purchase of claims
against estate forbid-
den.

SEC. 857. NOT TO PURCHASE CLAIMS AGAINST THE ESTATE.—No administrator or executor shall purchase any claim against the estate he represents; and if he pays any claim for less than its nominal value he is only entitled to charge in his account the amount he actually paid.

Commissions allowed
to executors and ad-
ministrators.

SEC. 858. EXECUTORS AND ADMINISTRATORS; COMMISSIONS ALLOWED TO.—When no compensation is provided by the will, or the executor renounces all claim thereto, he must be allowed commissions upon the amount of estate accounted for by him, as follows: for the first \$1,000, at the rate of 7 per cent; for the next \$9,000, at the rate of 4 per cent; for the next \$10,000, at the rate of 3 per cent; for the next \$30,000, at the rate of 2 per cent; for the next \$50,000, at the rate of 1 per cent; and for all above \$100,000, at the rate of one-half of 1 per cent. If there are two or more executors the compensation shall be apportioned among them by the court according to the services actually rendered by them respectively. The same commissions shall be allowed to administrators. In all cases, such further allowance may be made as the court may deem just and reasonable for any extraordinary service, but the total amount of such extra allowance must not exceed one-half the amount of commissions allowed by this section. Where the property of the estate is distributed in kind, and involves no labor beyond the custody and distribution of the same, the commission shall be computed on all the estate above the value of \$20,000, at one-half of the rates fixed

Apportionment.

in this section. Public administrators shall, subject to the provisions of section 952, receive the same compensation and allowances as are allowed in this title to other administrators. All contracts between an executor or administrator and an heir, devisee, or legatee, for a higher compensation than that allowed by this section, shall be void. When the executor or administrator is an attorney he shall not be allowed to charge against the estate any professional fees, as such, for services rendered by himself.

Public administrators.

Attorney serving as, not allowed professional fees.

SEC. 859. ALLOWED FEES FOR ATTORNEYS; EXTRAORDINARY¹ SERVICES.—Attorneys for executors and administrators shall be allowed out of the estate as fees for conducting the ordinary probate proceedings such reasonable sum as the court may allow which shall be not in excess of such amounts as are allowed by section 858 as compensation for executors and administrators for their own services. In all cases such further allowance may be made as the court may deem just and reasonable for any extraordinary services such as sales or mortgages of real estate, contested or litigated claims against the estate, litigation in regard to the property of the estate, and such other litigation as may be necessary for the executor or administrator to prosecute or defend.

Attorneys' fees, extraordinary services.

ACCOUNTING AND SETTLEMENTS BY EXECUTORS AND ADMINISTRATORS

Accounting and settlements by executors, etc.

SEC. 860. EXECUTOR'S EXHIBIT OF MONEY RECEIVED, AND SO FORTH.—When required by the court, either upon its own motion or upon the application of any person interested in the estate, the executor or administrator must render an exhibit under oath, showing the amount of money received and expended by him, the amount of all claims filed or presented against the estate, and the names of the claimants, and all other matters necessary to show the condition of its affairs.

Exhibits of money received, etc.

SEC. 861. OBJECTIONS TO ACCOUNT, WHO MAY FILE.—When an exhibit is rendered by an executor or administrator, any person interested may appear and, by objections in writing, contest any account or statement therein contained. The court may examine the executor or administrator, and if he has been guilty of neglect, or has wasted, embezzled, or mismanaged the estate, his letters must be revoked.

Objections to account, filing of.

SEC. 862. ATTACHMENT FOR NOT OBEYING CITATION.—If any executor or administrator neglects or refuses to appear and render an exhibit, after having been duly cited, an attachment may be issued against him and such exhibit enforced, or his letters may be revoked, in the discretion of the court.

Attachment for not obeying citation.

SEC. 863. EXECUTOR'S REPORT.—Within thirty days after the expiration of the time mentioned in the notice to creditors within which claims must be filed or exhibited every executor or administrator must render a full account and report of his administration. If he fails to present his account the court or judge must compel the rendering of the account by attachments, and any person interested in the estate may apply for and obtain an attachment; but no attachment must issue unless a citation has been first issued, served, and returned, requiring the executor or administrator to appear and show cause why an attachment should not issue. Every account must exhibit all debts which have been filed and allowed during the period embraced in the account.

Executor's report.

¹ So in original.

Account after authority revoked.

SEC. 864. EXECUTOR TO ACCOUNT AFTER HIS AUTHORITY REVOKED.—When the authority of an executor or administrator ceases, or is revoked for any reason, he may be cited to account before the court, at the instance of the person succeeding to the administration of the same estate, in like manner as he might have been cited by any person interested in the estate during the time he was executor or administrator.

Revocation of authority.

SEC. 865. REVOKING AUTHORITY OF EXECUTOR, WHEN.—If the executor or administrator resides out of the Canal Zone, or absconds, or conceals himself, so that the citation can not be personally served, and neglects to render an account within thirty days after the time prescribed in this subchapter, or if he neglects to render an account within thirty days after being committed where the attachment has been executed, his letters must be revoked.

Vouchers to be produced and filed.

SEC. 866. TO PRODUCE AND FILE VOUCHERS, WHICH REMAIN IN COURT.—In rendering his account, the executor or administrator must produce and file vouchers for all charges, debts, claims, and expenses which he has paid, which must remain in the court; and he may be examined on oath touching such payments, and also touching any property and effects of the decedent, and the disposition thereof. When any voucher is required for other purposes, it may be withdrawn on leaving a certified copy on file; if a voucher is lost, or for other good reason can not be produced on the settlement, the payment may be proved by the oath of any competent witness.

Petty cash expenditures.

SEC. 867. EXPENDITURES LESS THAN \$20 MAY BE ALLOWED EXECUTORS WITHOUT VOUCHERS.—On the settlement of his account he may be allowed any item of expenditure not exceeding \$20, for which no voucher is produced, if such item be supported by his own uncontradicted oath positive to the fact of payment, specifying when, where, and to whom it was made; but such allowances in the whole must not exceed \$500 against any one estate.

Lost and destroyed vouchers.

LOST OR DESTROYED VOUCHERS.—Provided, that if it appears by the oath to the account and is proven by competent evidence to the satisfaction of the court, that a voucher for any disbursement or disbursements whatsoever has been lost or destroyed, and that it is impossible to obtain a duplicate thereof, and that such item or items were paid in good faith and for the best interests of the estate, and such item or items were legal charges against said estate, then the executor or administrator shall be allowed such item or items.

Payments of debts without affidavit, etc.
Ante, p. 1045.

PAYMENTS OF DEBTS WITHOUT AFFIDAVIT AND ALLOWANCE.—If, upon such settlement of accounts, it appears that debts against the deceased have been paid without the affidavit and allowance prescribed by statute or sections 799 and 800, and it shall be proven by competent evidence to the satisfaction of the court that such debts were justly due, were paid in good faith, that the amount paid was the true amount of such indebtedness over and above all payments or set-offs, and that the estate is solvent, it shall be the duty of the said court to allow the said sums so paid in the settlement of said accounts.

Day of settlement to be appointed.

SEC. 868. DAY OF SETTLEMENT TO BE APPOINTED; CLERK MUST GIVE NOTICE THEREOF; HEARING ON SETTLEMENT.—When any account is rendered for settlement, the clerk of the court must appoint a day for the settlement thereof, and thereupon give notice thereof by causing notices to be posted in at least three public places in the Canal Zone, setting forth the name of the estate, the executor or administrator, and the day appointed for the settlement of the account. If, upon the final hearing at the time of settlement, the court or judge should deem the notice insufficient from any cause,

Notice.

Hearing.

he may order such further notice to be given as may seem to him proper.

SEC. 869. WHEN SETTLEMENT IS FINAL, NOTICE MUST SO STATE.—If the account mentioned in the preceding section be for a final settlement, and a petition for the final distribution of the estate be filed with said account, the notice of settlement must state those facts, which notice must be given by posting or publication for at least ten days prior to the day of settlement. On the settlement of said account, distribution and partition of the estate to all entitled thereto may be immediately had without further notice or proceedings.

Notice of final settlement.

SEC. 870. INTERESTED PARTY MAY FILE EXCEPTIONS TO ACCOUNT.—On the day appointed, or any subsequent day to which the hearing may be postponed by the court, any person interested in the estate may appear and file his exceptions in writing to the account, and contest the same.

Exceptions to account.

SEC. 871. ALL MATTERS MAY BE CONTESTED BY THE HEIRS; HEARING MAY BE POSTPONED.—All matters, including allowed claims not passed upon on the settlement of any former account, or on rendering an exhibit, or on making a decree of sale, may be contested by the heirs, for cause shown. The hearing and allegations of the respective parties may be postponed from time to time, when necessary, and the court may appoint one or more referees to examine the accounts, and make report thereon, subject to confirmation; and may allow a reasonable compensation to the referees to be paid out of the estate of the decedent. Whenever an allowed claim is contested by any heir, or other person entitled to contest it, either the contestant or the claimant is entitled to a trial by jury of the issues of fact presented by the contest; and it is the duty of the court, at request of either party, to call a jury and submit to them such issues, and, after receiving their verdict, to enter an order disposing of such contest in accordance therewith.

Contesting of matters by heirs.

Postponement of hearing.

Trial by jury.

SEC. 872. SETTLEMENT OF ACCOUNTS TO BE CONCLUSIVE, WHEN AND WHEN NOT.—The settlement of the account and the allowance thereof by the court, or upon appeal, is conclusive against all persons in any way interested in the estate, saving, however, to all persons laboring under any legal disability, their right to move for cause to reopen and examine the account, or to proceed by action against the executor or administrator, either individually or upon his bond, at any time before final distribution; and in any action brought by any such person, the allowance and settlement of the account is prima facie evidence of its correctness.

Settlement of accounts conclusive.

Saving persons under disability.

SEC. 873. PROOF OF NOTICE OF SETTLEMENT OF ACCOUNTS.—The account must not be allowed by the court until it is first proved that notice has been given as required by this chapter, and the decree must show that such proof was made to the satisfaction of the court, and is conclusive evidence of the fact.

Proof of notice.

SEC. 874. DECEASED EXECUTOR'S OR GUARDIAN'S ACCOUNTS.—If any executor, administrator or guardian dies, his accounts may be presented by his personal representative to, and settled by, the court in which the estate of which he was executor, administrator or guardian is being administered, and, upon petition of the successor of such deceased executor, administrator or guardian, such court may compel the personal representatives of such deceased executor, administrator or guardian to render an account of the administration of their testator or intestate, and must settle such account as in other cases.

Deceased executor's, etc., accounts.

Payment of debts.

PAYMENT OF DEBTS OF ESTATE

Order.

SEC. 875. ORDER IN WHICH DEBTS MUST BE PAID.—The debts of the estate must be paid in the following order:

1. Funeral expenses;
2. The expenses of the last sickness;
3. Debts due to the United States;
4. Judgments rendered against the decedent in his lifetime, and mortgages and other liens in the order of their date;
5. All other demands against the estate.

Debts payable in particular kind of currency.

If a debt is payable in a particular kind of money or currency, it must be paid only in such money or currency. If the estate is insolvent, no greater rate of interest must be paid upon any debt, from the time of the first publication of notice to creditors, than is allowed by law on judgments.

Limitation on priority of mortgage, etc.

SEC. 876. WHERE PROPERTY INSUFFICIENT TO PAY MORTGAGE.—The preference given in section 875 to a mortgage or lien only extends to the proceeds of the property subject to the mortgage or lien. If the proceeds of such property are insufficient to pay the mortgage or lien, the part remaining unsatisfied must be classed with general demands against the estate.

If estate insufficient, dividends to be paid.

SEC. 877. ESTATE INSUFFICIENT, A DIVIDEND TO BE PAID.—If the estate is insufficient to pay all the debts of any one class, each creditor must be paid a dividend in proportion to his claim; and no creditor of any one class shall receive any payment until all those of the preceding class are fully paid.

Expenses of funeral and last sickness.

SEC. 878. FUNERAL EXPENSES AND EXPENSES OF LAST SICKNESS.—The executor or administrator, as soon as he has sufficient funds in his hands, must pay the funeral expenses and the expenses of the last sickness, and the allowance made to the family of the decedent. He may retain in his hands the necessary expenses of administration, but he is not obliged to pay any other debt or any legacy until, as prescribed in this sub-chapter, the payment has been ordered by the court.

Payment of debts by court order.

SEC. 879. ORDER FOR PAYMENT OF DEBTS, AND DISCHARGE OF THE EXECUTOR OR ADMINISTRATOR.—Upon the settlement of the account of the executor or administrator, provided for in section 863, the court must make an order for the payment of the debts, as the circumstances of the estate require. If there are not sufficient funds in the hands of the executor or administrator, the court must specify in the decree the sum to be paid to each creditor. If the whole property of the estate is exhausted by such payment or distribution, such account must be considered as a final account, and the executor or administrator is entitled to his discharge on producing and filing the necessary vouchers and proofs showing that such payments have been made, and that he has fully complied with the decree of the court.

Discharge of executor, etc.

Disputed and contingent claims.

SEC. 880. PROVISION FOR DISPUTED AND CONTINGENT CLAIMS.—If there is any claim not due, or any contingent or disputed claim against the estate, the amount thereof, or such part of the same as the holder would be entitled to if the claim were due, established, or absolute, must be paid into the court, and there remain, to be paid over to the party when he becomes entitled thereto; or, if he fails to establish his claim, to be paid over or distributed as the circumstances of the estate require. If any creditor whose claim has been allowed, but is not yet due, appears and assents to a deduction therefrom of the legal interest for the time the claim has yet to run, he is entitled to be paid accordingly. The payments provided for

in this section are not to be made when the estate is insolvent, unless a pro rata distribution is ordered.

SEC. 881. AFTER DECREE FOR PAYMENT OF DEBTS, EXECUTOR PERSONALLY LIABLE TO CREDITORS.—When a decree is made by the court for the payment of creditors, the executor or administrator is personally liable to each creditor for his allowed claim, or the dividend thereon, and execution may be issued on such decree, as upon a judgment in the court, in favor of each creditor, and the same proceeding may be had under such execution as under execution in other cases. The executor or administrator is liable therefor on his bond to each creditor.

Court decree for payment of debts, executor personally liable.

SEC. 882. CLAIMS NOT INCLUDED IN ORDER FOR PAYMENT OF DEBTS, HOW DISPOSED OF.—When the accounts of the administrator or executor have been settled, and an order made for the payment of debts and distribution of the estate, no creditor whose claim was not included in the order for payment has any right to call upon the creditors who have been paid, or upon the heirs, devisees, or legatees to contribute to the payment of his claim; but if the executor or administrator has failed to give the notice to the creditors, as prescribed in section 795, such creditor may recover on the bond of the executor or administrator the amount of his claim, or such part thereof as he would have been entitled to had it been allowed. This section shall not apply to any creditor whose claim was not due ten months before the day of settlement, or whose claim was contingent and did not become absolute ten months before such day.

Claims not included in decree, disposition of.

SEC. 883. ORDER FOR PAYMENT OF LEGACIES, AND EXTENSION OF TIME.—If the whole of the debts have been paid by the first distribution, the court must direct the payment of legacies and the distribution of the estate among the heirs, legatees, or other persons entitled, as provided in the next chapter; but if there be debts remaining unpaid, or if, for other reasons, the estate be not in a proper condition to be closed, the court must give such extension of time as may be reasonable for a final settlement of the estate.

Decree for payment of legacies, extension of time.

SEC. 884. FINAL ACCOUNT, WHEN TO BE MADE.—At the time designated in section 883, or sooner, if within that time all the property of the estate has been sold, or there are sufficient funds in his hands for the payment of all the debts due by the estate, and the estate be in a proper condition to be closed, the executor or administrator must render a final account, and pray a settlement of his administration.

Final account.

SEC. 885. NEGLECT TO RENDER FINAL ACCOUNT, HOW TREATED.—If he neglects to render his account, the same proceedings may be had as prescribed in this chapter in regard to the first account to be rendered by him; and all the provisions of this chapter relative to the last-mentioned account, and the notice and settlement thereof, apply to his account presented for final settlement.

Failure to render.

CHAPTER 33.—PARTITION, DISTRIBUTION, AND FINAL SETTLEMENT OF ESTATES

PARTITION, DISTRIBUTION, FINAL SETTLEMENT OF ESTATES.

PARTIAL DISTRIBUTION PRIOR TO FINAL SETTLEMENT

Partial distribution.

SEC. 886. PAYMENT OF LEGACIES.—At any time after the lapse of four months from the issuing of letters testamentary or of administration, any heir, devisee, legatee (or his assignee, grantee, or successor in interest) may present his petition to the court for the legacy or share of the estate to which he is entitled, or any portion thereof, to be given to him upon his giving bonds, with security, for the payment of his proportion of the debts of the estate.

Payment of legacies, petition for.

Notice.

SEC. 887. NOTICE OF APPLICATION FOR LEGACIES.—Notice of the application must be given to the executor or administrator, personally, and to all persons interested in the estate, in the same manner that notice is required to be given of the settlement of the account of an executor or administrator.

Contest.

SEC. 888. EXECUTOR, OR OTHER PERSON INTERESTED, MAY RESIST APPLICATION.—The executor or administrator, or any person interested in the estate, may appear at the time named and resist the application.

Granting of prayer of applicant.

SEC. 889. PRAYER OF APPLICANT GRANTED.—If, at the hearing, it appears that the estate is but little indebted, and that the share of the party applying may be allowed to him without loss to the creditors of the estate, the court must make an order in conformity with the prayer of the applicant, requiring:

Decree granting, to require.

Bond.

1. BOND.—Each heir, legatee, devisee (or his assignee, grantee, or successor in interest) obtaining such order, before receiving his share or any portion thereof, to execute and deliver to the executor or administrator, a bond, in such sum as may be designated by the court or judge, with sureties to be approved by the judge, payable to the executor or administrator, and conditioned for the payment, whenever required, of his proportion of the debts due from the estate, not exceeding the value or amount of the legacy or portion of the estate to which he is entitled. Where the time for filing or presenting claims has expired, and all claims that have been allowed, have been paid, or are secured by mortgage upon real estate sufficient to pay them, and the court is satisfied that no injury can result to the estate, the court may dispense with the bond;

Delivery of property.

2. DELIVERY OF PROPERTY.—The executor or administrator to deliver to the heir, legatee, devisee (or his assignee, grantee, or successor in interest), the whole portion of the estate to which he may be entitled, or only a part thereof designating it.

Partition.

If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of these proceedings must be paid by the applicant, or if there are more than one, must be apportioned equally among them.

Petition and order for payment of bond.

SEC. 890. ORDER FOR PAYMENT OF BOND, AND SUIT THEREON.—When any bond has been executed and delivered, under the provisions of the preceding section, and it is necessary for the settlement of the estate to require the payment of any part of the money thereby secured, the executor or administrator must petition the court for an order requiring the payment, and have a citation issued and served on the party bound, requiring him to appear and show cause why the order should not be made. At the hearing, the court, if satisfied of the necessity of such payment, must make an order accordingly, designating the amount and giving a time within which it must be paid. If the money is not paid within the time allowed, an action may be maintained by the executor or administrator on the bond.

Partial distribution, petition for.

SEC. 891. PARTIAL DISTRIBUTION OF ESTATES OF DECEASED PERSONS.—Where the time for filing or presenting claims has expired, and all claims that have been allowed have been paid, or are secured by a mortgage upon real estate sufficient to pay them, and the estate is not in a condition to be finally closed and distributed, the executor or administrator, or coexecutor or coadministrator, may present his petition to the court for ratable payment of the legacies, or ratable distribution of the estate to all the heirs, legatees, devisees, or their assignees, grantees or successors in interest. Notice of such application must be given to all persons interested in the estate, in the

Notice.

same manner that notice is required to be given of the settlement of the account of an executor or administrator.

Any person interested in the estate may appear at the time named and resist the application.

ORDER GRANTED WHEN.—If, at the hearing, it appears that the allegations of the petition of said executor, administrator, coexecutor, or coadministrator, are true, and the court is satisfied that no injury can result to the estate by granting the petition, the court must make an order directing the executor or executors, administrator or administrators, as the case may be, to deliver to the heirs, legatees, devisees, or to their assigns, grantees, or successors in interest, the whole portion of the estate to which they may be entitled or only a part thereof, designating it.

If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of the proceedings under this section must be paid by the estate, excepting that in case a partition is necessary, the costs of such partition must be apportioned amongst the parties interested in such partition.

DISTRIBUTION ON FINAL SETTLEMENT

SEC. 892. PROCEEDINGS IN THE NATURE OF AN ACTION TO DETERMINE HEIRSHIP; PETITION.—In all estates now being administered, or that may hereafter be administered, any person claiming to be heir to the deceased, or entitled to distribution in whole or in any part of such estate, may, at any time prior to the decree of final distribution, file a petition in the matter of such estate, praying the court to ascertain and declare the rights of all persons to said estate and all interests therein, and to whom distribution thereof should be made.

NOTICE TO PERSONS INTERESTED.—Upon the filing of such petition, the court shall make an order directing service of notice to all persons interested in said estate to appear and show cause, on a day to be therein named, not less than sixty days nor over four months from the date of the making of such order, in which notice shall be set forth the name of the deceased, the name of the executor or administrator of said estate, the names of all persons who may have appeared claiming any interest in said estate in the course of the administration of the same, up to the time of the making of said order, and such other persons as the court may direct, and also a description of the real estate whereof said deceased died seised or possessed, so far as known, described with certainty to a common intent, and requiring all said persons, and all persons named or not named having or claiming any interest in the estate of said deceased, at the time and place in said order specified, to appear and exhibit, as hereinafter provided, their respective claims of heirship, ownership, or interest in said estate, to said court, which notice shall be served in the same manner as a summons in a civil action, upon proof of which service, by affidavit or otherwise, to the satisfaction of the court, the court shall thereupon acquire jurisdiction to ascertain and determine the heirship, ownership, and interest of all parties in and to the property of said deceased, and such determination shall be final and conclusive in the administration of said estate, and the title and ownership of said property. The court shall enter an order or decree establishing proof of the service of such notice.

FILING OF APPEARANCE—DEFAULT.—All persons appearing within the time limited as aforesaid shall file their written appearance in person or through their authorized attorney, such attorney filing at the same time written evidence of his authority to so appear, entry of which appearance shall be made in the minutes of the court and in

Contest.

Granting of decree.

Partition.

Distribution on final settlement.

Petition to establish rights of parties.

Notice.

Appearance, default.

the register of proceedings of said estate. And the court shall, after the expiration of the time limited for appearing as aforesaid, enter an order adjudging the default of all persons for not appearing as aforesaid who shall not have appeared as aforesaid.

Complaint by interested persons; filing and service of answer to.

COMPLAINT BY INTERESTED PERSONS; FILING AND SERVICE OF ANSWER TO.—At any time within twenty days after the date of the order or decree of the court establishing proof of the service of such notice, any of such persons so appearing may file his complaint in the matter of the estate, setting forth the facts constituting his claim of heirship, ownership, or interest in said estate, with such reasonable particularity as the court may require, and serve a copy of the same upon each of the parties or attorneys who shall have entered their written appearance as aforesaid, if such parties or such attorneys reside within the Canal Zone; and in case any of them do not reside within the Canal Zone, then service of such copy of said complaint shall be made upon the clerk of said court for them, and the clerk shall forthwith mail the same to the address of such party or attorney as may have left with said clerk his post-office address.

Proceedings after issues joined.

PROCEEDINGS AFTER ISSUES JOINED.—Such parties are allowed twenty days after the service of the complaint, as aforesaid, within which to plead thereto, and thereafter such proceedings shall be had upon such complaint as in this code provided in case of an ordinary civil action; and the issues of law and of fact arising in the proceeding shall be disposed of in like manner as issues of law and fact are herein provided to be disposed of in civil actions; and the provisions of this code contained regulating the mode of procedure for the trial of civil actions shall be applicable thereto.

Plaintiff and defendant.

PLAINTIFFS AND DEFENDANTS IN PROCEEDINGS.—The party filing the petition as aforesaid, if he file a complaint, and if not, the party first filing such complaint, shall, in all subsequent proceedings, be treated as the plaintiff therein, and all other parties so appearing shall be treated as the defendants in said proceedings, and all such defendants shall set forth in their respective answers the facts constituting their claim of heirship, ownership, or interest in said estate, with such particularity as the court may require, and serve a copy thereof on the plaintiff.

Evidence.

Evidence in support of all issues may be taken orally or by deposition, in the same manner as provided in civil actions. Notice of the taking of such depositions shall be served only upon the parties, or the attorneys of the parties, so appearing in said proceeding.

Decree, what to determine; conclusiveness.

DECREE, WHAT TO DETERMINE; CONCLUSIVENESS OF.—The court shall enter a default of all persons failing to appear, or plead, or prosecute, or defend their rights as aforesaid; and upon the trial of the issues arising upon the pleadings in such proceedings, the court shall determine the heirship to said deceased, the ownership of his estate, and the interest of each respective claimant thereto or therein, and persons entitled to distribution thereof, and the final determination of the court thereupon shall be final and conclusive in the distribution of said estate, and in regard to the title to all the property of the estate of said deceased.

Distribution of cost.

The cost of the proceedings under this section shall be apportioned in the discretion of the court.

Attorney for minor.

ATTORNEY FOR MINORS.—In any proceeding under this section, the court may appoint an attorney for any minor mentioned in said proceedings not having a guardian.

Determination of heirship at final distribution.

DETERMINATION OF HEIRSHIP AT FINAL DISTRIBUTION.—Nothing in this section contained shall be construed to exclude the right upon final distribution of any estate to contest the question of heirship,

title, or interest in the estate so distributed, where the same shall not have been determined under the provisions of this section; but where such questions shall have been litigated, under the provisions of this section, the determination thereof as herein provided shall be conclusive in the distribution of said estate.

SEC. 893. FINAL DISTRIBUTION OF ESTATE.—Upon the final settlement of the accounts of the executor or administrator, or at any subsequent time, upon the application of the executor or administrator, or of any heir, legatee, devisee (or his assignee, grantee, or successor in interest), the court must proceed to distribute the residue of the estate in the hands of the executor or administrator, if any, among the persons who by law are entitled thereto; and if the decedent has left a surviving child, or the issue of a deceased child, and any of them, before the close of the administration, have died while under age and not having been married, no administration on such deceased child's estate is necessary, but all the estate which such deceased child was entitled to by inheritance must, without administration, be distributed as provided in the Civil Code. A statement of any receipts and disbursements of the executor or administrator, since the rendition of his final account, must be reported and filed at the time of making such distribution; and a settlement thereof, together with an estimate of the expenses of closing the estate must be made by the court, and included in the order or decree, or the court or judge may order notice of the settlement of such supplementary account, and refer the same as in other cases of the settlement of accounts.

Final distribution of estate.

Supplemental accounting by executor.

SEC. 894. WHAT THE DECREE MUST CONTAIN, AND IS FINAL.—In the order or decree, the court must name the persons and the proportions or parts to which each shall be entitled, and such persons may demand, sue for, and recover their respective shares from the executor or administrator, or any person having the same in possession. Such order or decree is conclusive as to the rights of heirs, legatees, or devisees.

Contents and conclusiveness of decree.

SEC. 895. DISTRIBUTION WHEN DECEDENT WAS NOT A RESIDENT OF THE CANAL ZONE.—Upon application for distribution, after final settlement of the accounts of administration, if the decedent was a non-resident of the Canal Zone, leaving a will which has been duly proved or allowed in the state of his residence, and an authenticated copy thereof has been admitted to probate in the Canal Zone, or if the decedent died intestate, and an administrator has been duly appointed and qualified in the state of his residence, and it is necessary, in order that the estate, or any part thereof, may be distributed according to the will, or if the court is satisfied that it is for the best interests of the estate, that the estate in the Canal Zone should be delivered to the executor or administrator in the state or place of the decedent's residence, the court may order such delivery to be made, and, if necessary, order a sale of the real estate, and a like delivery of the proceeds. The delivery, in accordance with the order of the court, is a full discharge of the executor or administrator with the will annexed or administrator, in the Canal Zone, in relation to all property embraced in such order, which binds and concludes all parties in interest. Sales of real estate, ordered by virtue of this section, must be made in the same manner as other sales of real estate of decedents by order of the court.

Distribution of non-resident decedent's estate.

SEC. 896.—PETITION FOR FINAL DISTRIBUTION; NOTICE OF HEARING; CONTEST; PARTITION.—The order or decree may be made on the petition of the executor or administrator, or of any person interested in the estate. When such petition is filed the clerk of the court must set the petition for hearing by the court, and give notice thereof by

Petition for final distribution.

Notice.

causing a notice to be posted at the courthouse where the court is held, setting forth the name of the estate, the executor or administrator, and the time appointed for the hearing of the petition. If, upon the hearing of the petition, the court or judge deems the notice insufficient from any cause, he may order such further notice to be given as may seem to him proper. At the time fixed for the hearing, or to which the hearing may be postponed, any person interested in the estate may appear and contest the petition by filing written objections thereto. If the partition is applied for, as provided in this chapter, the decree of distribution does not divest the court of jurisdiction to order partition, unless the estate is finally closed.

Contest.

Partition.

Continuation of administration.

Petition for.

Notice and hearing.

Decree.

Proviso.
Petition to close administration.

Notice and hearing.

Decree.

Distribution after death of heir, etc.

SEC. 897. CONTINUATION OF ADMINISTRATION; PETITION FOR.—In all cases where a decedent shall have left a will, in and by the terms of which the testator shall have limited the time for administration upon an estate left by him, and the executor, and all of the legatees or devisees named in the will, shall file and present to the court a petition, in writing, representing that it will be for the best interests of the estate, and of the beneficiaries under the will, to have the administration upon the estate continued for a longer period of time than that designated in such will, and that it would be injurious to the estate, and to such beneficiaries, to have the administration brought to a close at the date therefor designated in the will.

HEARING OF PETITION AND NOTICE OF.—The court shall then set a day for the hearing of said petition; and notice thereof shall be served on all persons interested in the estate, in the same manner that summons in civil actions is served. Upon the day set for such hearing (or upon some other day to which the hearing may have been continued), the court shall proceed to hear proofs touching the representations made in such petition—and any person interested in the estate may also present counter-proofs in opposition to said application.

DECREEING CONTINUANCE OF ADMINISTRATION.—And if, upon such hearing, it be made to appear to the court that the representations made by the petitioners in their said petition contained be true, the court may then, by its order and decree in that behalf, decree and direct that the administration upon the estate continue for and during such further period of time as in its judgment will best subserve the interests of the estate and of the beneficiaries under said will.

PETITION TO HAVE ADMINISTRATION CLOSED.—*Provided, however,* That if, at any time during the period for which the administration upon the estate shall have been thus continued, the executor, or any one or more of the legatees or devisees, shall present to the court his or their petition, representing that it has become necessary for the best interests of the estate, and of the beneficiaries under the will, to have the administration upon the estate closed, the court shall then set a day for the hearing of said last-named petition; and notice thereof shall be given in the same manner, and the same proceedings be had thereupon, as shall have been given for and had upon the hearing of the petition asking for the continuation of such administration. And if, upon such hearing, it shall be made to appear to the court that the representations made by such petitioners or petitioner (as the case may be) are true, the court shall then, by its order and decree in that behalf, decree and direct that the administration upon the estate be closed as soon thereafter as, under the circumstances shall be practicable.

SEC. 898. DISTRIBUTION AFTER DEATH OF HEIR, ETC.—If any heir, legatee, or devisee of an estate shall die before the distribution to him of any part thereof, then the property to which he might be

entitled, if living, shall be and become a part of his estate and the same may be distributed to the representative of his estate for the purpose of administration therein, with the same effect as if distributed to him if living.

DISTRIBUTION AND PARTITION

SEC. 899. ESTATE IN COMMON; COMMISSIONERS.—When the estate, real or personal, assigned by the decree of distribution to two or more heirs, devisees, or legatees, is in common and undivided, and the respective shares are not separated and distinguished, partition or distribution may be made by three disinterested persons, to be appointed commissioners for that purpose by the court, who must be duly sworn to the faithful discharge of their duties, a certified copy of the order of their appointment, and of the order or decree assigning and distributing the estate, must be issued to them as their warrant, and their oath must be indorsed thereon. Upon consent of the parties, or when the court deems it proper and just, it is sufficient to appoint one commissioner only, who has the same authority and is governed by the same rules as if three were appointed.

Distribution and partition.

Estates in common.

By commissioners.

SEC. 900. PARTITION AND NOTICE THEREOF, AND THE TIME OF FILING PETITION.—Such partition may be ordered and had in the district court on the petition of any person interested. But before commissioners are appointed, or partition ordered by the court as directed in this chapter, notice thereof must be given to all persons interested who reside in the Canal Zone, or to their guardians, and to the agents, attorneys, or guardians, if any in the Canal Zone, of such as reside out of the Canal Zone, either personally or by public notice, as the court may direct. The petition may be filed, attorneys, guardians, and agents appointed, and notice given at any time before the order or decree of distribution, but the commissioners must not be appointed until the order or decree is made distributing the estate.

Petition for partition.

Notice.

SEC. 901. PARTITION MAY BE MADE, ALTHOUGH SOME OF THE HEIRS, AND SO FORTH, HAVE PARTED WITH THEIR INTEREST.—Partition or distribution of the estate may be made as provided in this chapter, although some of the original heirs, legatees, or devisees may have conveyed their shares to other persons, and such shares must be assigned to the person holding the same, in the same manner as they otherwise would have been to such heirs, legatees, or devisees.

Allowable, although some heirs, etc., have parted with interest.

SEC. 902. SHARES TO BE SET OUT BY METES AND BOUNDS.—When both distribution and partition are made, the several shares in the real and personal estate must be set out to each individual in proportion to his right, by metes and bounds, or description, so that the same can be easily distinguished, unless two or more of the parties interested consent to have their shares set out so as to be held by them in common and undivided.

Shares to be set out by metes and bounds.

SEC. 903. WHOLE ESTATE MAY BE ASSIGNED TO ONE, IN CERTAIN CASES.—When the real estate can not be divided without prejudice or inconvenience to the owners, the court may assign the whole to one or more of the parties entitled to share therein, who will accept it, always preferring the males to the females, and, among children, preferring the elder to the younger. The parties accepting the whole must pay to the other parties interested their just proportion of the true value thereof, or secure the same to their satisfaction, or in case of the minority of such party, then to the satisfaction of his guardian; and the true value of the estate must be ascertained and reported by the commissioners. When the commissioners appointed

When estate can not be partitioned equitably.

Owalty.

Report by commis-
sioners.

to make partition are of the opinion that the real estate can not be divided without prejudice or inconvenience to the owners, they must so report to the court and recommend that the whole be assigned as herein provided, and must find and report the true value of such real estate. On filing the report of the commissioners, and on making or securing the payment as before provided, the court, if it appears just and proper, must confirm the report, and thereupon the assignment is complete, and the title to the whole of such real estate vests in the person to whom the same is so assigned.

Payments for equal-
ity of partition.

SEC. 904. PAYMENTS FOR EQUALITY OF PARTITION, BY WHOM AND HOW.—When any tract of land or tenement is of greater value than any one's share in the estate to be divided, and can not be divided without injury to the same, it may be set off by the commissioners appointed to make partition to any of the parties who will accept it, giving preference as prescribed in the preceding section. The party accepting must pay or secure to the others such sums as the commissioners shall award to make the partition equal, and the commissioners must make their award accordingly; but such partition must not be established by the court until the sums awarded are paid to the parties entitled to the same, or secured to their satisfaction.

Sale of estate.

SEC. 905. ESTATE MAY BE SOLD.—When it appears to the court, from the commissioners' report, that it can not otherwise be fairly divided and should be sold, the court may order the sale of the whole or any part of the estate, real or personal, by the executor or administrator, or by a commissioner appointed for that purpose, and the proceeds distributed. The sale must be conducted, reported, and confirmed in the same manner and under the same requirements provided in chapter 29 of this code.

Ante, p. 1050.

Notice before parti-
tion.

SEC. 906. TO GIVE NOTICE TO ALL PERSONS AND GUARDIANS BEFORE PARTITION; DUTIES OF COMMISSIONERS.—Before any partition is made or any estate divided, as provided in this chapter, notice must be given to all persons interested in the partition, their guardians, agents, or attorneys, by the commissioners, of the time and place when and where they shall proceed to make partition. The commissioners may take testimony, order surveys, and take such other steps as may be necessary to enable them to form a judgment upon the matters before him.

Report of commis-
sioners.

SEC. 907. TO MAKE REPORT; SETTING ASIDE REPORT.—The commissioners must report their proceedings, and the partition agreed upon by them, to the court, in writing, and the court may, for sufficient reasons, set aside the report and commit the same to the same commissioners, or appoint others; and when such report is finally confirmed a certified copy of the judgment, or decree of partition made thereon, attested by the clerk under the seal of the court, must be recorded in the office of the registrar of property.

Court may set aside
report.

When partition com-
missioners not neces-
sary.

SEC. 908. WHEN COMMISSIONERS TO MAKE PARTITION ARE NOT NECESSARY.—When the court makes a judgment or decree assigning the residue of any estate to one or more persons entitled to the same, it is not necessary to appoint commissioners to make partition or distribution thereof, unless the parties to whom the assignment is decreed, or some of them, request that such partition be made.

Advancements to
heirs.

SEC. 909. ADVANCEMENTS MADE TO HEIRS.—All questions as to advancements made, or alleged to have been made, by the decedent to his heirs, may be heard and determined by the court, and must be specified in the decree assigning and distributing the estate; and the final judgment or decree of the court is binding on all parties interested in the estate.

DISTRIBUTION TO PERSON WHOSE ADDRESS IS UNKNOWN, AND SO FORTH

SEC. 910. DISTRIBUTION OF ESTATE TO PERSON WHOSE ADDRESS IS UNKNOWN, AND SO FORTH.—When any estate is distributed by the judgment or decree of the court or judge, as provided in this chapter, to a distributee who can not be found and his or her place of residence is unknown or to a distributee who refuses to accept the same or to give a proper voucher therefor, or to a minor or incompetent person, who has no lawful guardian to receive the same, or person authorized to receipt therefor, the portion of said estate consisting of money shall be paid to and deposited with the collector of the Panama Canal, who shall give a receipt for the same, and shall be liable on his official bond therefor; and said receipt shall be deemed and received by the court or judge as a voucher in favor of said executor or administrator, with the same force and effect as if executed by the distributee thereof. And this section shall be applicable to any and all estates now pending in which a final decree of discharge has not been granted.

Any person claiming to be entitled to any amount so deposited with the collector, may, within five years after such deposit, petition the court or judge for an order directing payment to the said distributee. A copy of such petition shall be served on the collector and thereafter no such amount shall be covered into the Treasury of the United States, as hereinafter directed, until so ordered by the court.

If no one claims the amount, as herein provided, or if a claim be made and disallowed and the court so directs, such amount devolves to the United States and shall be covered into the Treasury by the collector as miscellaneous receipts.

AGENTS FOR ABSENT INTERESTED PARTIES; DISCHARGE OF EXECUTOR OR ADMINISTRATOR

SEC. 911. COURT MAY APPOINT AGENT TO TAKE POSSESSION FOR ABSENTEES.—When any estate is assigned or distributed, by a judgment or decree of the court, as provided in this chapter, to any person residing out of, and having no agent in the Canal Zone, and it is necessary that some person should be authorized to take possession and charge of the same for the benefit of such absent person, the court may appoint an agent for that purpose and authorize him to take charge of such estate, as well as to act for such absent person in the distribution.

SEC. 912. AGENT TO GIVE BOND, AND HIS COMPENSATION.—The agent must execute a bond to the Government of the Canal Zone, to be approved by the court or judge, conditioned that he shall faithfully manage and account for the estate. The court appointing such agent may allow a reasonable sum out of the profits of the estate for his services and expenses.

SEC. 913. UNCLAIMED ESTATE, HOW DISPOSED OF.—When personal property remains in the hands of the agent unclaimed for a year, and it appears to the court that it is for the benefit of those interested, it shall be sold under the order of the court, and the proceeds after deducting the expenses of the sale, allowed by the court, must be paid to the collector of the Panama Canal. When the payment is made, the agent must take from the collector a receipt, which he must file in the court. Where any agent has money in his hands as such agent, and it appears to the court upon the settlement of his account as such agent that the balance remaining in his hands should be paid to the collector, the court may direct such payment and

Distribution to person whose address unknown, etc.
Unfound distributee.

Distributee who refuses to accept.
Minors, etc.

Money to be deposited with collector of Panama Canal.

Claimants to funds in hands of collector, recovery.

Unclaimed funds covered into Treasury.

Agents for absent parties; discharge of executor, etc.

Agent to possess property for absentees.

Bond and compensation.

Unclaimed estate, disposal.

Proceeds paid to collector of Panama Canal.

upon such agent filing the proper receipt showing such payment, the court shall enter an order discharging such agent and his sureties from all liability therefor. All such funds shall be held and disposed of by the collector in the manner provided in section 910.

Real and personal property of absentee; disposal of.

SEC. 914. WHEN REAL AND PERSONAL PROPERTY OF ABSENTEE TO BE SOLD.—The agent must render the court appointing him, annually, an account, showing:

1. The value and character of the property received by him, what portion thereof is still on hand, what sold, and for what.

2. The income derived therefrom.

3. Expenses incurred in the care, protection, and management thereof, and whether paid or unpaid. When filed the court may examine witnesses and take proofs in regard to the account; and if satisfied from such accounts and proofs that it will be for the benefit and advantage of the persons interested therein, the court may, by order, direct a sale to be made of the whole or such parts of the real or personal property as shall appear to be proper, and the purchase money to be deposited with the collector.

Agent's liability on bond.

SEC. 915. LIABILITY OF AGENT ON HIS BOND.—The agent is liable on his bond for the care and preservation of the estate while in his hands, and for the payment of the proceeds of the sale as required in the preceding sections, and may be sued thereon by any person interested.

Certificate to claimant.

SEC. 916. CERTIFICATE TO CLAIMANT.—When any person appears and claims the money paid to the collector of the Panama Canal, the court making the distribution must inquire into such claim, and being first satisfied of his right thereto, must grant him a certificate to that effect, under its seal; and upon the presentation of the certificate to him, the auditor must draw his warrant on the collector for the amount.

Final settlement, decree, and discharge.

SEC. 917. FINAL SETTLEMENT, DECREE, AND DISCHARGE.—When the estate has been fully administered, and it is shown by the executor or administrator, by the production of satisfactory vouchers, that he has paid all sums of money due from him, and delivered up, under the order of the court, all the property of the estate to the parties entitled, and performed all the acts lawfully required of him, the court must make a judgment or decree discharging him from all liability to be incurred thereafter.

Discovery of property.

SEC. 918. DISCOVERY OF PROPERTY.—The final settlement of an estate, as in this chapter provided, shall not prevent a subsequent issue of letters testamentary or of administration, or of administration with the will annexed, if other property of the estate be discovered, or if it become necessary or proper for any cause that letters should be again issued.

Accounts of trustees; distribution.

ACCOUNTS OF TRUSTEES; DISTRIBUTION

Jurisdiction of district court to continue.

SEC. 919. DISTRICT COURT NOT TO LOSE JURISDICTION BY FINAL DISTRIBUTION.—Where any trust has been created by or under any will to continue after distribution, the district court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction thereof for the purpose of the settlement of accounts under the trusts.

Accounting by trustee.

ACCOUNTING BY TRUSTEE.—And any trustee created by any will, or appointed to execute any trust created by any will, may, from time to time, pending the execution of his trust, or may, at the termination thereof, render and pray for the settlement of his accounts as such trustee, before the court in which the will was probated, and in the manner provided for the settlement of the accounts of executors and administrators. The trustee, or, in case of his death, his

Petition for settlement.

legal representatives, shall, for that purpose, present to the court his verified petition, setting forth his accounts in detail, with a report showing condition of trust estate, together with a verified statement of said trustee, giving the names and post-office addresses, if known, of the cestuis que trust, and upon the filing thereof, the clerk shall fix a day for the hearing, and give notice thereof of not less than ten days, by causing notices to be posted in at least three public places in the Canal Zone, setting forth the name of the trust estate, the trustee, and the day appointed for the settlement of the account. The court or judge may order such further notice to be given as may be proper. Such trustee may, in the discretion of the court, upon application of any beneficiary of the trust, or the guardian of such beneficiary, be ordered to appear and render his account, after being cited by service of citation, as provided for the service of summons in civil cases, and such application shall not be denied where no account has been rendered to the court within six months prior to such application. Upon the filing of the account so ordered, the same proceedings for the hearing and settlement thereof shall be had as hereinabove provided.

Notice and hearing.

SEC. 920. COMPENSATION OF TRUSTEES.—On all such accountings the court shall allow the trustee or trustees the proper expenses and such compensation for services as the court may adjudge to be just and reasonable, and shall apportion such compensation among the trustees according to the services rendered by them respectively, and may in its discretion fix a yearly compensation for the trustee or trustees to continue as long as the court may judge proper.

Compensation.

SEC. 921. TRUSTEE MAY DECLINE TO ACT.—Any person named or designated as a trustee in any will which has been or shall hereafter be admitted to probate in the Canal Zone may, at any time before final distribution, decline to act as such trustee, and an order of court shall thereupon be made accepting such resignation; but the declination of any such person who has qualified as trustee shall not be accepted by the court, unless the same shall be in writing and filed in the matter of the estate in the court in which the administration is pending, and such notice shall be given thereof as is required upon a petition praying for letters of administration.

Refusal to act as trustee.

APPOINTMENT TO VACANCY.—The court in which the administration is pending shall have power at any time before final distribution to appoint some fit and proper person to fill any vacancy in the office of trustee under the will, whether resulting from such declination, removal, or otherwise; provided, it shall be required by law or necessary to carry out the trust created by the will, that such vacancy shall be filled; and every person so appointed shall, before acting as trustee, give a bond such as is required by section 731, of a person to whom letters of administration are directed to issue. Such appointment may be made by the judge upon the written application of any person interested in the trust filed in the probate proceedings, and shall only be made after notice to all parties interested in the trust, given in the same manner as notice is required to be given of the hearing upon the petition for the probate of a will. In each of the preceding cases the court may order such further notice as shall seem necessary.

Filling vacancy.

Bond.
Ante, p. 1034.

In accepting a declination under the provisions of this section, the court may make and enforce any order which may be necessary for the preservation of the estate.

Preservation of estate by court.

SEC. 922. JURISDICTION.—The provisions of section 921 shall apply in all cases where a final decree of distribution has not been made; but the jurisdiction given by said section shall not exclude, in cases

Jurisdiction.

to which it applies, the jurisdiction now possessed by the district court.

ORDERS, DECREES, ETC., PROBATE MATTERS.

CHAPTER 34.—ORDERS, DECREES, PROCESS, MINUTES, RECORDS, AND TRIALS IN PROBATE PROCEEDINGS

Orders and decrees.

SEC. 923. ORDERS AND DECREES IN PROBATE PROCEEDINGS.—Orders and decrees made by the court or judge, in probate proceedings, need not recite the existence of facts, or the performance of acts, upon which the jurisdiction of the court or judge may depend, but it shall only be necessary that they contain the matters ordered, or adjudged, except as otherwise provided in chapters 23 to 36 of this code. All orders and decrees of the court or judge must be entered at length in the minute book of the court or must be signed by the judge and filed; but decrees of distribution must always be so entered at length.

Ante, pp. 1022-1078.

Publication.

SEC. 924. HOW OFTEN PUBLICATION TO BE MADE.—When any publication is ordered, such publication must be made daily, or otherwise as often during the prescribed period as the paper is regularly issued, unless otherwise provided in chapters 23 to 36 of this code. The court, or judge may, however, order a less number of publications during the period.

Ante, pp. 1022-1078.

Citation, how directed; contents.

SEC. 925. CITATION, HOW DIRECTED, AND WHAT TO CONTAIN.—Citations must be directed to the person to be cited, signed by the clerk, and issued under the seal of the court, and must contain:

1. The title of the proceeding;
2. A brief statement of the nature of the proceeding;
3. A direction that the person cited appear at a time and place specified.

Issue of.

SEC. 926. CITATION, HOW ISSUED.—The citation may be issued by the clerk upon the application of any party, without an order of the judge, except in cases in which such order is by the provisions of chapters 23 to 36 of this code expressly required.

Service of.

SEC. 927. CITATION, HOW SERVED.—The citation must be served in the same manner as a summons in a civil action.

Personal notice by.

SEC. 928. PERSONAL NOTICE GIVEN BY CITATION.—When personal notice is required, and no mode of giving it is prescribed in chapters 23 to 36 of this code, it must be given by citation.

Service five days before return.

SEC. 929. CITATION TO BE SERVED FIVE DAYS BEFORE RETURN.—When no other time is specially prescribed in chapters 23 to 36, citations must be served at least five days before the return-day thereof.

Rules of practice. *Ante*, pp. 1022-1078.

SEC. 930. RULES OF PRACTICE GENERALLY.—Except as otherwise provided in chapters 23 to 36, the provisions of chapters 4 to 16 of this code are applicable to and constitute the rules of practice in the proceedings mentioned in said chapters 23 to 36.

New trials. *Ante*, pp. 916-998.

SEC. 931. NEW TRIALS IN PROBATE PROCEEDINGS.—The provisions of chapters 4 to 16 of this code, relative to new trials, except in so far as they are inconsistent with the provisions of chapters 23 to 36 of this code, apply to the proceedings mentioned in said chapters 23 to 36; provided, that hereafter a motion for a new trial in probate proceedings can be made only in cases of contests of wills, either before or after probate, in proceedings under section 892 and in those cases where the issues of fact, of which a new trial is sought, were tried by a jury or were of such character as to entitle the parties to have them tried by a jury whether or not they were so tried.

Issues joined, trial and disposition of. *Ante*, p. 1025.

SEC. 932. ISSUES JOINED IN PROBATE PROCEEDINGS, HOW TRIED AND DISPOSED OF.—All issues of fact joined in probate proceedings must be tried in conformity with the requirements of sections 672 to 678, and in all such proceedings the party affirming is plaintiff, and the one denying or avoiding is defendant. Judgments therein, on the issue

joined, as well as for costs, may be entered and enforced by execution or otherwise by the court as in civil actions.

SEC. 933. COURT MUST TRY ISSUES JOINED WHEN NO JURY IS DEMANDED; COURT MUST SETTLE AND FRAME ISSUES WHEN JURY CALLED.—

Trial by court; framing of issues for jury.

If no jury is demanded, the court must try the issues joined, and sign and file its decision in writing, as provided in sections 304 and 305. If, on written demand, a jury is called by either party, and the issues are not sufficiently made up by the written pleadings on file, the court, on due notice to the opposite party, must settle and frame the issues to be tried, and submit the same, together with the evidence of each party¹, to the jury, on which they must render a verdict. Either party may move for a new trial, upon the same grounds and errors, and in like manner, as provided in this code for civil actions.

Motion for new trial.

SEC. 934. COSTS, BY WHOM PAID IN CERTAIN CASES.—When it is not otherwise prescribed in chapters 23 to 36, the district court, may, in its discretion, order costs to be paid by any party to the proceedings, or out of the assets of the estate, as justice may require. Execution for the costs may issue out of the district court.

Costs.

SEC. 935. EXECUTOR, AND SO FORTH, TO BE REMOVED WHEN COMMITTED FOR CONTEMPT, AND ANOTHER APPOINTED.—Whenever an executor, administrator, or guardian is committed for contempt in disobeying any lawful order of the court or judge, and has remained in custody for thirty days without obeying such order, or purging himself otherwise of the contempt, the court may, by order reciting the facts, and without further showing or notice revoke his letters and appoint some other person entitled thereto executor, administrator, or guardian in his stead.

Removal of executor, etc., for contempt.

Appointment of other.

SEC. 936. SERVICE OF PROCESS, AND SO FORTH, UPON GUARDIAN.—Whenever an infant, insane, or incompetent person has a guardian of his estate residing in the Canal Zone, personal service upon the guardian of any process, notice, or order of the court concerning the estate of a deceased person in which the ward is interested, is equivalent to service upon the ward, and it is the duty of the guardian to attend to the interests of the ward in the matter. Such guardian may also appear for his ward and waive any process, notice, or order to show cause which an adult or a person of sound mind might do.

Service upon guardian, etc.

SEC. 937. ESTABLISHMENT OF IDENTITY OF HEIRS.—In every case where title to real or personal property, or any interest therein, shall have vested or may hereafter become vested, other than by the laws of succession, in the heirs, heirs of the body, issue, or children of any person, without other description or means of identification of the persons embraced in such description, any person interested in such property as such heir, heir of the body, issue, or child, or the successor in interest of any such heir, heir of the body, issue, or child, or the legal representatives of any of such persons or of their said successors in interest, may file a verified petition in the district court in and for the division wherein said property or any part thereof is situate, setting forth briefly the deraignment of title of petitioner, a description of the property affected, and the names, ages, and residences, if known, of the heirs, heirs of the body, issue, or children whose identity is sought to be determined (or if any of the same is dead or if the residence of any of the same is unknown, such facts shall be stated) and a request that a decree be entered in said court determining and establishing the identity of the persons embraced in such general description.

Establishment of identity of heirs.

¹ So in original.

Notice for hearing on identity petition.

Notice of the time and place for the hearing of said petition must be given by the clerk by posting notices thereof in three or more public places in the Canal Zone at least ten days prior to the date fixed by the clerk for said hearing.

Contest.

WHO MAY CONTEST PETITION.—At any time before the date fixed for such hearing any person interested in said property may answer said petition and deny any of the matters contained therein.

Hearing and decree.

HEARING AND DECREE.—At the time fixed for such hearing or such time thereafter as may be fixed by the court, the court must hear the proofs offered by the petitioner, and of any person answering the same and must make a decree conformable to the proofs. Such decree shall have the same force and effect as decrees entered in accordance with the provisions of chapters 23 to 36 of this code.

PUBLIC ADMINISTRATOR.

CHAPTER 35.—PUBLIC ADMINISTRATOR

CROSS REFERENCE

Post, p. 1083.

Public administrator as guardian, see section 975.

Appointment.

SEC. 938. PUBLIC ADMINISTRATOR; APPOINTMENT.—There shall be in the Canal Zone a public administrator appointed by the Governor of the Panama Canal.

Estates administered by.

SEC. 939. WHAT ESTATES TO BE ADMINISTERED BY PUBLIC ADMINISTRATOR.—The public administrator must take charge of the estates of persons dying within the Canal Zone, or who, dying elsewhere, leave estates in the Canal Zone, as follows:

1. Of the estate of decedents for which no administrators or executors are appointed, and which, in consequence thereof, may be wasted, uncared for, or lost;

2. Of the estate of decedents who have no known heirs;

3. Of the estates ordered into his hands by the court; and,

4. Of the estates upon which letters of administration or letters testamentary have been issued to him by the court.

Estates less than \$150.

SEC. 940. ESTATES LESS THAN \$150.—Whenever the public administrator shall file with the clerk of the district court a statement that the value of any estate, of which he has taken charge, is less than \$150, there shall be no regular administration on such estate unless additional estate be found or discovered; and the public administrator may pay out such funds to the creditors, heirs, or other persons legally entitled thereto.

Burial expenses.

SEC. 941. BURIAL EXPENSES OF DECEASED PERSONS.—Whenever the public administrator takes possession of the estate of a deceased person, as provided in section 939, and the method of the defrayal of the expense of the burial of said deceased is not otherwise provided for by law or by the rules, agreement, or death benefits of any order or lodge to which the deceased may at the time of his death belong, or with which he may have been affiliated, the public administrator may, in order to defray the proper expenses of the burial of the body of the deceased and the expenses of the last illness, apply to the judge of the district court for an order permitting the public administrator to summarily sell any personal property belonging to the deceased, and to withdraw any money that the deceased may have on deposit with any bank, and to collect any indebtedness or claim that may be owing to or due the deceased.

Petition to sell property, etc., to defray.

Notice unnecessary; no fee chargeable.

No notice of the application need be given and no fee shall be charged by the clerk of the court or the public administrator for the filing of said application, or for any duty or service of the clerk or public administrator or his attorney connected therewith.

Upon the sale of the personal property of the deceased, or the collection of any money, claim or indebtedness by the public administrator under said order the public administrator shall use the same for the expenses of the burial of the deceased, and the expenses of the last illness.

Use of funds obtained.

The public administrator shall file with the clerk of the court a statement showing the property of the deceased that came into his hands and the disposition of the property of the deceased, and shall file with the clerk vouchers showing what disposition was made of the said property or of the proceeds thereof.

Statement and vouchers to be filed.

SEC. 942. PAYMENT OF SALARY OR CLAIMS.—If a deceased or insane person shall have to his credit with The Panama Canal or the Panama Railroad Company, any sum as salary or other acknowledged claim, the amount so due shall be paid to the public administrator upon demand and be by him administered as a part of said person's estate: *Provided*, That if there should be other regular administration upon such person's estate in a court in the Canal Zone or in any State in the United States, then the sum due shall be paid to such other executor, administrator, or guardian upon presentation of duly authenticated copies of the order or decree appointing such executor, administrator, or guardian: *And provided further*, That in case the amount so due in salary or wages from The Panama Canal or Panama Railroad Company does not exceed \$100 and it is shown that there is to be no administration of the deceased employee's estate either by the public administrator or otherwise, then payment may be made to the person or persons who under the laws of the Canal Zone would be entitled to receive the same, if administration were had, under such regulations as may be prescribed by the Governor of the Panama Canal.

Payment of salary or claims.

Provided.
When other regular administration.

When sum due not in excess of \$100.

SEC. 943. DISPOSITION OF ESTATES OF ALIEN EMPLOYEES.—If a deceased intestate employee of The Panama Canal or the Panama Railroad Company, or member of his family, whose estate is being administered by the public administrator, leaves no heirs in the Canal Zone or the Republic of Panama entitled to receive such estate, the proceeds and residue thereof may be delivered to the diplomatic or consular representative, accredited to the Canal Zone or the Republic of Panama, of the country of which the deceased was a citizen or subject for delivery by such representative to the heirs of the deceased: *Provided*, That if the deceased was a citizen of the Republic of Panama, the residue of his estate may be delivered to his heirs in the Republic of Panama or to the authorities of the said Republic lawfully designated to receive the same.

Estates of alien employees.

Provided.
When citizen of Republic of Panama.

SEC. 944. WHEN PUBLIC ADMINISTRATOR TAKES CHARGE; HIS BOND AND OATH.—Whenever a public administrator takes charge of an estate, of which he is entitled to take charge without letters of administration being issued, or under order of the court, he must, with all convenient dispatch, procure letters of administration thereon, in like manner and on like proceedings as letters of administration are issued to other persons. His official bond and oath are in lieu of the administrator's bond and oath.

When public administrator takes charge.

Official bond and oath.

SEC. 945. DUTY OF PERSONS IN WHOSE HOUSE ANY STRANGER DIES.—Whenever a stranger, or person without known heirs, dies intestate in the house or premises of another, the possessor of such premises, or anyone knowing the facts, must give immediate notice thereof to the public administrator; and in default of so doing, he is liable for any damage that may be sustained thereby, to be recovered by the public administrator, or any party interested.

Duty of persons in whose house stranger dies.

SEC. 946. MUST RETURN INVENTORY AND ADMINISTER ESTATES ACCORDING TO CHAPTERS 23 TO 36.—The public administrator must make and

Inventory and account.

return a perfect inventory of all estates taken into his possession, administer and account for the same according to the provisions of chapters 23 to 36, subject to the control and directions of the court.

Ante, pp. 1022-1078.
When another appointed administrator.

SEC. 947. WHEN ANOTHER PERSON IS APPOINTED ADMINISTRATOR OR EXECUTOR, PUBLIC ADMINISTRATOR TO DELIVER UP THE ESTATE.—If, at any time, letters testamentary or of administration are regularly granted to any other person on an estate of which the public administrator has charge, he must, under the order of the court, account for, pay, and deliver to the executor or administrator thus appointed, all the money, property, papers, and estate of every kind in his possession or under his control.

Notice by civil officers of waste to property, etc.

SEC. 948. CIVIL OFFICERS TO GIVE NOTICE OF WASTE TO PUBLIC ADMINISTRATOR.—All civil officers must inform the public administrator of all property known to them, belonging to a decedent, which is liable to loss, injury, or waste, and which, by reason thereof, ought to be in the possession of the public administrator.

Institution of suits.

SEC. 949. SUITS FOR PROPERTY OF DECEDENTS.—The public administrator must institute all suits and prosecutions necessary to recover the property, debts, papers, and other estate of the decedent.

Order to account.

SEC. 950. ORDER ON PUBLIC ADMINISTRATOR TO ACCOUNT.—The court may, at any time, order the public administrator to account for and deliver all the money and property of an estate in his hands to the heirs, or to the executors or administrators regularly appointed.

No interest in estates in his hands.

SEC. 951. NOT TO BE INTERESTED IN THE PAYMENTS FOR OR ON ACCOUNT OF THE ESTATES IN HIS HANDS.—The public administrator must not be interested in expenditures of any kind made on account of any estate he administers; nor must he be associated, in business or otherwise, with any one who is so interested.

Commissions.

Ante, p. 1058.
Proviso.
No commission, when estate below \$1,000.

SEC. 952. COMMISSIONS OF PUBLIC ADMINISTRATOR.—The commissions to be charged by the public administrator shall be as prescribed in section 858: *Provided*, That no commissions shall be charged where it appears that the total assets of the estate do not exceed \$1,000 in value.

Fees to be paid over to collector.

The public administrator shall pay over all such fees to the Collector of the Panama Canal to be covered into the Treasury of the United States as miscellaneous receipts.

Oaths to be administered by.

SEC. 953. PUBLIC ADMINISTRATOR TO ADMINISTER OATHS.—The public administrator may administer oaths in regard to all matters touching the discharge of his duties, or the administration of estates in his hands.

Further proceedings in administration by.
Ante, pp. 1022-1074.

SEC. 954. PRECEDING CHAPTERS APPLICABLE TO PUBLIC ADMINISTRATOR.—When no direction is given in this chapter for the government or guidance of a public administrator in the discharge of his duties, or for the administration of an estate in his hands, the provisions of chapters 23 to 34 of this code must govern, except that wherever notice is required to be given, such notice may, in the discretion of the court, be waived or be given by posting.

GUARDIAN AND WARD.

CHAPTER 36.—GUARDIAN AND WARD

Minors.

GUARDIANS OF MINORS

Appointment of guardians.

SEC. 955. APPOINTMENT OF GUARDIANS.—Either division of the district court, when it appears necessary or convenient, may appoint guardians for the persons and estates, or either of them, of minors who have no guardian legally appointed by will or deed, and who are inhabitants or residents of the division, or who reside without the Canal Zone and have estate within the division.

Such appointment may be made on the petition of a relative or other person on behalf of the minor, or on the petition of the minor, if fourteen years of age.

By petition.

NOTICE OF PROCEEDINGS.—Before making such appointment, the court must cause such notice as such court deems reasonable to be given to any person having the care of such minor, and to such relatives of the minor residing in the Canal Zone as the court may deem proper. In all cases notice must be given to the parents of the minor or proof made to the court that their addresses are unknown, or that, for other reason, such notice can not be given.

Notice.

TEMPORARY CUSTODY PENDING PROCEEDINGS.—In all such proceedings, when it appears to the satisfaction of the court, either from a verified petition, or from affidavits, that the welfare of the minor will be imperiled if such minor is allowed to remain in the custody of the person then having the care of such minor, the court may make an order providing for the temporary custody of such minor until a hearing can be had on such petition.

Temporary custody.

PROCEEDINGS WHERE MINOR LIABLE TO BE CARRIED OUT OF CANAL ZONE.—And when it appears to the court that there is reason to believe that such minor will be carried out of the jurisdiction of the court before which the application is made, or will suffer some irreparable injury before compliance with such order providing for the temporary custody of such minor can be enforced, such court may at the time of making such order providing for the temporary custody of such minor cause a warrant to be issued, reciting the facts, and directed to the marshal, commanding such officer to take such minor from the custody of the person in whose care such minor then is and place such minor in custody in accordance with the order of the court.

When danger of removal from jurisdiction, etc.

SEC. 956. WHEN MINOR MAY NOMINATE GUARDIAN; WHEN NOT.—If the minor is under the age of fourteen years, the court may nominate and appoint his guardian. If he is fourteen years of age, he may nominate his own guardian, who, if approved by the court, must be appointed accordingly.

Nomination of guardian by minor.

SEC. 957. WHEN APPOINTMENT MAY BE MADE BY COURT, WHEN MINOR IS OVER FOURTEEN.—If the guardian nominated by the minor is not approved by the court, or if the minor resides out of the Canal Zone, or if, after being duly cited by the court, he neglects for ten days to nominate a suitable person, the court or judge may nominate and appoint the guardian in the same manner as if the minor were under the age of fourteen years.

By court.

SEC. 958. NOMINATION BY MINORS AFTER ARRIVING AT FOURTEEN.—When a guardian has been appointed by the court for a minor under the age of fourteen years, the minor, at any time after he attains that age, may nominate his own guardian, subject to the approval of the court.

Nomination by minor when reaching fourteen years of age.

SEC. 959. WHO MAY BE GUARDIAN; MARRIAGE OF GUARDIAN DOES NOT AFFECT GUARDIANSHIP.—The father or the mother of a minor child under the age of fourteen years, if found by the court competent to discharge the duties of guardianship, is entitled to be appointed a guardian of such minor child, in preference to any other person. The person nominated by a minor of the age of fourteen years as his guardian, whether married or unmarried, may, if found by the court competent to discharge the duties of guardianship, be appointed as such guardian. The authority of a guardian is not extinguished nor affected by the marriage of the guardian.

Who may be guardian.

Authority not extinguished by marriage.

SEC. 960. POWERS AND DUTIES OF GUARDIAN.—Every guardian appointed has the custody and care of the education of the minor, and the care and management of his estate, until such minor arrives at

Powers and duties.

the age of majority or marries, or until the guardian is legally discharged, unless he is appointed guardian only of the person of the ward. In that event, the guardian is charged with the custody of the ward, and must look to his support, health, and education. He may fix the residence of the ward at any place in the Canal Zone, but not elsewhere without the permission of the court.

Bond.

SEC. 961. BOND OF GUARDIAN.—Before the order appointing any person guardian under this chapter takes effect, and before letters issue, the court shall require of such person a bond to the minor, with sufficient sureties, to be approved by the judge, and in such sum as he shall order, which sum shall not be less than twice the value of the personal property and the probable value of the annual rents, issues and profits of property belonging to the minor; where, however, a surety company is authorized by law to furnish such bond, the court in its discretion may fix the amount of the bond given by such surety company at not less than the value of the personal property and the probable value of the annual rents, issues and profits of property belonging to the minor conditioned that the guardian will faithfully execute the duties of his trust according to law, and the following conditions shall form a part of such bond without being expressed therein:

Conditions of.

Inventory of estate of ward.

1. To make an inventory of all the estate, real and personal of his ward, that comes to his possession or knowledge, and to return the same within such time as the court may order.

Management of.

2. To dispose of and manage the estate according to law and for the best interest of the ward, and faithfully to discharge his trust in relation thereto, and also in relation to the care, custody, and education of the ward.

Accounting.

3. To render an account on oath of the property, estate, and moneys of the ward in his hands, and all proceeds or interests derived therefrom, and of the management and disposition of the same, within three months after his appointment, and at such other times as the court directs, and at the expiration of his trust to settle his accounts with the court, or with the ward, if he be of full age, or his legal representatives, and to pay over and deliver all the estate, moneys, and effects remaining in his hands, or due from him on such settlement, to the person who is lawfully entitled thereto. Upon filing the bond, duly approved, letters of guardianship must issue to the person appointed. In form the letters of guardianship must be substantially the same as letters of administration, and the oath of the guardian must be indorsed thereon that he will perform the duties of his office as such guardian according to law.

Issue of letters.

Insertion of conditions in order appointing, by court.

SEC. 962. COURT MAY INSERT CONDITIONS IN ORDER APPOINTING GUARDIAN.—When any person is appointed guardian of a minor, the court may, with the consent of such person, insert in the order of appointment, conditions not otherwise obligatory, providing for the care, treatment, education, and welfare of the minor and for the care and custody of his property. The performance of such conditions shall be a part of the duties of the guardian, for the faithful performance of which he and the sureties on his bond shall be responsible.

Recording letters.

SEC. 963. RECORDING LETTERS OF GUARDIANSHIP.—All letters of guardianship issued under the provisions of this chapter, with the affidavits and certificates thereon, must be recorded by the clerk of the court having jurisdiction of the persons and estates of the wards.

Maintenance of minor out of income of his property.

SEC. 964. MAINTENANCE OF MINOR OUT OF INCOME OF HIS PROPERTY.—If any minor having a father living has property, the income of which is sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard

being had to the situation of the father's family and to all the circumstances of the case, the expenses of the education and maintenance of such minor may be defrayed out of the income of his own property, in whole or in part, as judged reasonable, and must be directed by the court; and the charges therefor may be allowed accordingly in the settlement of the accounts of his guardian.

SEC. 965. GUARDIAN TO GIVE BONDS; POWERS LIMITED.—Every testamentary guardian must qualify and has the same powers and must perform the same duties with regard to the person and estate of his ward as guardians appointed by the court, except so far as his powers and duties are legally modified, enlarged, or changed by the will by which such guardian was appointed, and except that such guardian need not give bond unless directed to do so by the court.

Testamentary guardian, bond; powers limited.

SEC. 966. POWER OF COURT TO APPOINT GUARDIANS AND NEXT FRIEND NOT IMPAIRED.—Nothing contained in this chapter affects or impairs the power of the court to appoint a guardian to defend the interests of any minor interested in any suit or matter pending therein.

Power of court to appoint guardian ad litem, etc., not impaired.

SEC. 967. WHEN POWER OF GUARDIAN IS SUPERSEDED.—The power of a guardian appointed by a court is superseded:

When power of guardian superseded.

1. By order of the court;
2. If the appointment was made solely because of the ward's minority, by his attaining majority;
3. The guardianship over the person of the ward, by the marriage of the ward.

SEC. 968. SPECIAL NOTICE OF ADMINISTRATIVE PROCEEDINGS; DEMAND FOR BY RELATIVES.—At any time after the issuance of letters of guardianship upon the estate of any minor, insane, or incompetent person, any relative of the ward, or the attorney for such relative, may serve upon the guardian, or upon the attorney for the guardian, and file with the clerk of the court wherein administration of such ward's estate is pending, a written request, stating that he desires special notice of any or all of the following-mentioned matters, steps, or proceedings in the administration of said estate, to wit:

Special notice of administrative proceedings, demand for.

1. Filing of the return of sales of any property of the ward's estate.
2. Filing of accounts.
3. Filing of application for removal of ward's property to any foreign jurisdiction.
4. Filing of petitions for partition of any property of the ward's estate.
5. Proceedings for removal, suspension or discharge of the guardian, or final determination of the guardianship.

REQUEST WHAT TO STATE; NOTICE OF PROCEEDINGS.—Such request shall state the post-office address of such relative, or his attorney, and thereafter a brief notice of the filing of any such petitions, applications, or accounts, or proceedings, except petitions for sale of perishable property, or other personal property which will incur expense or loss by keeping, shall be addressed to such relative, or his attorney, at his stated post-office address, and deposited in the post office, within two days after the filing of such petition, account, application, or the commencement of such proceeding; or personal service of such notices may be made on such relative, or his attorney, within said two days, and such personal service shall be equivalent to such deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of any such matter.

Contents of request; notice.

FINDING THAT NOTICE GIVEN.—If, upon the hearing it shall appear to the satisfaction of the court that the said notice has been regu-

Finding that notice given.

larly given, the court shall so find in its order or judgment, and such judgment shall be final and conclusive upon all persons.

Insane and incompetents, in general.
Guardians of.

GUARDIANS OF INSANE AND INCOMPETENT PERSONS IN GENERAL

SEC. 969. GUARDIANS OF INSANE AND OTHER INCOMPETENT PERSONS.—When it is represented to the district court or judge, upon verified petition of any relative or friend, that any person is insane, or from any cause mentally incompetent to manage his property, such court or judge must cause a notice to be given to the supposed insane or incompetent person of the time and place of hearing the case, not less than five days before the time so appointed, and such person, if able to attend, must be produced on the hearing, provided that when such person is a patient at a hospital in the Canal Zone, the certificate of the medical superintendent or acting medical superintendent of such hospital, to the effect that such patient is unable to attend on the hearing shall be prima facie evidence of such fact.

Appointment after hearing.

SEC. 970. APPOINTMENT OF GUARDIAN BY COURT AFTER HEARING.—If, after a full hearing and examination upon such petition, it appears to the court that the person in question is incapable of taking care of himself and managing his property, such court must appoint a guardian of his person and estate, or person or estate, with the powers and duties in this chapter specified.

Appointment as.

SEC. 971. APPOINTMENT AS GUARDIAN.—In awarding letters of guardianship of the person and estate, or person or estate, of an insane or incompetent person, the court shall appoint as guardian such person as may have been designated pursuant to section 166e of the Civil Code, in which cases such persons shall be appointed unless good cause to the contrary be shown.

Powers and duties.

SEC. 972. POWERS AND DUTIES OF GUARDIANS.—Every guardian appointed, as provided in the preceding section, has the care and custody of the person of his ward and the management of all his estate, or the care and custody of the person of his ward or the management of all his estate, according to the order of appointment, until such guardian is legally discharged, and he must give bond to such ward in like manner and with like conditions as before prescribed with respect to the guardian of a minor.

Proceeding for restoration to capacity, by petition.

SEC. 973. PROCEEDING FOR RESTORATION TO CAPACITY.—Any person who has been declared insane or incompetent, or the guardian, or any relative of such person within the third degree, or any friend, may apply, by petition, to the division of the district court in which he was declared insane, to have the fact of his restoration to capacity judicially determined. The petition must be verified, and must state that such person is then sane or competent. Upon receiving the petition, the court must appoint a day for a hearing before the court, and, if the petitioner requests it, must order an investigation before a jury, which must be summoned and impaneled in the same manner as juries in civil actions. The court must cause notice of the trial to be given to the guardian of the person so declared insane or incompetent, if there is a guardian, and to his or her husband or wife, if there is one, and to his or her father or mother, if living in the Canal Zone. On the trial, the guardian or relative of the person so declared insane or incompetent, and, in the discretion of the court, any other person, may contest the right to the relief demanded. Witnesses may be required to appear and testify, as in civil cases, and may be called and examined by the court on its own motion. If it is found that the person is of sound mind, and capable of taking care of himself and his property, his restoration to capacity must be adjudged, and the guardianship of such person, if such person is not a minor, must cease.

Verification.

Day for hearing on.

Notice.

Trial.

Judgment.

Post, p. 1145.

SEC. 974. DEFINITION OF INCOMPETENT.—The phrase “incompetent,” “mentally incompetent,” and “incapable,” as used in this chapter, shall be construed to mean any person who, though not insane, is, by reason of old age, disease, weakness of mind, or from any other cause, unable, unassisted, to properly manage and take care of himself or his property, and by reason thereof would be likely to be deceived or imposed upon by artful or designing persons.

“Incompetent,” defined.

SEC. 975. PUBLIC ADMINISTRATOR AS GUARDIAN OF ESTATES OF INSANE EMPLOYEES, OTHER INSANE OR INCOMPETENT PERSONS, AND MINORS.—The public administrator shall take charge of estates of persons employed in the Canal Zone or the Republic of Panama by The Panama Canal or Panama Railroad Company or members of their families who have been adjudged insane by the district court or by a competent court of any State, where such estates consist of personal property and no legal guardian has been appointed.

Public administrator as guardian.

The district court may in its discretion appoint the public administrator guardian of the estate of any other insane or incompetent person or of any minor.

Appointment as, in discretion of district court.

The public administrator shall comply with all of the provisions of this chapter with respect to the guardianship of similar estates by other persons: *Provided, however,* That his official bond and oath shall satisfy the requirements with respect to a guardian's bond and oath: *And provided further,* That wherever notice is required to be given, such notice may, in the discretion of the court, be waived or be given by posting.

Compliance with guardianship requirements.

Provisos. Official bond to satisfy.

Waiving of notice.

CROSS REFERENCE

Payment to public administrator of sums due insane persons from Canal or Railroad, see section 942.

Ante, p. 1077.

COROZAL HOSPITAL: ADMISSION, KEEPING, AND DISCHARGE OF PERSONS

Corozal Hospital.

SEC. 976. KEEPING OF INSANE PERSONS IN JAIL.—No person under observation for insanity or declared to be insane shall be kept in jail, prison, or other similar institution, but shall be kept in suitable quarters within the Corozal Hospital or at such other place as may be deemed advisable by the superintendent of Corozal Hospital.

Keeping insane in jail.

SEC. 977. ADMISSION OF PATIENTS IN GENERAL.—Except as otherwise provided in respect to the admission of insane patients from the Republic of Panama, and the admission of members of the United States Army, Navy, and Marine Corps, and beneficiaries of the United States Public Health Service for observation and care pending their transfer to the United States, no person shall be admitted or detained as a patient in the Corozal Hospital except upon the order of the district judge of the Canal Zone, provided that if a patient is in a state of violent insanity he may be admitted at once by the superintendent of Corozal Hospital, without an order from the court, into the quarters provided for the observation of persons alleged to be insane, upon the written request of any physician employed by the United States Government; or such patient may be admitted to the observation quarters by said superintendent upon his own authority.

Admission in general, to hospital.

It shall be the duty of the superintendent of Corozal Hospital to file a written report with the clerk of the district court within forty-eight hours after the patient has been admitted to the observation quarters, which report shall set out the name, age, and physical condition of the patient, together with the name of physician attending patient at time of admission, and as soon as the clerk shall have received the report, he shall enter it upon the docket and the district judge shall proceed to examine and determine the case in like manner

Duty of superintendent to file report.

as if the petition had been presented to him prior to the patient's admission into observation quarters.

Petition for confinement of insane.

SEC. 978. PETITION FOR CONFINEMENT OF INSANE PERSONS.—To obtain the judicial order provided for in section 977, it shall be necessary for a relative of the person alleged to be insane, or a physician or other interested person in the Canal Zone, to present a petition, duly subscribed and sworn to by the petitioner, to the judge of the district court, which petition shall state the sex, age, and nationality of patient, if known, and the facts showing the patient's mental infirmity, and, if possible, the history of the case and the form of insanity with which he is suffering and the attending circumstances making it necessary that he be confined in the asylum. If such petition is presented by other than a relative, and there is a known relative within or near the Canal Zone, notice thereof shall be given to such relative. The petition shall be accompanied by a certificate signed by one or more reputable physicians to the effect that in their opinion such person is insane.

Prompt hearing.

SEC. 979. HEARING TO BE PROMPT; ORDERING CUSTODY FOR OBSERVATION.—The petition provided for in section 978 shall take precedence over all other matters pending before the court, and if the facts stated therein are sufficient to satisfy the court of the insanity of the person sought to be confined, orders shall be issued at once directing that the person alleged to be insane be taken in custody for observation.

Custody for observation.

Admission of patient for.

SEC. 980. ADMISSION OF PATIENT FOR OBSERVATION; REPORT ON SANITY.—The order of the judge directing that the person alleged to be insane be placed under observation shall be sufficient authority for the superintendent of Corozal Hospital to admit the patient into the hospital or other suitable quarters and to detain him for the purpose of observation.

Report on sanity.

Within thirty days after the patient has been placed under observation the superintendent of Corozal Hospital shall file with the clerk of the court a written report stating whether the patient is sane or insane, and the facts upon which such statement is based. If the observation shall show that the patient is not insane he shall be set at liberty by the superintendent of Corozal Hospital at once, and such action shall be noted in the report submitted to the court. If the observation shall show that the patient is insane, it shall be the duty of the court to render judgment therein, either committing the patient to the Corozal Hospital or directing that he be turned over to his relatives or friends who are able and willing to care for him.

Contest of.

SEC. 981. CONTESTING REPORT ON SANITY.—The relatives of the person alleged to be insane, or the district attorney, may appear and contest the report of the superintendent, and in such cases the judge shall hear the evidence presented by the parties and render judgment thereon, as provided in section 980.

Temporary release.

SEC. 982. TEMPORARY RELEASE OF PATIENTS.—Whenever any patient who is not serving a sentence for violation of the criminal laws of the Canal Zone has shown such improvement in his mental condition as would, in the opinion of the superintendent, warrant his temporary release for the purpose of determining whether such improvement is permanent and would eventually warrant the discharge of the patient, the superintendent may release such patient for such period as may be deemed proper by the superintendent after the latter by adequate investigation has satisfied himself that the patient has relatives or friends who are able and willing to receive and care for such patient. If, during such release, it shall appear to the superintendent that the patient should be discharged, a statement

as provided in section 984 hereof shall be filed with the clerk of the court.

SEC. 983. APPLICATION FOR DISCHARGE OF PATIENT.—Any person interested in an inmate of the Corozal Hospital, who believes such inmate is improperly detained therein, may make application to the district judge for the discharge of such patient. Upon receipt of such application the judge shall issue an order to the superintendent of Corozal Hospital, to make a report on the patient's condition, and upon the receipt of such report shall consider the case, and, in his discretion, may grant or deny the application. The judge may cause the patient to be examined by two competent physicians, who shall report in writing as to the condition of the patient.

Application for discharge.

SEC. 984. DISCHARGE OF PATIENTS.—Any patients, except those serving sentences for violation of the criminal laws of the Canal Zone, may be discharged by the superintendent. He shall file with the clerk of the court a written statement that in his judgment such patient has recovered or that the discharge will not be detrimental or dangerous to the public welfare or injurious to the patient: *Provided*, That before discharging any patient who has not recovered, the superintendent shall satisfy himself by adequate investigation that the relatives or friends of the patient are able and willing to receive and care for such patient or that suitable measures for deportation have been taken.

Discharge.

Proviso.
Provision for future care of discharged.

SEC. 985. COMMITTING INSANE PRISONERS TO HOSPITAL; DISCHARGE.—If any person confined in a prison or penitentiary under the sentence of a court become insane, he shall be committed to the Corozal Hospital by the judge of the district court. In all such cases the provisions of sections 976 to 986 relating to the period of observation of the patient and the trial of the issue as to his insanity shall be observed. Whenever a person is committed to the Corozal Hospital under the provisions of this section, the order of commitment issued by the court shall include a statement of the offense of which the person was convicted, the term of his imprisonment and the date upon which said term is to expire. Should such person be discharged from the Corozal Hospital before the date of the expiration of his term of imprisonment, he shall be returned to the penal institution from which he was taken.

Committing insane prisoner to hospital.

Ante, p. 1083.

Discharge before expiration of sentence.

SEC. 986. NO REPEAL OF PROVISIONS RESPECTING INQUIRY INTO INSANITY OF DEFENDANTS.—Nothing contained in sections 976 to 985 shall be construed to repeal or modify the provisions of the Code of Criminal Procedure of the Canal Zone relating to the inquiry into the insanity of the defendants before trial or after conviction.

Insane defendants, provisions of Code of Criminal Procedure not affected.
Ante, p. 1083.

CROSS REFERENCE

Inquiry into sanity of defendants before trial or after conviction, see sections 353 to 358 of the Code of Criminal Procedure.

SEC. 986½. PATIENTS IN CLASSES EXCEPTED FROM THE PRECEDING SECTIONS 976 TO 986, INCLUSIVE.—Insane patients from the Republic of Panama may be admitted and detained in the Corozal Hospital, and discharged therefrom, in accordance with the existing agreements between the Canal Zone authorities and the Panaman authorities, or under such changes and modifications of said agreements as may be made from time to time.

Patients in classes excepted from provisions herein.
Ante, p. 1083.
Insane, from Republic of Panama.

The superintendent of Corozal Hospital is authorized to receive and detain as patients, insane members of the United States Army, Navy, and Marine Corps, and beneficiaries of the United States Public Health Service, for observation and care pending their transfer to the United States, upon the order of the official in charge of the respective services in the Canal Zone.

Members of Army, Navy, etc.

POWERS AND DUTIES OF GUARDIANS

Powers and duties of guardians.

Payment of debts from ward's estate.

SEC. 987. GUARDIAN TO PAY DEBTS OF WARD FROM WARD'S ESTATE.—Every guardian appointed under the provisions of this chapter, whether for a minor or any other person, must pay all just debts due from the ward out of his personal estate and the income of his real estate, if sufficient; if not, then out of his real estate upon selling or mortgaging it and disposing of the proceeds in the manner provided in sections 997 to 1002.

Recovery of debts, etc.

SEC. 988. GUARDIAN TO RECOVER DEBTS DUE HIS WARD AND REPRESENT HIM.—Every guardian must settle all accounts of the ward, and demand, sue for, and receive all debts due to him, or may, with the approbation of the court, compound for the same and give discharges to the debtor, on receiving a fair and just dividend of his estate and effects; and he must appear for and represent his ward in all legal suits and proceedings, unless another person be appointed for that purpose.

Management of estate.

SEC. 989. GUARDIAN TO MANAGE ESTATE FRUGALLY, MAINTAIN WARD AND SELL OR MORTGAGE REAL ESTATE.—Every guardian must manage the estate of his ward frugally and without waste, and apply the income and profits thereof, as far as may be necessary, for the comfortable and suitable maintenance and support of the ward and his family, if there be any; and if such income and profits be insufficient for that purpose, the guardian may sell or mortgage the real estate, as provided in this code, and must apply the proceeds of such sale or mortgage, as far as may be necessary, for the maintenance and support of the ward and his family, if there be any.

Support of ward.

Sale or mortgage of real estate.

Support of wife from her estate.

SEC. 990. SUPPORT OF WIFE FROM HER ESTATE.—If the husband is unable to provide suitably for the care or support of a wife over whose estate a guardian has been appointed by reason of incompetency, the expense of providing such care or support, may, to the extent necessary, be charged against and defrayed out of such estate, as previously directed by the court or as subsequently approved by the court in settling the accounts of the guardian of the estate; for this purpose the guardian may sell or mortgage estate of the ward as provided in this code.

Maintenance, support, education of ward, how enforced.

SEC. 991. MAINTENANCE, SUPPORT, AND EDUCATION OF WARD, HOW ENFORCED.—When a guardian has advanced, for the necessary maintenance, support, or education of his ward, an amount not disproportionate to the value of his estate or his condition of life, and the same is made to appear to the satisfaction of the court, by proper vouchers and proofs, the guardian must be allowed credit therefor in his settlements. Whenever a guardian fails, neglects, or refuses to furnish suitable and necessary maintenance, support, or education for his ward, the court may order him to do so, and enforce such order by proper process. Whenever any third person, at his request, supplies a ward with such suitable and necessary maintenance, support, or education, and it is shown to have been done after refusal or neglect of the guardian to supply the same, the court may direct the guardian to pay therefor out of the estate, and enforce such payment by due process.

Powers of guardian, partition proceedings.

Proviso. Prior authorization by court.

SEC. 992. GUARDIANS, POWERS OF, IN PARTITION.—The guardian may join in and assent to a partition of the real or personal estate of the ward, wherever such assent may be given by any person: *Provided*, That such assent can only be given after the court having jurisdiction over said estate shall grant an order conferring such authority, which order shall only be made after a hearing in open court upon

the petition of the guardian after notice of at least ten days, mailed by the clerk of the court to all the known relatives of the ward residing in the Canal Zone. The guardian may also consent to a partition of the real or personal estate of his ward without action, and agree upon the share to be set off to such ward, and may execute a release in behalf of his ward to the owners of the shares, of the parts to which they may be respectively entitled, upon obtaining from said court having jurisdiction over said estate, authority to so consent after a hearing in open court upon the petition of the guardian after notice of at least ten days, mailed by the clerk of the court to all the known relatives of the ward residing in the Canal Zone.

SEC. 993. INVENTORY OF WARD'S ESTATE; REFUSAL OF GUARDIAN TO RETURN INVENTORY.—Every guardian must return to the court a verified inventory of the estate of his ward within thirty days after his appointment. He must annually thereafter, and at such other times as directed by the court, render a verified account of the estate of his ward. All the estate of the ward described in the first inventory must be appraised by appraisers, appointed, sworn, and acting in the manner provided for regulating the settlement of the estates of decedents. Such inventory, with the appraisement of the property therein described, must be recorded by the clerk of the court in a proper book kept in his office for that purpose. Whenever any other property of the estate of any ward is discovered, not included in the inventory of the estate already returned, and whenever any other property, has been succeeded to, or acquired by any ward, or for his benefit, the like proceedings must be had for the return and appraisement thereof and the service of the same as are herein provided in relation to the first inventory and return. If within the time prescribed, or within such further time, not exceeding two months which the court or judge shall for reasonable cause allow, the guardian neglects or refuses to return the inventory or render his account, the court may, upon notice, revoke the letters of guardianship and the guardian shall be liable on his bond for any injury to the estate, or any person interested therein, arising from such failure.

Inventory of estate.

Refusal to return.

SEC. 994. ACCOUNT OF GUARDIAN.—The guardian must upon the expiration of a year from the time of his appointment and as often thereafter as he may be required, present his account to the court for settlement and allowance. The termination of the relation of guardian and ward by the death of either guardian or ward or by the ward attaining his majority or being restored to capacity shall not cause the court to lose jurisdiction of the proceeding for the purpose of settling the accounts of the guardian.

Accounting of.

SEC. 995. ALLOWANCE OF ACCOUNTS OF JOINT GUARDIANS.—When an account is rendered by two or more joint guardians, the court may, in its discretion, allow the same upon the oath of any of them.

Allowance of accounts, joint guardians.

SEC. 996. EXPENSES AND COMPENSATION OF GUARDIANS.—Every guardian must be allowed the amount of his reasonable expenses incurred in the execution of his trust, and he must also have such compensation for his services as the court in which his accounts are settled deems just and reasonable. He must also be allowed all reasonable and proper disbursements, made after the legal termination of the guardianship, but while that relation, by consent or acquiescence of the parties, still subsists in fact, and before the discharge of the guardian by the court, and which were made by the consent, express or implied, of the ward, and for his benefit or the benefit of his estate.

Expenses and compensation.

Sale of property, etc.

SALE OF PROPERTY AND DISPOSITION OF THE PROCEEDS

Authority for, when insufficient income from estate.

SEC. 997. WHEN INCOME FROM WARD'S ESTATE IS INSUFFICIENT.—When the income of an estate under guardianship is insufficient to maintain the ward and his family or to maintain and educate the ward when a minor, or to pay for his care, treatment, and support, if confined in a hospital for the insane in the Canal Zone, his guardian may sell his real or personal estate, or mortgage the real estate for that purpose subject to confirmation of such sale or mortgage by the court.

Application of proceeds.

SEC. 998. APPLICATION OF PROCEEDS OF SALES.—If the estate is sold for the purposes mentioned in this subchapter, the guardian must apply the proceeds of the sale to such purposes, as far as necessary, and put out the residue, if any, on interest, or invest it in the best manner in his power, until the capital is wanted for the maintenance of the ward and his family, or the education of his children, or for the education of the ward when a minor, in which case the capital may be used for that purpose, as far as may be necessary, in like manner as if it had been personal estate of the ward.

Investment of.

SEC. 999. INVESTMENT OF PROCEEDS OF SALES.—If the estate is sold for the purpose of putting out or investing the proceeds, the guardian must make the investment according to his best judgment, or in pursuance of any order that may be made by the court.

Sales to conform to law governing executors.
Ante, pp. 1022-1076.

SEC. 1000. SALES OF PROPERTY TO CONFORM TO LAW GOVERNING EXECUTORS.—All the proceedings by guardians concerning sales of property of their wards, giving notice of sale, reselling the same property, return of sale and application for confirmation thereof, notice and hearing of such application, making orders rejecting or confirming sales and reports of sales, ordering and making conveyances of property sold, allowance of commissions, accounting and settlement of accounts, must be had and made as required by the provisions of chapters 23 to 35 of this code concerning estates of decedents, unless otherwise specially provided in this chapter. All known relatives of the ward within the third degree residing in the Canal Zone whose addresses are known to the guardian shall within two days after filing of the return of sale be served by mail with a brief notice of the time set for hearing of the return.

Proceedings in sale of real property.

Ante, pp. 1056-1057.

SEC. 1001. PROCEEDINGS FOR COMPLETION OF SALES BY GUARDIANS.—All proceedings for the completion of contracts for the sale of real estate by guardians must be had and made as required by the provisions of chapters 23 to 35 of this code concerning the conveyance of real estate by executors and administrators under sections 841 to 851, and said sections are hereby made applicable to conveyances by guardians as provided by section 1021.

Post, p. 1001.

Investment of money by order of court.

SEC. 1002. COURT MAY ORDER THE INVESTMENT OF MONEY OF THE WARD.—The court, on the application of a guardian, or any person interested in the estate of any ward, after such notice to persons interested therein as the court shall direct, may authorize and require the guardian to invest the proceeds of sales, and any other of his ward's money in his hands, in any manner most to the interest of all concerned therein, and the court may make such other orders and give such directions as are needful for the management, investment, and disposition of the estate and effects as circumstances require.

Nonresident guardians and wards.

NONRESIDENT GUARDIANS AND WARDS

Appointment of.

SEC. 1003. GUARDIANS OF NONRESIDENT PERSONS.—The district court may appoint a guardian of the person and estate, or either, of a minor, insane, or incompetent person, who has no guardian within

the Canal Zone, legally appointed by will, deed, or otherwise, and who resides without the Canal Zone, and has estate within the division or, who, though not having such estate, is within the division, upon petition of any friend of such person or any one interested in his estate, in expectancy or otherwise. Before making such appointment, the court must cause notice to be given to all persons interested, in such manner as such court deems reasonable.

SEC. 1004. POWERS AND DUTIES OF GUARDIANS APPOINTED UNDER PRECEDING SECTION.—Every guardian, appointed under section 1003, has the same powers and performs the same duties, with respect to the estate of the ward found within the Canal Zone, and with respect to the person of the ward, if he shall come to reside therein, as are prescribed with respect to any other guardian appointed under this chapter.

Powers and duties.

SEC. 1005. SUCH GUARDIANS TO GIVE BONDS.—Every guardian must give bond to the ward, in the manner and with the like conditions as hereinbefore provided for other guardians, except that the provisions respecting the inventory, the disposal of the estate and effects, and the account to be rendered by the guardian, must be confined to such estate and effects as come to his hands in the Canal Zone.

Bond.

SEC. 1006. TO WHAT GUARDIANSHIP SHALL EXTEND.—The guardianship which is first lawfully granted of any person residing without the Canal Zone extends to all the estate of the ward within the Canal Zone.

Extent of guardianship.

SEC. 1007. REMOVAL OF NONRESIDENT WARD'S PROPERTY.—When the guardian and ward are both nonresidents, and the ward is entitled to property in the Canal Zone, which may be removed to a state or foreign country without conflict with any restriction or limitation thereupon, or impairing the right of the ward thereto, such property may be removed to the state or foreign country of the residence of the ward, upon the application of the guardian to the division of the district court in which the estate of the ward, or the principal part thereof, is situated.

Removal of property.

SEC. 1008. PROCEEDINGS ON SUCH REMOVAL.—The application must be made upon ten days' notice to the resident executor, administrator, or guardian, if there be such, and upon such application the nonresident guardian must produce and file a certificate, under the hand of the clerk and seal of the court, from which his appointment was derived, showing:

Application for.

Procedure on.

Certificate to be filed; contents.

1. A transcript of the record of his appointment.

2. That he has entered upon the discharge of his duties.

3. That he is entitled, by the laws of the State, of his appointment to the possession of the estate of the ward or must produce and file a certificate, under the hand and seal of the clerk of the court having jurisdiction in the country of his residence, of the estates of persons under guardianship, or of the highest court of such country, attested by a minister, consul, or vice consul of the United States, resident in such country, that, by the laws of such country, the applicant is entitled to the custody of the estate of his ward, without the appointment of any court. Upon such application, unless good cause to the contrary is shown, the court must make an order granting to such guardian leave to take and remove the property of his ward to the State or place of his residence, which is authority to him to sue for and receive the same in his own name, for the use and benefit of his ward.

Order.

SEC. 1009. DISCHARGE OF GUARDIANS.—Such order is a discharge of the executor, administrator, local guardian, or other person in whose possession the property may be at the time the order is made, on filing with the clerk of the court a receipt therefor of a foreign

Discharge.

guardian of such absent ward, and transmitting a duplicate receipt, or a certified copy of such receipt, to the court from which such nonresident guardian received his appointment.

General and miscellaneous provisions.

GENERAL AND MISCELLANEOUS PROVISIONS

Examination of persons suspected of defrauding wards, etc.

SEC. 1010. EXAMINATION OF PERSONS SUSPECTED OF DEFRAUDING WARDS OR CONCEALING PROPERTY.—Upon complaint made by any guardian, ward, creditor, or other person interested in the estate, or having a prospective interest therein as heir or otherwise, against any one suspected of having concealed, embezzled, smuggled, or fraudulently disposed of, any of the money, goods, or effects, or an instrument in writing belonging to the ward or to his estate, the district court may cite such suspected person to appear before such court, and may examine and proceed against him on such charge in the manner provided in chapters 23 to 35 with respect to persons suspected of and charged with concealing, embezzling, smuggling, or fraudulently disposing of the effects of a decedent.

Removal and resignation of guardian, surrender of estate.

SEC. 1011. REMOVAL AND RESIGNATION OF GUARDIAN, AND SURRENDER OF ESTATE.—When a guardian, appointed either by the testator or the court, becomes insane or otherwise incapable of discharging his trust or unsuitable therefor, or has wasted or mismanaged the estate, or failed for thirty days to render an account or make a return, the district court may, upon such notice to the guardian as the court may require, remove him and compel him to surrender the estate of the ward to the person found to be lawfully entitled thereto. Every guardian may resign when it appears proper to allow the same; and upon the resignation or removal of a guardian, as herein provided, the court may appoint another in the place of the guardian who resigned or was removed.

Termination of guardianship.

SEC. 1012. GUARDIANSHIP, HOW TERMINATED.—The marriage of a minor ward terminates the guardianship of the person of such ward, but not the estate; and the guardian of an insane or other person may be discharged by the court, when it appears on the application of the ward or otherwise, that the guardianship is no longer necessary.

New bond.

SEC. 1013. NEW BOND, WHEN REQUIRED.—The court may require a new bond to be given by a guardian whenever such court deems it necessary, and may discharge the existing sureties from further liability, after due notice given as such court may direct, when it shall appear that no injury can result therefrom to those interested in the estate.

Filing of bond; action on.

SEC. 1014. GUARDIAN'S BOND TO BE FILED; ACTION ON.—Every bond given by a guardian must be filed and preserved in the office of the clerk of the district court, and in case of a breach of a condition thereof, may be prosecuted for the use and benefit of the ward, or of any person interested in the estate.

Period of limitation on.

SEC. 1015. LIMITATION OF ACTIONS ON GUARDIAN'S BOND.—No action can be maintained against the sureties on any bond given by a guardian, unless it be commenced within three years from the discharge or removal of the guardian; but if at the time of such discharge the person entitled to bring such action is under any legal disability to sue, the action may be commenced at any time within three years after such disability is removed.

Limitation of actions for recovery of property sold.

SEC. 1016. LIMITATION OF ACTIONS FOR THE RECOVERY OF PROPERTY SOLD.—No action for the recovery of any estate, sold by a guardian, can be maintained by the ward, or by any person claiming under him, unless it is commenced within three years next after the termination of the guardianship, or when a legal disability to sue exists by reason of minority or otherwise, at the time when the cause of action accrues, within three years next after the removal thereof.

SEC. 1017. MORE THAN ONE GUARDIAN OF A PERSON MAY BE APPOINTED.—The court, in its discretion, whenever necessary, may appoint more than one guardian of any person subject to guardianship, each of whom must give a separate bond, and be governed and liable in all respects as a sole guardian.

Appointment of more than one guardian.

SEC. 1018. ORDER APPOINTING GUARDIAN, HOW ENTERED.—Any order appointing a guardian becomes a decree of the court and must be entered at length in the minute book of the court or must be signed by the judge and filed.

Entry of order appointing guardian.

The provisions of chapters 23 to 35 relative to the estates of decedents, so far as they relate to the practice in the district court, apply to proceedings under this chapter.

Practice, rules of, relating to estates of decedents, to govern. *Ante*, pp. 1022-1076.

SEC. 1019. PROVISIONS OF SECTIONS 532 AND 533 APPLY TO GUARDIANS.—The provisions of sections 532 and 533 are hereby declared to apply to guardians appointed by the court, and to the bonds taken or to be taken from such guardians, and to the sureties on such bonds.

Sureties, qualifications, etc., of. *Ante*, p. 1001.

SEC. 1020. COURT MAY MAKE DECREE AUTHORIZING GUARDIAN TO MAKE CONVEYANCE FOR INCOMPETENT.—When a person who is bound by a contract in writing to convey any real estate shall afterwards and before making the conveyance become and be adjudged to be an incompetent person, the court may make a decree authorizing and directing his guardian to convey such real estate to the person entitled thereto. Such decree may be made under the provisions of sections 841 to 851, all of which provisions are hereby incorporated in this section; the word incompetent being substituted for the word deceased or decedent and the word guardian being substituted for the words administrator or executor, respectively, wherever said words occur.

Decree authorizing guardian to make conveyances of realty, pursuant to contract.

SEC. 1021. CONVEYANCE BY GUARDIAN.—When a person who is bound by contract in writing to convey any real estate, or to transfer any personal property, dies before making conveyance or transfer, and in all cases when such decedent, if living might be compelled to make such conveyance or transfer, the court, having jurisdiction of the guardianship proceedings of such minor may make a decree authorizing and directing the guardian of any minor, who has succeeded by distribution to the estate of such deceased person, to convey or transfer such real estate or personal property to the person entitled thereto.

Procedure. *Ante*, pp. 1056-1067.

When contract made by ward's ancestor, etc.

SEC. 1022. ATTORNEY'S FEES AGAINST MINOR FIXED BY COURT; JUDGMENT NOT IN EXCESS OF \$500.—All contracts for attorney's fees made by or for the benefit of minors shall be void, and whenever a judgment shall be recovered by or on behalf of a minor, the attorney's fees chargeable against said minor shall be fixed by the court in which said judgment is rendered; and if said judgment is for money, and there is no general guardian of said minor, one shall be appointed by the court, and the entire amount of the judgment shall be paid to and shall be cared for by such general guardian, under the control of the court: *Provided*, That where a minor has brought an action by a guardian ad litem and has recovered a money judgment not in excess of \$500, exclusive of costs, and the guardian ad litem is a parent or blood relative of said minor, then, with the approval of the court that rendered the judgment the whole amount of said judgment may be paid directly to such guardian ad litem without any bond being required therefor. The court in any of the cases provided for herein may direct the amount fixed as attorney's fees to be paid directly to the attorney, and the balance to be paid to such guardian ad litem of said minor, or to the general guardian of said minor if a general guardian has been appointed or is required by the court.

Attorney's fees against minor fixed by court.

Proviso. Payment of judgment below \$500 recovered by minor.

Compromise of minor's claim by parent.

Validity subject to approval of district court.

Disposition of money.

SEC. 1023. PARENT'S RIGHT TO COMPROMISE CLAIM OF MINOR.—Where a minor shall have a disputed claim for money against a third person, the father, and if the father be dead or has deserted or abandoned the minor, then the mother of said minor, shall have the right to compromise such claim, but before the compromise shall be valid or of any effect the same shall be approved by the division of the district court where the minor resides, upon a verified petition in writing, regularly filed with said court. If the court approves such compromise, the said district court may direct the money paid to the father or mother of such minor, with or without the filing of any bond, or it may require a general guardian or guardian ad litem to be duly appointed and the money to be paid to such guardian or guardian ad litem with or without a bond as in the discretion of the court seems to the best interests of said minor. The clerk of the district court shall not charge any fee for filing said petition for leave to compromise or for placing the same upon the calendar to be heard by the court.

ESTATES OF MISSING PERSONS.

Appointment of trustees for.

Petition for.

Notice and hearing.

Preference of wife or nominee.

Bond.
Ante, p. 1034.

Powers and duties.

CHAPTER 37.—ESTATES OF MISSING PERSONS

SEC. 1024. TRUSTEES OF THE ESTATES OF MISSING PERSONS; APPOINTMENT OF, BY THE COURT.—Whenever any resident of the Canal Zone, who owns or is entitled to the possession of any real or personal property situate therein, is missing, or his whereabouts unknown, for ninety days, and a verified petition is presented to the division of the district court of which he is a resident by his wife or any of his family or friends, representing that his whereabouts has been, for such time, and still is, unknown, and that his estate requires attention, supervision, and care of ownership, the court must order such petition to be filed, and appoint a day for its hearing, not less than ten days from the date of the order.

NOTICE AND HEARING.—The clerk of the court must thereupon publish, for at least ten days prior to the day so appointed, a notice in some newspaper of general circulation in the Canal Zone, stating that such petition will be heard at the court room of the court at the time appointed for the hearing. The court may direct further notice of the application to be given in such manner and to such persons as it may deem proper. At the time so fixed for such hearing, or at any subsequent time to which the hearing may be postponed, the court must hear the petition and the evidence offered in support of or in opposition thereto, and, if satisfied that the allegations thereof are true, and that such person remains missing, and his whereabouts unknown, must appoint some suitable person to take charge and possession of such estate, and manage and control it under the direction of the court.

PREFERENCE OF WIFE OR NOMINEE.—In appointing a trustee, the court must prefer the wife of the missing person (if any such there is), or her nominee, and, in the absence of a wife, some person, if such there is who is willing to act, entitled to participate in the distribution of the missing person's estate were he dead.

SEC. 1025. BONDS TO BE GIVEN BY TRUSTEES.—Every person appointed under the provisions of section 1024 must give bond in the amount and as provided for in section 731.

SEC. 1026. POWERS AND DUTIES OF TRUSTEES.—The trustee must take possession of the real and personal estate in the Canal Zone of such missing person, and collect and receive the rents, income, and proceeds thereof, collect all indebtedness owing to him, and pay the expenses thereof out of the trust funds, and pay such indebtedness of the missing person as may be authorized by the court. The court

may direct the trustee to pay to the person or persons constituting the family of the missing person such sum or sums of money for family expenses and support from the income of the estate as it may, from time to time, determine. The trustee must, from time to time, when directed by the court, account to and with it for all his acts as trustee, and the court may, at any time, upon good cause shown, remove any trustee, and appoint another in his place.

CHAPTER 38.—EVIDENCE

GENERAL DEFINITIONS AND DIVISIONS

EVIDENCE.

General definitions and divisions.

SEC. 1027. DEFINITION OF EVIDENCE.—Judicial evidence is the means, sanctioned by law, of ascertaining in a judicial proceeding the truth respecting a question of fact.

"Evidence."

SEC. 1028. DEFINITION OF PROOF.—Proof is the effect of evidence, the establishment of a fact by evidence.

"Proof."

SEC. 1029. DEFINITION OF LAW OF EVIDENCE.—The law of evidence, which is the subject of this chapter, is a collection of general rules established by law:

"Law of evidence."

1. For declaring what is to be taken as true without proof;
2. For declaring the presumptions of law, both those which are disputable and those which are conclusive; and
3. For the production of legal evidence;
4. For the exclusion of whatever is not legal;
5. For determining, in certain cases, the value and effect of evidence.

SEC. 1030. DEGREE OF CERTAINTY REQUIRED TO ESTABLISH FACTS.—The law does not require demonstration; that is, such a degree of proof as, excluding possibility of error, produces absolute certainty; because such proof is rarely possible. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

Degree of certainty required.

SEC. 1031. FOUR KINDS OF EVIDENCE SPECIFIED.—There are four kinds of evidence:

Kinds of evidence.

1. The knowledge of the court.
2. The testimony of witnesses.
3. Writings.
4. Other material objects presented to the senses.

SEC. 1032. SEVERAL DEGREES OF EVIDENCE SPECIFIED.—There are several degrees of evidence:

Degrees.

1. Primary and secondary.
2. Direct and indirect.
3. Prima facie, partial, satisfactory, indispensable, and conclusive.

SEC. 1033. PRIMARY EVIDENCE DEFINED.—Primary evidence is that kind of evidence which, under every possible circumstance, affords the greatest certainty of the fact in question. Thus, a written instrument is itself the best possible evidence of its existence and contents.

"Primary evidence."

SEC. 1034. SECONDARY EVIDENCE DEFINED.—Secondary evidence is that which is inferior to primary. Thus, a copy of an instrument or oral evidence of its contents is secondary evidence of the instrument and contents.

"Secondary."

SEC. 1035. DIRECT EVIDENCE DEFINED.—Direct evidence is that which proves the fact in dispute, directly, without an inference or presumption, and which in itself, if true, conclusively establishes that fact. For example, if the fact in dispute be an agreement, the evidence of a witness who was present and witnessed the making of it, is direct.

"Direct."

"Indirect."

SEC. 1036. **INDIRECT EVIDENCE DEFINED.**—Indirect evidence is that which tends to establish the fact in dispute by proving another, and which, though true, does not of itself conclusively establish that fact, but which affords an inference or presumption of its existence. For example, a witness proves an admission of the party to the fact in dispute. This proves a fact, from which the fact in dispute is inferred.

"Prima facie."

SEC. 1037. **PRIMA FACIE EVIDENCE DEFINED.**—Prima facie evidence is that which suffices for the proof of a particular fact, until contradicted and overcome by other evidence. For example, the certificate of a recording officer is prima facie evidence of a record, but it may afterwards be rejected upon proof that there is no such record.

"Partial."

SEC. 1038. **PARTIAL EVIDENCE DEFINED.**—Partial evidence is that which goes to establish a detached fact, in a series tending to the fact in dispute. It may be received, subject to be rejected as incompetent, unless connected with the fact in dispute by proof of other facts. For example, on an issue of title to real property, evidence of the continued possession of a remote occupant is partial, for it is of a detached fact, which may or may not be afterwards connected with the fact in dispute.

"Indispensable."

SEC. 1039. **INDISPENSABLE EVIDENCE DEFINED.**—Indispensable evidence is that without which a particular fact can not be proved.

"Conclusive."

SEC. 1040. **CONCLUSIVE EVIDENCE DEFINED.**—Conclusive or unanswerable evidence is that which the law does not permit to be contradicted. For example, the record of a court of competent jurisdiction can not be contradicted by the parties to it.

"Cumulative."

SEC. 1041. **CUMULATIVE EVIDENCE DEFINED.**—Cumulative evidence is additional evidence of the same character, to the same point.

"Corroborative."

SEC. 1042. **CORROBORATIVE EVIDENCE DEFINED.**—Corroborative evidence is additional evidence of a different character, to the same point.

General principles.

GENERAL PRINCIPLES OF EVIDENCE

Sufficiency of single witness.

SEC. 1043. **ONE WITNESS SUFFICIENT TO PROVE A FACT.**—The direct evidence of one witness who is entitled to full credit is sufficient for proof of any fact, except perjury and treason.

Testimony confined to personal knowledge.

SEC. 1044. **TESTIMONY CONFINED TO PERSONAL KNOWLEDGE.**—A witness can testify of those facts only which he knows of his own knowledge; that is, which are derived from his own perceptions, except in those few express cases in which his opinions or inferences, or the declarations of others, are admissible.

Exceptions; opinion, hearsay.

Testimony under oath and in open court.

SEC. 1045. **TESTIMONY TO BE IN PRESENCE OF PERSONS AFFECTED.**—A witness can be heard only upon oath or affirmation, and upon a trial he can be heard only in the presence and subject to the examination of all the parties, if they choose to attend and examine.

Credibility of.

SEC. 1046. **WITNESS PRESUMED TO SPEAK THE TRUTH.**—A witness is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies, by the character of his testimony, or by evidence affecting his character for truth, honesty, or integrity, or his motives, or by contradictory evidence; and the jury are the exclusive judges of his credibility.

Rights of party not affected by act of another.

SEC. 1047. **RIGHTS OF ONE PERSON NOT AFFECTED BY ACT OF ANOTHER.**—The rights of a party can not be prejudiced by the declaration, act, or omission of another, except by virtue of a particular relation between them; therefore, proceedings against one can not affect another.

Declarations of predecessor in title.

SEC. 1048. **DECLARATIONS OF PREDECESSOR IN TITLE EVIDENCE.**—Where, however, one derives title to real property from another, the

declaration, act, or omission of the latter, while holding the title, in relation to the property, is evidence against the former.

SEC. 1049. DECLARATIONS WHICH ARE A PART OF THE TRANSACTION.—Where, also, the declaration, act, or omission forms part of a transaction, which is itself the fact in dispute, or evidence of that fact, such declaration, act, or omission is evidence, as part of the transaction.

Declarations a part of transaction.

SEC. 1050. EVIDENCE RELATING TO THIRD PERSON.—And where the question in dispute between the parties is the obligation or duty of a third person, whatever would be the evidence for or against such person is prima facie evidence between the parties.

Relating to third person.

SEC. 1051. DECLARATION OF DECEDENT EVIDENCE OF PEDIGREE.—The declaration, act, or omission of a member of a family who is a decedent, or out of the jurisdiction, is also admissible as evidence of common reputation, in cases where, on questions of pedigree, such reputation is admissible.

Pedigree, declaration of decedent.

SEC. 1052. DECLARATION OF DECEDENT EVIDENCE AGAINST HIS SUCCESSOR IN INTEREST.—The declaration, act, or omission of a decedent, having sufficient knowledge of the subject, against his pecuniary interest, is also admissible as evidence to that extent against his successor in interest.

Against interest.

SEC. 1053. WHEN PART OF A TRANSACTION PROVED, THE WHOLE IS ADMISSIBLE.—When part of an act, declaration, conversation, or writing is given in evidence by one party, the whole on the same subject may be inquired into by the other; when a letter is read, the answer may be given; and when a detached act, declaration, conversation, or writing is given in evidence, any other act, declaration, conversation, or writing, which is necessary to make it understood, may also be given in evidence.

When part of transaction proved, whole is admissible.

SEC. 1054. CONTENTS OF WRITING, HOW PROVED.—There can be no evidence of the contents of a writing, other than the writing itself, except in the following cases:

Proof of writing.

1. When the original has been lost or destroyed; in which case proof of the loss or destruction must first be made.

"Best evidence available."

2. When the original is in possession of the party against whom the evidence is offered, and he fails to produce it after reasonable notice.

3. When the original is a record or other document in the custody of a public officer.

4. When the original has been recorded, and a certified copy of the record is made evidence by this code or other statute.

5. When the original consists of numerous accounts or other documents, which can not be examined in court without great loss of time, and the evidence sought from them is only the general result of the whole.

In the cases mentioned in subdivisions three and four, a copy of the original, or of the record, must be produced; in those mentioned in subdivisions one and two, either a copy or oral evidence of the contents.

SEC. 1055. PROOF OF CONTENTS OF LOST PUBLIC RECORD OR DOCUMENT; ABSTRACT OF TITLE MAY BE ADMITTED IN EVIDENCE.—When, in any action, it is desired to prove the contents of any public record or document lost or destroyed by conflagration or other public calamity and after proof of such loss or destruction, there is offered in proof of such contents (a) any abstract of title made and issued and certified as correct prior to such loss or destruction, and purporting to have been prepared and made in the ordinary course of business by any person, firm or corporation engaged in the business of preparing and making abstracts of title prior to such loss or destruction;

Lost public record or document.

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| Abstract of title. | (b) any abstract of title, or of any instrument affecting title, made, issued and certified as correct by any person, firm, or corporation engaged in the business of insuring titles or issuing abstracts of title, to real estate whether the same was made, issued, or certified before or after such loss or destruction and whether the same was made from the original records or from abstracts and notes, or either, taken from such records in the preparation and upkeeping of its, or his, plant in the ordinary course of its business, the same may, without further proof, be admitted in evidence for the purpose aforesaid. |
| Proof of loss. | No proof of the loss of the original document or instrument shall be required other than the fact that the same is not known to the party desiring to prove its contents to be in existence: <i>Provided, nevertheless,</i> That any party so desiring to use said evidence shall give reasonable notice in writing to all other parties to the action who have appeared therein, of his intention to use the same at the trial of said action, and shall give all such other parties a reasonable opportunity to inspect the same, and also the abstracts, memoranda, or notes from which it was compiled, and to take copies thereof. |
| Proviso. Notice to adverse party. | SEC. 1056. AN AGREEMENT REDUCED TO WRITING DEEMED THE WHOLE.—When the terms of an agreement have been reduced to writing by the parties, it is to be considered as containing all those terms, and therefore there can be between the parties and their representatives, or successors in interest, no evidence of the terms of the agreement other than the contents of the writing, except in the following cases: 1. Where a mistake or imperfection of the writing is put in issue by the pleadings; 2. Where the validity of the agreement is the fact in dispute. |
| Written instrument incontrovertible by parole. | But this section does not exclude other evidence of the circumstances under which the agreement was made or to which it relates, as defined in section 1060, or to explain an extrinsic ambiguity, or to establish illegality or fraud. The term agreement includes deeds and wills, as well as contracts between parties. |
| Exceptions. | SEC. 1057. CONSTRUCTION OF LANGUAGE RELATES TO PLACE WHERE USED.—The language of a writing is to be interpreted according to the meaning it bears in the place of its execution, unless the parties have reference to a different place. |
| Attendant circumstances, ambiguity, etc. | SEC. 1058.—CONSTRUCTION OF STATUTES AND INSTRUMENTS, GENERAL RULE.—In the construction of a statute or instrument, the office of the judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all. |
| Construction of language. | SEC. 1059. THE INTENTION OF THE LEGISLATURE OR PARTIES.—In the construction of a statute the intention of the legislature, and in the construction of the instrument the intention of the parties, is to be pursued, if possible; and when a general and a particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it. |
| Of statutes and instruments. | SEC. 1060. THE CIRCUMSTANCES TO BE CONSIDERED.—For the proper construction of an instrument, the circumstances under which it was made, including the situation of the subject of the instrument, and of the parties to it, may also be shown, so that the judge be placed in the position of those whose language he is to interpret. |
| Intention of legislature or parties to govern. | SEC. 1061. TERMS TO BE CONSTRUED IN THEIR GENERAL ACCEPTATION.—The terms of a writing are presumed to have been used in their primary and general acceptance, but evidence is nevertheless |
| Attendant circumstances. | |
| Terms to be construed generally. | |

admissible that they have a local, technical, or otherwise peculiar signification, and were so used and understood in the particular instance, in which case the agreement must be construed accordingly.

SEC. 1062. WRITTEN WORDS CONTROL THOSE PRINTED IN A BLANK FORM.—When an instrument consists partly of written words and partly of a printed form, and the two are inconsistent, the former controls the latter.

SEC. 1063. PERSONS SKILLED MAY TESTIFY, TO DECIPHER CHARACTERS.—When the characters in which an instrument is written are difficult to be deciphered, or the language of the instrument is not understood by the court, the evidence of persons skilled in deciphering the characters, or who understand the language, is admissible to declare the characters or the meaning of the language.

SEC. 1064. OF TWO CONSTRUCTIONS, WHICH PREFERRED.—When the terms of an agreement have been intended in a different sense by the different parties to it, that sense is to prevail against either party in which he supposed the other understood it, and when different constructions of a provision are otherwise equally proper, that is to be taken which is most favorable to the party in whose favor the provision was made.

SEC. 1065. A WRITTEN INSTRUMENT CONSTRUED AS UNDERSTOOD BY PARTIES.—A written notice, as well as every other writing, is to be construed according to the ordinary acceptance of its terms. Thus a notice to the drawers or indorsers of a bill of exchange or promissory note, that it has been protested for want of acceptance or payment, must be held to import that the same has been duly presented for acceptance or payment and the same refused, and that the holder looks for payment to the person to whom the notice is given.

SEC. 1066. CONSTRUCTION IN FAVOR OF NATURAL RIGHT PREFERRED.—When a statute or instrument is equally susceptible of two interpretations, one in favor of natural right, and the other against it, the former is to be adopted.

SEC. 1067. MATERIAL ALLEGATION ONLY TO BE PROVED.—None but a material allegation need be proved.

SEC. 1068. EVIDENCE CONFINED TO MATERIAL ALLEGATION.—Evidence must correspond with the substance of the material allegations and be relevant to the question in dispute. Collateral questions must therefore be avoided. It is, however, within the discretion of the court to permit inquiry into collateral fact, when such fact is directly connected with the question in dispute, and is essential to its proper determination or when it affects the credibility of a witness.

SEC. 1069. AFFIRMATIVE ONLY TO BE PROVED.—Each party must prove his own affirmative allegations. Evidence need not be given in support of a negative allegation, except when such negative allegation is an essential part of the statement of the right or title on which the cause of action or defense is founded, nor even in such case when the allegation is a denial of the existence of a document, the custody of which belongs to the opposite party.

SEC. 1070. FACTS WHICH MAY BE PROVED ON TRIAL.—In conformity with the preceding provisions, evidence may be given upon a trial of the following facts:

1. The precise fact in dispute;
2. The act, declaration, or omission of a party, as evidence against such party;
3. An act or declaration of another, in the presence and within the observation of a party, and his conduct in relation thereto;

Technical, etc., words.

Written words to govern print.

Translators, etc.

Preference in construction.

As understood by parties.

In favor of natural right.

Material allegation, only, to be proved.

Evidence confined to.

Affirmative allegations.

Facts provable on trial.

Fact in dispute.

Admissions against interest.

Acts of another in presence, etc., of party.

Dying declarations,
etc.

4. The act or declaration, verbal or written, of a deceased person in respect to the relationship, birth, marriage, or death of any person related by blood or marriage to such deceased person; the act or declaration of a deceased person done or made against his interest in respect to his real property; and also in criminal actions, the act or declaration of a dying person, made under a sense of impending death, respecting the cause of his death;

Acts, etc., of partner,
etc.

5. After proof of a partnership or agency, the act or declaration of a partner or agent of the party, within the scope of the partnership or agency, and during its existence. The same rule applies to the act or declaration of a joint owner, joint debtor, or other person jointly interested with the party;

Conspiracies.

6. After proof of a conspiracy, the act or declaration of a conspirator against his co-conspirator, and relating to the conspiracy;

Acts, etc., forming
part of transaction.
Ante, p. 1095.

7. The act, declaration, or omission forming part of a transaction as explained in section 1049;

Testimony of de-
ceased, etc., persons.

8. The testimony of a witness deceased, or out of the jurisdiction, or unable to testify, given in a former action between the same parties, relating to the same matter;

Expert testimony.

9. The opinion of a witness respecting the identity or handwriting of a person, when he has knowledge of the person or handwriting; his opinion on a question of science, art, or trade, when he is skilled therein;

Opinion, as to sanity.

10. The opinion of a subscribing witness to a writing, the validity of which is in dispute, respecting the mental sanity of the signer; and the opinion of an intimate acquaintance respecting the mental sanity of a person, the reason for the opinion being given;

Ancient documents,
etc.

11. Common reputation existing previous to the controversy, respecting facts of a public or general interest more than thirty years old, and in cases of pedigree and boundary;

Usage.

12. Usage, to explain the true character of an act, contract, or instrument, where such true character is not otherwise plain; but usage is never admissible, except as an instrument of interpretation;

Monuments, inscrip-
tions, family records,
etc.

13. Monuments and inscriptions in public places, as evidence of common reputation; and entries in family Bibles, or other family books or charts; engravings on rings, family portraits, and the like, as evidence of pedigree;

Parole, of writing,
when admissible.

14. The contents of a writing, when oral evidence thereof is admissible;

Indirect.

15. Any other facts from which the facts in issue are presumed or are logically inferable;

Common reputation.
Ante, p. 1094.

16. Such facts as serve to show the credibility of a witness, as explained in section 1046.

Kinds and degrees.

KINDS AND DEGREES OF EVIDENCE

Knowledge of the
court.

KNOWLEDGE OF THE COURT

Judicial notice.

SEC. 1071. CERTAIN FACTS OF GENERAL NOTORIETY ASSUMED TO BE TRUE; SPECIFICATION OF SUCH FACTS.—Courts take judicial notice of the following facts:

1. The true signification of all English words and phrases, and of all legal expressions;

2. Whatever is established by law;

3. Public and private official acts of the legislative, executive, and judicial departments of the United States;

4. The seals of all the courts of the Canal Zone and of the United States;

5. The accession to office and the official signatures and seals of office of the principal officers of government in the legislative, executive, and judicial departments of the United States;

6. The existence, title, national flag, and seal of every state or sovereign recognized by the executive power of the United States;

7. The seals of courts of admiralty and maritime jurisdiction, and of notaries public;

8. The laws of nature, the measure of time, and the geographical divisions and political history of the world.

In all these cases the court may resort for its aid to appropriate books or documents of reference.

WITNESSES

Witnesses.

SEC. 1072. WITNESSES DEFINED.—A witness is a person whose declaration under oath is received as evidence for any purpose, whether such declaration be made on oral examination, or by deposition or affidavit.

Defined.

SEC. 1073. ALL PERSONS CAPABLE OF PERCEPTION AND COMMUNICATION MAY BE WITNESSES.—All persons, without exception, otherwise than is specified in the next two sections, who, having organs of sense, can perceive, and, perceiving, can make known their perceptions to others, may be witnesses. Therefore, neither parties nor other persons who have an interest in the event of an action or proceeding are excluded; nor those who have been convicted of crime; nor persons on account of their opinions on matters of religious belief; although, in every case the credibility of the witness may be drawn in question, as provided in section 1046.

Capacity.

Ante, p. 1094.

SEC. 1074. PERSONS WHO CAN NOT TESTIFY.—The following persons can not be witnesses:

Persons who can not testify.

1. Those who are of unsound mind at the time of their production for examination.

2. Children under ten years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

3. Parties or assignors of parties to an action or proceeding, or persons in whose behalf an action or proceeding is prosecuted, against an executor or administrator upon a claim, or demand against the estate of a deceased person, as to any matter or fact occurring before the death of such deceased person.

SEC. 1075. CASES IN WHICH WITNESSES MAY NOT BE EXAMINED.—There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person can not be examined as a witness in the following cases:

Who may not be examined.

1. HUSBAND AND WIFE.—A husband can not be examined for or against his wife without her consent; nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other; or in an action brought by husband or wife against another person for the alienation of the affections of either husband or wife or in an action for damages against another person for adultery committed by either husband or wife.

Husband and wife.

Exceptions.

2. ATTORNEY AND CLIENT.—An attorney can not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of profes-

Attorney and client.

sional employment; nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of his employer, concerning any fact the knowledge of which has been acquired in such capacity.

Confessor and confessant.

3. CONFESSOR AND CONFESSANT.—A clergyman or priest can not, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

Physician and patient.

4. PHYSICIAN AND PATIENT.—A licensed physician or surgeon can not, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient: *Provided, however,* That after the death of the patient, the executor of his will, or the administrator of his estate, or the surviving spouse of the deceased, or, if there be no surviving spouse, the children, of the deceased personally, or, if minors, by their guardian, may give such consent, in any action or proceeding brought to recover damages on account of the death of the patient: *Provided further,* That where any person brings an action to recover damages for personal injuries, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said person and whose testimony is material in said action shall testify: *And provided further,* That the bringing of an action to recover for the death of a patient, by the executor of his will, or by the administrator of his estate, or by the surviving spouse of the deceased, or if there be no surviving spouse, by the children personally, or, if minors, by their guardian, shall constitute a consent by such executor, administrator, surviving spouse, or children or guardian, to the testimony of any physician who attended said deceased.

Provisos. Concerning injury causing death of patient, upon consent of representative of estate.

When injured party brings action thereon.

Action by representative for death.

Public officer.

5. PUBLIC OFFICER.—A public officer can not be examined as to communications made to him in official confidence, when the public interest would suffer by the disclosure.

Judge and jurors eligible as.

SEC. 1076. JUDGE OR A JUROR MAY BE A WITNESS.—The judge himself, or any juror, may be called as a witness by either party; but in such case it is in the discretion of the court or judge to order the trial to be postponed or suspended, and to take place before another judge or jury.

Interpreter.

SEC. 1077. WHEN AN INTERPRETER TO BE SWORN.—When a witness does not understand and speak the English language, an interpreter must be sworn to interpret for him. Any person, a resident of the proper division or subdivision, may be summoned by any court or judge to appear before such court or judge to act as interpreter in any action or proceeding. The summons must be served and returned in like manner as a subpoena. Any person so summoned who fails to attend at the time and place named in the summons, is guilty of a contempt.

Writings.

WRITINGS IN GENERAL

Public and private.

SEC. 1078. WRITINGS, PUBLIC AND PRIVATE.—Writings are of two kinds:

1. Public; and,
2. Private.

"Public" defined.

SEC. 1079. PUBLIC WRITINGS DEFINED.—Public writings are:

1. The written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative,

judicial, and executive, whether of the Canal Zone, of the United States, of a State of the United States, or of a foreign country;

2. Public records, kept in the Canal Zone, of private writings.

SEC. 1080. ALL OTHERS PRIVATE.—All other writings are private.

"Private."

PUBLIC WRITINGS

Public writings.

SEC. 1082. PUBLIC OFFICERS BOUND TO GIVE COPIES.—Every public officer having the custody of a public writing, which a citizen has a right to inspect, is bound to give him, on demand, a certified copy of it, on payment of the legal fees therefor, and such copy is admissible as evidence in like cases and with like effect as the original writing.

Officers bound to give copies.

SEC. 1083. FOUR KINDS OF PUBLIC WRITINGS.—Public writings are divided into four classes:

Divisions.

1. Laws;

2. Judicial records;

3. Other official documents;

4. Public records, kept in the Canal Zone, of private writings.

Definitions.

SEC. 1084. WRITTEN LAWS DEFINED.—A written law is that which is promulgated in writing, and of which a record is in existence.

"Written laws."

SEC. 1085. PUBLIC AND PRIVATE STATUTES DEFINED.—Statutes are public or private. A private statute is one which concerns only certain designated individuals, and affects only their private rights. All other statutes are public, in which are included statutes creating or affecting corporations.

"Public and private statutes."

SEC. 1086. UNWRITTEN LAW DEFINED.—Unwritten law is the law not promulgated and recorded, as mentioned in section 1084, but which is, nevertheless, observed and administered in the courts of the United States. It has no certain repository, but is collected from the reports of the decisions of the courts, and the treatises of learned men.

"Unwritten law."

SEC. 1087. BOOKS CONTAINING LAWS PRESUMED TO BE CORRECT.—Books printed or published under the authority of a state or foreign country, and purporting to contain the statutes, code, or other written law of such state or country, or proved to be commonly admitted in the tribunals of such state or country as evidence of the written law thereof, are admissible in the Canal Zone as evidence of such law.

Books containing laws presumed correct.

SEC. 1088. EVIDENCE OF FOREIGN LAW.—A copy of the written law or other public writing of any state or country, attested by the certificate of the officer having charge of the original, under the public seal of the state or country, is admissible as evidence of such law or writing.

Foreign laws, copies.

SEC. 1089. OTHER EVIDENCE OF LAWS OF STATES.—The oral testimony of witnesses skilled therein is admissible as evidence of the unwritten law of a state or foreign country, as are also printed and published books of reports of decisions of the courts of such state or country, or proved to be commonly admitted in such courts.

Oral testimony by experts.

SEC. 1090. RECITALS IN STATUTES, HOW FAR EVIDENCE.—The recitals in a public statute are conclusive evidence of the facts recited for the purpose of carrying it into effect, but no further. The recitals in a private statute are conclusive evidence between parties who claim under its provisions, but no further.

Recitals in statutes.

SEC. 1091. JUDICIAL RECORD DEFINED.—A judicial record is the record or official entry of the proceedings in a court of justice, or of the official act of a judicial officer, in an action or special proceeding.

"Judicial record" defined.

SEC. 1092. RECORD, HOW AUTHENTICATED AS EVIDENCE.—A judicial record of the Canal Zone, or of the United States, may be proved

Authentication of.

by the production of the original, or by a copy thereof, certified by the clerk or other person having a legal custody thereof. That of a state may be proved by the attestation of the clerk and the seal of the court annexed, if there be a clerk and seal, together with a certificate of the chief judge or presiding magistrate, that the attestation is in due form.

Authentication of foreign judicial record.

SEC. 1093. RECORD OF A FOREIGN COUNTRY, HOW AUTHENTICATED.—A judicial record of a foreign country may be proved by the attestation of the clerk, with the seal of the court annexed, if there be a clerk and a seal, or of the legal keeper of the record, with the seal of his office annexed, if there be a seal, together with a certificate of the chief judge, or presiding magistrate, that the person making the attestation is the clerk of the court or the legal keeper of the record, and, in either case, that the signature of such person is genuine, and that the attestation is in due form. The signature of the chief judge or presiding magistrate must be authenticated by the certificate of the minister or ambassador, or a consul, vice consul, or consular agent of the United States in such foreign country.

Unauthenticated copy.

SEC. 1094. COPY OF A FOREIGN RECORD, WHEN EVIDENCE.—A copy of the judicial record of a foreign country is also admissible in evidence, upon proof:

1. That the copy offered has been compared by the witness with the original, and is an exact transcript of the whole of it;

2. That such original was in the custody of the clerk of the court or other legal keeper of the same; and

3. That the copy is duly attested by a seal which is proved to be the seal of the court where the record remains, if it be the record of a court; or if there be no such seal, or if it be not a record of a court, by the signature of the legal keeper of the original.

Effect of judgment upon rights.

SEC. 1095. EFFECT OF A JUDGMENT UPON RIGHTS IN VARIOUS CASES.—The effect of a judgment or final order in an action or special proceeding before a court or judge of the Canal Zone, is as follows:

1. In case of a judgment or order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a decedent, or in respect to the personal, political, or legal condition or relation of a particular person, the judgment or order is conclusive upon the title to the thing, the will, or administration, or the condition or relation of the person.

2. In other cases, the judgment or order is, in respect to the matter directly adjudged, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing under the same title and in the same capacity, provided they have notice, actual or constructive, of the pendency of the action or proceeding.

Other judicial orders.

SEC. 1096. EFFECT OF OTHER JUDICIAL ORDERS, WHEN CONCLUSIVE.—Other judicial orders of a court or judge of the Canal Zone, create a disputable presumption, according to the matter directly determined, between the same parties and their representatives and successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing under the same title and in the same capacity.

Where parties deemed the same.

SEC. 1097. WHERE PARTIES ARE TO BE DEEMED THE SAME.—The parties are deemed to be the same when those between whom the evidence is offered were on opposite sides in the former case, and a judgment or other determination could in that case have been made between them alone, though other parties were joined with both or either.

SEC. 1098. WHAT DEEMED ADJUDGED IN A JUDGMENT.—That only is deemed to have been adjudged in a former judgment which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

What deemed adjudged in judgment.

SEC. 1099. WHERE SURETIES BOUND, PRINCIPAL IS ALSO.—Whenever, pursuant to the last four sections, a party is bound by a record, and such party stands in the relation of a surety for another, the latter is also bound from the time that he has notice of the action or proceeding, and an opportunity at the surety's request to join in the defense.

Principal bound when sureties are.

SEC. 1100. RECORD OF STATE, ITS EFFECT.—The effect of a judicial record of a state is the same in the Canal Zone as in the state where it was made, except that it can only be enforced here by an action or special proceeding, and except, also, that the authority of a guardian or committee, or of an executor or administrator, does not extend beyond the jurisdiction of the government under which he was invested with his authority.

Effect of judicial record of State.

SEC. 1101. RECORD OF A COURT OF ADMIRALTY.—The effect of the judicial record of a court of admiralty of a foreign country is the same as if it were the record of a court of admiralty of the United States.

Court of admiralty.

SEC. 1102. EFFECT OF A FOREIGN JUDGMENT.—A final judgment of any other tribunal of a foreign country having jurisdiction, according to the laws of such country, to pronounce the judgment, shall have the same effect as in the country where rendered, and also the same effect as final judgments rendered in the Canal Zone.

Foreign judgment.

SEC. 1103. MANNER OF IMPEACHING A RECORD.—Any judicial record may be impeached by evidence of a want of jurisdiction in the court or judicial officer, of collusion between the parties, or of fraud in the party offering the record, in respect to the proceedings.

Impeachment of record.

SEC. 1104. THE JURISDICTION NECESSARY IN A JUDGMENT.—The jurisdiction sufficient to sustain a record is jurisdiction over the cause, over the parties, and over the thing, when a specific thing is the subject of the judgment.

Jurisdiction necessary to sustain a judgment.

SEC. 1105. MANNER OF PROVING OTHER OFFICIAL DOCUMENTS.—Other official documents may be proved, as follows:

Proof of other official documents.

1. Acts of the executive of the Canal Zone, by the records of his office; and of the United States, by the records of the state department of the United States, certified by the heads of those departments, respectively. They may also be proved by public documents printed by order of the executive or Congress, or either house thereof.

Acts of executives of Canal Zone and United States.

2. The proceedings of Congress, by the journals of that body, or either house thereof, or by published statutes or resolutions, or by copies certified by the clerk or printed by their order.

Proceedings of Congress.

3. The acts of the executive, or the proceedings of the legislature of a state, in the same manner.

Executive and legislature of States.

4. The acts of the executive, or the proceedings of the legislature of a foreign country, by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some public act of the executive of the United States.

Of foreign country.

5. Documents of any other class in the Canal Zone, by the original, or by a copy, certified by the legal keeper thereof.

Other documents, Canal Zone.

6. Documents of any other class in a State, by the original, or by a copy, certified by the legal keeper thereof, together with the certificate of the secretary of state, judge of the supreme, superior, or county court, or mayor of a city of such State, that the copy is duly certified by the officer having the legal custody of the original.

States.

- Foreign country. 7. Documents of any other class in a foreign country, by the original, or by a copy, certified by the legal keeper thereof, with a certificate, under seal, of the country or sovereign, that the document is a valid and subsisting document of such country, and the copy is duly certified by the officer having the legal custody of the original.
- Departments, United States Government. 8. Documents in the departments of the United States Government, by the certificates of the legal custodian thereof.
- Public record of private writing. SEC. 1106. PUBLIC RECORD OF PRIVATE WRITING EVIDENCE.—A public record of a private writing may be proved by the original record, or by a copy thereof, certified by the legal keeper of the record.
- Entries in official books, prima facie evidence. SEC. 1107. ENTRIES IN OFFICIAL BOOKS PRIMA FACIE EVIDENCE.—Entries in public or other official books or records made in the performance of his duty by a public officer of the Canal Zone, or by another person in the performance of a duty specially enjoined by law, are prima facie evidence of the facts stated therein.
- Judgments of State justices. SEC. 1108. JUSTICE'S JUDGMENT IN STATES, HOW PROVED.—A transcript from the record or docket of a justice of the peace of a State, of a judgment rendered by him, of the proceedings in the action before the judgment, of the execution and return, if any, subscribed by the justice and verified in the manner prescribed in the next section is admissible evidence of the facts stated therein.
- Additional certifications. SEC. 1109. SAME.—There must be attached to the transcript a certificate of the justice that the transcript is in all respects correct, and that he had jurisdiction of the action, and also a further certificate of the clerk or prothonotary of the county in which the justice resided at the time of rendering the judgment, under the seal of the county, or the seal of the court of common pleas or county court thereof, certifying that the person subscribing the transcript was, at the date of the judgment, a justice of the peace in the county, and that the signature is genuine. Such judgment, proceedings, and jurisdiction may also be proved by the justice himself, on the production of his docket, or by a copy of the judgment, and his oral examination as a witness.
- Other official certificates. SEC. 1110. CONTENTS OF OTHER OFFICIAL CERTIFICATES.—Whenever a copy of a writing is certified for the purpose of evidence, the certificate must state in substance that the copy is a correct copy of the original, or of a specified part thereof, as the case may be. The certificate must be under the official seal of the certifying officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.
- Provisions with respect to States to apply to United States and Territories. SEC. 1111. PROVISIONS IN RELATION TO PUBLIC WRITINGS OF STATES APPLY TO THOSE OF UNITED STATES OR TERRITORIES.—The provisions of the preceding sections of this subchapter applicable to the public writings of a state, are equally applicable to the public writings of the United States or a Territory of the United States.
- Entries of officers or boards prima facie evidence. SEC. 1112. ENTRIES MADE BY OFFICERS OR BOARDS PRIMA FACIE EVIDENCE.—An entry made by an officer, or board of officers, or under the direction and in the presence of either, in the course of official duty, is prima facie evidence of the facts stated in such entry.
- Deed as evidence of transfer. SEC. 1113. DEED EVIDENCE OF TRANSFER.—A deed of conveyance of real property, purporting to have been executed by a proper officer in pursuance of legal process of the district court, or the record of such deed, or a certified copy of such record is prima facie evidence that the property or interest therein described was thereby conveyed to the grantee named in such deed.

PRIVATE WRITINGS

Private writings.

SEC. 1114. PRIVATE WRITINGS CLASSIFIED.—Private writings are either:

Classified.

1. Sealed; or,
2. Unsealed.

SEC. 1115. SEAL DEFINED.—A seal is a particular sign made to attest, in the most formal manner, the execution of an instrument.

"Seal" defined.

SEC. 1116. SEAL, WHAT IS, AND HOW MADE.—A public seal in the Canal Zone is a stamp or impression made by a public officer with an instrument provided by law, to attest the execution of an official or public document, upon the paper, or upon any substance attached to the paper, which is capable of receiving a visible impression. A private seal may be made in the same manner by any instrument, or it may be made by the scroll of a pen, or by writing the word "seal" against the signature of the writer. A scroll or other sign, made in a state or foreign country, and there recognized as a seal, must be so regarded in the Canal Zone.

How made.

SEC. 1117. EFFECT OF A SEAL.—There shall be no difference hereafter, in the Canal Zone, between sealed and unsealed writings. A writing under seal may therefore be changed, or altogether discharged by a writing not under seal.

Effect.

SEC. 1118. EXECUTION OF AN INSTRUMENT DEFINED.—The execution of an instrument is the subscribing and delivering it, with or without affixing a seal.

"Execution of instrument" defined.

SEC. 1119. COMPROMISE OF A DEBT WITHOUT SEAL GOOD.—An agreement, in writing, without a seal, for the compromise or settlement of a debt, is as obligatory as if a seal were affixed.

Compromise of debt without seal good.

SEC. 1120. SUBSCRIBING WITNESS DEFINED.—A subscribing witness is one who sees a writing executed or hears it acknowledged, and at the request of the party thereupon signs his name as a witness.

"Subscribing witness."

SEC. 1121. BOOKS, MAPS, AND SO FORTH, HOW FAR EVIDENCE.—Historical works, books of science or art, and published maps or charts, when made by persons indifferent between the parties, are prima facie evidence of facts of general notoriety and interest.

Evidentiary value of books, maps, etc.

SEC. 1122. ORIGINAL WRITING TO BE PRODUCED OR ACCOUNTED FOR.—The original writing must be produced and proved, except as provided in sections 1054 and 1106. If it has been lost, proof of the loss must first be made before evidence can be given of its contents. Upon such proof being made, together with proof of the due execution of the writing, its contents may be proved by a copy, or by recital of its contents in some authentic document, or by the recollection of a witness, as provided in section 1054.

Production of original writing. Exceptions. *Ante*, pp. 1093, 1104.

SEC. 1123. WHEN IN POSSESSION OF ADVERSE PARTY, NOTICE TO BE GIVEN.—If the writing be in the custody of the adverse party, he must first have reasonable notice to produce it. If he then fail to do so, the contents of the writing may be proved as in case of its loss. But the notice to produce it is not necessary where the writing is itself a notice, or where it has been wrongfully obtained or withheld by the adverse party.

Writing in hands of adverse party, notice to produce.

SEC. 1124. WRITINGS CALLED FOR AND INSPECTED MAY BE WITHHELD.—Though a writing called for by one party is produced by the other, and is thereupon inspected by the party calling for it, he is not obliged to produce it as evidence in the case.

May be withheld.

SEC. 1125. WRITING, HOW PROVED.—Any writing may be proved either:

Proof of writing.

1. By anyone who saw the writing executed; or,
2. By evidence of the genuineness of the handwriting of the maker; or,

3. By a subscribing witness.

Further proof of.

SEC. 1126. OTHER WITNESSES MAY ALSO TESTIFY.—If the subscribing witness denies or does not recollect the execution of the writing, its execution may still be proved by other evidence.

When evidence of execution not necessary.

SEC. 1127. WHEN EVIDENCE OF EXECUTION NOT NECESSARY.—Where, however, evidence is given that the party against whom the writing is offered has at any time admitted its execution no other evidence of the execution need be given, when the instrument is one mentioned in section 1130, or one produced from the custody of the adverse party, and has been acted upon by him as genuine.

Proof of handwriting, by party familiar.

SEC. 1128. EVIDENCE OF HANDWRITING.—The handwriting of a person may proved¹ by any one who believes it to be his, and who has seen him write, or has seen writings purporting to be his, upon which he has acted or been charged, and who has thus acquired a knowledge of his handwriting.

By comparison.

SEC. 1129. EVIDENCE OF HANDWRITING BY COMPARISON.—Evidence respecting the handwriting may also be given by a comparison, made by the witness or the jury, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge.

Ancient writings.

SEC. 1130. SAME; WHEN WRITING MORE THAN THIRTY YEARS OLD.—Where a writing is more than thirty years old, the comparisons may be made with writings purporting to be genuine, and generally respected and acted upon as such, by persons having an interest in knowing the fact.

Entries of decedents.

SEC. 1131. ENTRIES OF DECEDENTS; EVIDENCE IN SPECIFIED CASES.—The entries and other writings of a decedent, made at or near the time of the transaction, and in a position to know the facts stated therein, may be read as prima facie evidence of the facts stated therein, in the following cases:

Against interest.

1. When the entry was made against the interest of the person making it.

Professional capacity.

2. When it was made in a professional capacity and in the ordinary course of professional conduct.

In performance of legal duty.

3. When it was made in the performance of a duty specially enjoined by law.

Copies of entries.

SEC. 1132. COPIES OF ENTRIES ALSO ALLOWED.—When an entry is repeated in the regular course of business, one being copied from another at or near the time of the transaction, all the entries are equally regarded as originals.

Proof of private writings.

SEC. 1133. PRIVATE WRITINGS, HOW PROVED.—Every private writing, except last wills and testaments, may be acknowledged or proved and certified in the manner provided in chapter 22 of the Civil Code, and the certificate of such acknowledgement or proof is prima facie evidence of the execution of the writing, in the same manner as if it were a conveyance of real property.

Post, p. 1164.

Removal of public records.

SEC. 1134. REMOVAL OF PUBLIC RECORDS.—The record of a conveyance of real property, or any other record, a transcript of which is admissible in evidence, must not be removed from the office where it is kept, except upon the order of a court, in cases where the inspection of the record is shown to be essential to the just determination of the cause or proceeding pending, or where the court is held in the same building with such office.

Instruments conveying real property admissible.

SEC. 1135. INSTRUMENT CONVEYING OR AFFECTING REAL PROPERTY MAY BE READ IN EVIDENCE.—Every instrument conveying or affecting real property, acknowledged or proved and certified, as provided in the Civil Code, may together with the certificate of acknowledg-

¹ So in original.

ment or proof, be read in evidence in an action or proceeding, without further proof; also, the original record of such conveyance or instrument thus acknowledged or proved, or a certified copy of the record of such conveyance or instrument thus acknowledged or proved, may be read in evidence, with the like effect as the original instrument, without further proof.

MATERIAL OBJECTS PRESENTED TO THE SENSES OTHER THAN WRITINGS

Material objects other than writing.

Admissible.

SEC. 1136. MATERIAL OBJECTS.—Whenever an object, cognizable by the senses, has such a relation to the fact in dispute as to afford reasonable grounds of belief respecting it, or to make an item in the sum of the evidence, such object may be exhibited to the jury, or its existence, situation, and character may be proved by witnesses. The admission of such evidence must be regulated by the sound discretion of the court.

INDIRECT EVIDENCE; INFERENCES AND PRESUMPTIONS

Indirect evidence; inferences and presumptions.

Indirect evidence classified.

SEC. 1137. INDIRECT EVIDENCE CLASSIFIED.—Indirect evidence is of two kinds:

1. Inferences; and,
2. Presumptions.

SEC. 1138. INFERENCE DEFINED.—An inference is a deduction which the reason of the jury makes from the facts proved, without an express direction of law to that effect.

SEC. 1139. PRESUMPTION DEFINED.—A presumption is a deduction which the law expressly directs to be made from particular facts.

SEC. 1140. WHEN AN INFERENCE ARISES.—An inference must be founded:

1. On a fact legally proved; and,
2. On such a deduction from that fact as is warranted by a consideration of the usual propensities or passions of men, the particular propensities or passions of the person whose act is in question, the course of business, or the course of nature.

SEC. 1141. PRESUMPTIONS MAY BE CONTROVERTED, WHEN.—A presumption (unless declared by law to be conclusive) may be controverted by other evidence, direct or indirect; but unless so controverted the jury are bound to find according to the presumption.

Presumption may be controverted, when.

SEC. 1142. SPECIFICATION OF CONCLUSIVE PRESUMPTIONS.—The following presumptions, and no others, are deemed conclusive:

Conclusive presumptions.

1. A malicious and guilty intent, from the deliberate commission of an unlawful act, for the purpose of injuring another;
2. The truth of the facts recited, from the recital in a written instrument between the parties thereto, or their successors in interest by a subsequent title; but this rule does not apply to the recital of a consideration;
3. Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he can not, in any litigation arising out of such declaration, act, or omission, be permitted to falsify it;
4. A tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation;
5. The issue of a wife cohabiting with her husband, who is not impotent, is indisputably presumed to be legitimate;
6. The judgment or order of a court, when declared by this code to be conclusive; but such judgment or order must be alleged in the pleadings if there be an opportunity to do so; if there be no such opportunity, the judgment or order may be used as evidence;

7. Any other presumption which, by statute, is expressly made conclusive.

Controvertible pre-
sumptions.

SEC. 1143. ALL OTHER PRESUMPTIONS MAY BE CONTROVERTED.—All other presumptions are satisfactory, if uncontradicted. They are denominated disputable presumptions, and may be controverted by other evidence. The following are of that kind:

1. That a person is innocent of crime or wrong;
2. That an unlawful act was done with an unlawful intent;
3. That a person intends the ordinary consequence of his voluntary act;
4. That a person takes ordinary care of his own concerns;
5. That evidence willfully suppressed would be adverse if produced;
6. That higher evidence would be adverse from inferior being produced;
7. That money paid by one to another was due to the latter;
8. That a thing delivered by one to another belonged to the latter;
9. That an obligation delivered up to the debtor has been paid;
10. That former rent or installments have been paid when a receipt for latter is produced;
11. That things which a person possesses are owned by him;
12. That a person is the owner of property from exercising acts of ownership over it, or from common reputation of his ownership;
13. That a person in possession of an order on himself for the payment of money, or the delivery of a thing, has paid the money or delivered the thing accordingly;
14. That a person acting in a public office was regularly appointed to it;
15. That official duty has been regularly performed;
16. That a court or judge, acting as such, whether in the Canal Zone or any state or country, was acting in the lawful exercise of his jurisdiction;
17. That a judicial record, when not conclusive, does still correctly determine or set forth the rights of the parties;
18. That all matters within an issue were laid before the jury and passed upon by them;
19. That private transactions have been fair and regular;
20. That the ordinary course of business has been followed;
21. That a promissory note or bill of exchange was given or indorsed for a sufficient consideration;
22. That an indorsement of a negotiable promissory note or bill of exchange was made at the time and place of making the note or bill;
23. That a writing is truly dated;
24. That a letter duly directed and mailed was received in the regular course of the mail;
25. Identity of person from identity of name;
26. That a person not heard from in seven years is dead;
27. That acquiescence followed from a belief that the thing acquiesced in was conformable to the right or fact;
28. That things have happened according to the ordinary course of nature and ordinary habits of life;
29. That persons acting as copartners have entered into a contract of copartnership;
30. That a man and woman deporting themselves as husband and wife have entered into a lawful contract of marriage;
31. That a child born in lawful wedlock is legitimate;

32. That a thing once proved to exist continues as long as is usual with things of that nature; Controvertible pre-
sumptions—Contd.

33. That the law has been obeyed;

34. That a document or writing more than thirty years old is genuine, when the same has been since generally acted upon as genuine, by persons having an interest in the question, and its custody has been satisfactorily explained;

35. That a printed and published book, purporting to be printed or published by public authority, was so printed or published;

36. That a printed and published book, purporting to contain reports of cases adjudged in the tribunals of the state or country where the book is published, contains correct reports of such cases;

37. That a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to him when such presumption is necessary to perfect the title of such person or his successor in interest;

38. That there was a good and sufficient consideration for a written contract;

39. When two persons perish in the same calamity, such as a wreck, a battle, or a conflagration, and it is not shown who died first, and there are no particular circumstances from which it can be inferred, survivorship is presumed from the probabilities resulting from the strength, age, and sex, according to the following rules:

First. If both of those who have perished were under the age of fifteen years, the older is presumed to have survived;

Second. If both were above the age of sixty, the younger is presumed to have survived;

Third. If one be under fifteen and the other above sixty, the former is presumed to have survived;

Fourth. If both be over fifteen and under sixty, and the sexes be different, the male is presumed to have survived; if the sexes be the same, then the older;

Fifth. If one be under fifteen, or over sixty, and the other between those ages, the latter is presumed to have survived.

INDISPENSABLE EVIDENCE

Indispensable evi-
dence.

What is.

SEC. 1144. INDISPENSABLE EVIDENCE, WHAT.—The law makes certain evidence necessary to the validity of particular acts, or the proof of particular facts.

SEC. 1145. TO PROVE PERJURY AND TREASON, MORE THAN ONE WITNESS REQUIRED.—Perjury and treason must be proved by testimony of more than one witness. Treason by the testimony of two witnesses to the same overt act; and perjury by the testimony of two witnesses, or one witness and corroborating circumstances. For perjury and trea-
son.

SEC. 1146. WILL TO BE IN WRITING.—A last will and testament, except a nuncupative will, is invalid, unless it be in writing and executed with such formalities as are required by law. When, therefore, such a will is to be shown, the instrument itself must be produced, or secondary evidence of its contents be given. For will.

SEC. 1147. WILL, HOW REVOKED.—A written will can not be revoked or altered otherwise than as provided in the Civil Code. For revocation of
will.
Post, p. 1167.

SEC. 1148. TRANSFER OF REAL PROPERTY TO BE IN WRITING.—No estate or interest in real property, other than for leases for a term not exceeding one year, nor any trust or power over or concerning it, or in any manner relating thereto, can be created, granted, assigned, surrendered, or declared, otherwise than by operation of law, or a conveyance or other instrument in writing, subscribed by Transfer of real prop-
erty.

the party creating, granting, assigning, surrendering, or declaring the same, or by his lawful agent thereunto authorized by writing.

Not to extend to testamentary disposition or trusts.

SEC. 1149. LAST SECTION NOT TO EXTEND TO CERTAIN CASES.—The preceding section must not be construed to affect the power of a testator in the disposition of his real property by a last will and testament, nor to prevent any trust from arising or being extinguished by implication or operation of law, nor to abridge the power of any court to compel the specific performance of an agreement, in case of part performance thereof.

Agreements not in writing.

SEC. 1150. AGREEMENT NOT IN WRITING, WHEN INVALID.—In the following cases the agreement is invalid, unless the same or some note or memorandum thereof be in writing, and subscribed by the party charged, or by his agent. Evidence, therefore, of the agreement, can not be received without the writing or secondary evidence of its contents:

1. An agreement that by its terms is not to be performed within a year from the making thereof;

2. A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in section 1265 of the Civil Code;

3. An agreement made upon consideration of marriage other than a mutual promise to marry;

4. A contract to sell or a sale of any goods or choses in action of the value of \$50 or upwards, unless the buyer accepts part of the goods or choses in action so contracted to be sold or sold, and actually receives the same, or gives something in earnest to bind the contract, or in part payment;

5. An agreement for the leasing for a longer period than one year, or for the sale of real property, or of an interest therein; and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged;

6. An agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission;

7. An agreement which by its terms is not to be performed during the lifetime of the promisor, or an agreement to devise or bequeath any property, or to make any provision for any person by will.

Representation of credit.

SEC. 1151. REPRESENTATION OF CREDIT BY WRITING.—No evidence is admissible to charge a person upon a representation as to the credit of a third person, unless such representation, or some memorandum thereof, be in writing, and either subscribed by or in the handwriting of the party to be charged.

Conclusive evidence.

CONCLUSIVE OR UNANSWERABLE EVIDENCE

When declared so herein.

SEC. 1152. CONCLUSIVE OR UNANSWERABLE EVIDENCE.—No evidence is by law made conclusive or unanswerable, unless so declared by this code.

Production of evidence.

PRODUCTION OF EVIDENCE

By whom.

BY WHOM TO BE PRODUCED

Party holding affirmative of issue.

SEC. 1153. EVIDENCE TO BE PRODUCED BY WHOM.—The party holding the affirmative of the issue must produce the evidence to prove it; therefore, the burden of proof lies on the party who would be defeated if no evidence were given on either side.

Alteration in writing.

SEC. 1154. WRITING ALTERED, WHO TO EXPLAIN.—The party producing a writing as genuine which has been altered, or appears to have been altered, after its execution, in a part material to the question in dispute, must account for the appearance or alteration. He

may show that the alteration was made by another, without his concurrence, or was made with the consent of the parties affected by it, or otherwise properly or innocently made, or that the alteration did not change the meaning or language of the instrument. If he do that, he may give the writing in evidence, but not otherwise.

MEANS OF PRODUCTION

SEC. 1155. SUBPŒNA FOR WITNESS DEFINED.—The process by which the attendance of a witness is required is a subpœna. It is a writ or order directed to a person and requiring his attendance at a particular time and place to testify as a witness. It may also require him to bring with him any books, documents, or other things under his control which he is bound by law to produce in evidence.

SEC. 1156. SUBPŒNA, HOW ISSUED.—A subpœna is issued as follows:
1. To require attendance before a court, or at the trial of an issue therein, or upon the taking of a deposition in an action or proceeding pending therein, it is issued by the clerk of the court in which the action or proceeding is pending, under the seal of the court, or if there is no clerk or seal then by the judge or magistrate of such court;

2. To require attendance before a commissioner appointed to take testimony by a court of a foreign country, or of the United States, or of any State in the United States, before any officer or officers empowered by the laws of the United States to take testimony, it may be issued by the clerk of the district court in the division in which the witness is to be examined, under the seal of such court;

3. To require attendance out of court, in cases not provided for in subdivision one, before a judge, magistrate, or other officer authorized to administer oaths or take testimony in any matter under the laws of the Canal Zone, it is issued by the judge, magistrate, or other officer before whom the attendance is required.

If the subpœna is issued to require attendance before a court, or at the trial of an issue therein, it is issued by the clerk, as of course, upon the application of the party desiring it. If it is issued to require attendance before a commissioner or other officer upon the taking of a deposition, it must be issued by the clerk of the district court in the division wherein the attendance is required upon the order of such court or of the judge thereof, which order may be made ex parte.

SEC. 1157. SUBPŒNA, HOW SERVED.—The service of a subpœna is made by showing the original and delivering a copy, or a ticket containing its substance, to the witness personally, giving or offering to him at the same time, if demanded by him, the fees to which he is entitled for travel to the place designated, and one day's attendance there. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. Such service may be made by any person.

SEC. 1158. HOW, IF WITNESS BE CONCEALED.—If a witness is concealed in a building or vessel, so as to prevent the service of a subpœna upon him, any court, judge, or magistrate or any officer issuing the subpœna may, upon proof by affidavit of the concealment, and of the materiality of the witness, make an order that the marshal or constable serve the subpœna; and the marshal or constable must serve it accordingly, and for that purpose may break into the building or vessel where the witness is concealed.

SEC. 1159. PERSON PRESENT COMPELLED TO TESTIFY.—A person present in court, or before a judicial officer, may be required to testify

Means of production.

Subpœna.

Subpœna duces tecum.

Purpose.

For attendance before a court.

Before commissioner.

Before judge, etc., out of court.

Issue of.

Service.

When witness concealed.

Persons present compelled to testify.

in the same manner as if he were in attendance upon a subpoena issued by such court or officer.

Disobedience to subpoena, punishable as a contempt.

When before officer or commissioner out of court.

SEC. 1160. **DISOBEDIENCE TO SUBPOENA, HOW PUNISHED.**—Disobedience to a subpoena, or a refusal to be sworn, or to answer as a witness, or to subscribe an affidavit or deposition when required, may be punished as a contempt by the court issuing the subpoena. When the subpoena, in any such case, requires the attendance of the witness before an officer or commissioner out of court, it is the duty of such officer or commissioner to report any such disobedience or refusal to the court issuing the subpoena; and the witness must not be punished for any refusal to answer a question or to subscribe an affidavit or deposition, unless, after a hearing upon notice, the court orders him to so answer or subscribe and then only for disobedience to such order. Any judge, magistrate, or other officer mentioned in subdivision three of section 1156, may report any such disobedience or refusal to the district court for the division in which such attendance was required; and such court thereupon has power, upon notice, to order the witness to perform the omitted act, and any refusal or neglect to comply with such order may be punished as a contempt of such court.

Ante, p. 1111.

Forfeiture.

SEC. 1161. **FORFEITURE THEREFOR.**—A witness disobeying a subpoena also forfeits to the party aggrieved the sum of \$100, and all damages which he may sustain by the failure of the witness to attend, which forfeiture and damages may be recovered in a civil action.

Warrant to bring witness.

SEC. 1162. **WARRANT MAY ISSUE TO BRING WITNESS, WHEN.**—In case of failure of a witness to attend, the court or officer issuing the subpoena, upon proof of the service thereof, and of the failure of the witness, may issue a warrant to the marshal or constable to arrest the witness and bring him before the court or officer where his attendance was required.

Contents.

Ante, p. 1111.

SEC. 1163. **CONTENTS OF WARRANT.**—Every warrant of commitment, issued by a court or officer pursuant to sections 1155 to 1165, must specify therein, particularly, the cause of the commitment, and if it be for refusing to answer a question, such question must be stated in the warrant. And every warrant to arrest or commit a witness, pursuant to said sections, must be executed in the same manner as process issued by the district court.

When witness a prisoner.

SEC. 1164. **IF WITNESS BE A PRISONER, HOW BROUGHT.**—If the witness be a prisoner, confined in a jail or prison within the Canal Zone, an order for his examination in the prison upon deposition, or for his temporary removal and production before a court or officer, for the purpose of being orally examined, may be made as follows:

1. By the court itself in which the action or special proceeding is pending, unless it be a magistrate's court.
2. By the judge of the district court if the action or proceeding is pending before a magistrate's court, or before a judge or other person out of court.

Order for examination made on motion of party.

SEC. 1165. **ON WHOSE MOTION.**—Such order can only be made on the motion of a party, upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality.

Taking of testimony.

MODE OF TAKING THE TESTIMONY OF WITNESSES

Methods of taking.

SEC. 1167. **TESTIMONY, IN WHAT MODE TAKEN.**—The testimony of witnesses is taken in three modes:

1. By affidavit;

- 2. By deposition;
- 3. By oral examination.

SEC. 1168. **AFFIDAVIT DEFINED.**—An affidavit is a written declaration under oath, made without notice to the adverse party.

"Affidavit" defined.

SEC. 1169. **DEPOSITION DEFINED.**—A deposition is a written declaration, under oath, made upon notice to the adverse party, for the purpose of enabling him to attend and cross-examine. In all actions and proceedings where the default of the defendant has been duly entered, and in all proceedings to obtain letters of administration, or for the probate of wills and the issuance of letters testamentary thereon, where, after due and legal notice, those entitled to contest the application have failed to appear, the entry of said defaults, and the failure of said persons to appear after notice, shall be deemed to be a waiver of the right to any further notice of any application or proceeding to take testimony by deposition in such action or proceeding.

"Deposition."

SEC. 1170. **ORAL EXAMINATION DEFINED.**—An oral examination is an examination in presence of the jury or tribunal which is to decide the fact or act upon it, the testimony being heard by the jury or tribunal from the lips of the witness.

"Oral examination."

SEC. 1171. **DEPOSITION DEFINED; HOW TAKEN.**—Depositions must be taken in the form of question and answer. The words of the witness must be written down, in the presence of the witness, by the officer taking the deposition, or by some disinterested person appointed by him. It may be taken down in shorthand, in which case it must be transcribed into longhand by the person who took it down. When completed, it must be carefully read to or by the witness and corrected by him in any particular, if desired, by writing or causing his corrections to be written in the body or margin of or at the bottom of the deposition, and must then be subscribed by the witness. The officer before whom the deposition is taken must write his initials near said corrections. If the parties agree in writing to any other mode, the mode so agreed upon must be followed.

Taking of deposition.

AFFIDAVITS

Affidavits.

SEC. 1172. **AFFIDAVITS AND DEPOSITIONS; FOR WHAT PURPOSES USED.**—An affidavit may be used to verify a pleading or a paper in a special proceeding, to prove the service of a summons, notice, or other paper in an action or special proceeding, to obtain a provisional remedy, the examination of a witness, or a stay of proceedings, or upon a motion, and in any other case expressly permitted by some other provision of this code.

Affidavits and depositions, purposes of.

SEC. 1173. **EVIDENCE OF PUBLICATION, WHAT.**—Evidence of the publication of a document or notice required by law, or by an order of a court or judge, to be published in a newspaper, may be given by the affidavit of the printer of the newspaper, or his foreman or principal clerk, annexed to a copy of the document or notice, specifying the times when, and the paper in which, the publication was made.

As evidence of publication.

SEC. 1174. **FILING EVIDENCE OF PUBLICATION.**—If such affidavit be made in an action or special proceeding pending in a court, it may be filed with the court or the clerk thereof. The original affidavit, or a copy thereof, certified by the judge of the court or clerk having it in custody, is prima facie evidence of the facts stated therein.

Filing of.

SEC. 1175. **AFFIDAVITS TO BE USED IN THE CANAL ZONE, BEFORE WHOM MAY BE TAKEN.**—An affidavit to be used before any court, judge, or officer of the Canal Zone may be taken before any officer authorized to administer oaths.

Before whom taken.

When outside of Canal Zone.

SEC. 1176. AFFIDAVIT OUT OF ZONE, HOW TAKEN.—An affidavit taken in a State of the United States, to be used in the Canal Zone, may be taken before a commissioner appointed by the Governor of the Panama Canal to take affidavits and depositions in such State, or before any notary public in a State, or before any judge or clerk of a court of record having a seal.

In foreign country.

SEC. 1177. IF MADE IN A FOREIGN COUNTRY, BEFORE WHOM TAKEN.—An affidavit taken in a foreign country to be used in the Canal Zone, may be taken before an ambassador, minister, consul, vice-consul, or consular agent of the United States, or before any judge of a court of record having a seal in such foreign country.

Certificate of clerk, when taken outside Canal Zone.

SEC. 1178. CERTIFICATE OF THE CLERK, IF TAKEN BEFORE A JUDGE OF A COURT OUT OF THE ZONE.—When an affidavit is taken before a judge of a court in a state, or in a foreign country, the genuineness of the signature of the judge, the existence of the court, and the fact that such judge is a member thereof, must be certified by the clerk of the court, under the seal thereof.

Depositions.

DEPOSITIONS IN GENERAL

When used. *Ante*, p. 1113.

SEC. 1179. DEPOSITIONS, WHEN USED.—In all cases other than those mentioned in section 1172, where a written declaration under oath is used, it must be a deposition as prescribed by this code.

Taking of, outside Canal Zone.

SEC. 1180. TESTIMONY OF A WITNESS OUT OF THE ZONE, WHEN TAKEN.—The testimony of a witness out of the Canal Zone may be taken by deposition in the following cases:

1st. In an action, at any time after the service of summons, or the appearance of the defendant.

2d. In a special proceeding, any time after a question of fact has arisen therein.

3d. Where default has been made by any or all of the defendants.

Within Canal Zone.

SEC. 1181. DEPOSITIONS IN THE ZONE, WHEN TAKEN.—The testimony of a witness in the Canal Zone may be taken by deposition in an action at any time after the service of the summons or the appearance of the defendant, and in a special proceeding after a question of fact has arisen therein, in the following cases:

1. When the witness is a party to the action or proceeding or an officer or member of a corporation which is a party to the action or proceeding, or a person for whose immediate benefit the action or proceeding is prosecuted or defended;

2. When the witness resides out of the subdivision in which his testimony is to be used;

3. When the witness is about to leave the subdivision where the action is to be tried, and will probably continue absent when the testimony is required;

4. When the witness, otherwise liable to attend the trial, is nevertheless too infirm to attend;

5. When the testimony is required upon a motion, or in any other case where the oral examination of the witness is not required;

6. When the witness is the only one who can establish facts or a fact material to the issue: *Provided*, That the deposition of such witness shall not be used if his presence can be procured at the time of the trial of the cause.

Provido. Invalid, if witness can be produced.

Reading of deposition in evidence. *Ante*, p. 1112. Exception. *Post*, p. 1116.

SEC. 1182. DEPOSITION MAY BE READ IN EVIDENCE BY EITHER PARTY.—A deposition taken and returned, as provided in sections 1167 to 1190, may, except as provided in section 1192, be read in evidence by either party at any stage of the action or proceeding in which it was taken, or in any other action or proceeding between the same parties or their privies or successors in interest upon the same sub-

ject, and is then deemed the evidence of the party reading it; but the court may exclude the same, if it appears that the taking thereof was in any material respect unfair.

SEC. 1183. COURT MAY ORDER DEPOSITION IF ADVERSE PARTY IN DEFAULT.—If an adverse party is in default for not appearing and answering within the time allowed by law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, the court may authorize a deposition to be taken without the service of any affidavit upon, or the giving of any notice to, the party so in default or not appearing, or may provide that notice be given to him in such mode as to the court may seem proper.

Court may order, if adverse party in default.

MANNER OF TAKING DEPOSITIONS OUT OF THE CANAL ZONE

Depositions outside Canal Zone.

SEC. 1184. DEPOSITION OF WITNESSES OUT OF ZONE, HOW TAKEN.—The deposition of a witness out of the Canal Zone may be taken upon a commission issued from the court under the seal of the court, upon an order of the court, or the judge or a magistrate thereof, on the application of either party, upon five days' previous notice to the other. If the court is a magistrate's court, the commission must have attached to it a certificate of the clerk of the district court for the division in which such magistrate's court is held, under the seal of such district court, to the effect that the person issuing the same was an acting magistrate at the date of the commission. If issued to any place within the United States, it may be directed to a person agreed upon by the parties, or if they do not agree, to any notary public, judge or justice of the peace or commissioner selected by the court or judge or justice issuing it. If issued to any country out of the United States, it may be directed to a minister, ambassador, consul, vice-consul, or consular agent of the United States, or judge of a court of record in such country, or to any person agreed upon by the parties.

Manner of taking.

In United States.

In foreign country.

SEC. 1185. PROPER INTERROGATORIES MAY BE PREPARED, OR MAY BE WAIVED BY THE PARTIES.—The party moving for the commission must, unless it is waived by the other party, attach to the notice of the motion the interrogatories upon which he desires it to be taken. On the hearing of the motion, the other party must propose such cross-interrogatories as he may desire. If the parties do not agree as to the form of the interrogatories, the court must settle their form, but such agreement or settlement does not preclude either party, when the deposition is offered in evidence, from interposing any objection to any interrogatory except as to the form thereof. The settlement of interrogatories may be had at the time of the hearing of the motion, or at any other time which the court may appoint; but the moving party must, if he request it, be allowed two days within which to propose such redirect interrogatories as the cross-interrogatories proposed render proper. When agreed upon or settled, the interrogatories must be annexed to the commission; or, when the parties agree to that mode, or the court on the application of either party, after a hearing had upon two days' notice to the opposite party, so directs, the examination must be without written interrogatories.

Interrogatories.

SEC. 1186. DEPOSITION OF NONRESIDENT WITNESS UPON ORAL INTERROGATORIES.—When a party shall desire to take the evidence of a non-resident witness, to be used in any cause pending in the Canal Zone, the party desiring the same (or where notice shall have been given that a commission to take the testimony of a nonresident witness will be applied for, the opposite party, upon giving the other three days' notice in writing of his election so to do), may have a commission

Oral interrogatories.

Ante, p. 1115.

directed in the same manner as provided in section 1184, to take such evidence, upon interrogatories to be propounded to the witness orally; upon the taking of which each party may appear before the commission, in person or by attorney, and interrogate the witness.

Notice to adverse party.

The party desiring such testimony shall give to the other the following notice of the time and place of taking the same, to wit: Ten days, and one day in addition thereto (Sundays included) for every three hundred miles' travel from the place of holding the court to the place where such deposition is to be taken.

Fees and mileage.

FEES AND MILEAGE.—When a party to a suit shall give the opposite party notice to take a deposition upon oral interrogatories, and shall fail to take the same accordingly, unless such failure be on account of the nonattendance of the witness, not occasioned by the fault of the party giving the notice, or some other unavoidable cause, the party notified, if he shall attend himself or by attorney, agreeably to the notice, shall be entitled to \$2 per day for each day he may attend under such notice, and to 6 cents per mile for every mile that he shall necessarily travel in going to and returning from the place designated to take the deposition, to be allowed by the court where the suit is pending and for which execution may issue.

Authority of commissioner.

SEC. 1187. AUTHORITY OF COMMISSIONER.—The commission must authorize the commissioner to administer an oath to the witness and to take his deposition in answer to the interrogatories, or when the examination is to be without interrogatories, in respect to the question in dispute, and to certify the deposition to the court, in a sealed envelope, directed to the clerk, if there be one, and if not, to the judge thereof, and forward to him by mail or other usual channel of conveyance.

Postponement of trial for nonreturn of commission.

SEC. 1188. TRIAL, WHEN POSTPONED FOR REASON OF NONRETURN OF COMMISSION.—A trial or other proceeding must not be postponed by reason of a commission not returned, except upon evidence, satisfactory to the court, that the testimony of the witness is necessary, and that proper diligence has been used to obtain it.

Use by either party.
Ante, p. 1115.

SEC. 1189. DEPOSITION, BY WHOM USED.—The deposition mentioned in sections 1184 to 1190 may be used by either party on the trial or other proceeding, against any other party giving or receiving the notice, subject to all just exceptions.

Notice dispensed with.

SEC. 1190. NOTICE DISPENSED WITH WHEN WITNESS RESIDES OUT OF ZONE.—In all cases where service of summons has been had by publication as provided by law and after default has been duly entered, and it appears by affidavit that the residence of a party to the action is unknown and the witness resides out of the Canal Zone, then in such cases the notice provided for in sections 1184 to 1190 shall be dispensed with.

Ante, p. 1115.

Depositions in Canal Zone.

MANNER OF TAKING DEPOSITIONS IN THE CANAL ZONE

Before judge, magistrate, etc.

SEC. 1191. DEPOSITIONS MAY BE TAKEN BEFORE A JUDGE, AND SO FORTH, UPON NOTICE TO THE ADVERSE PARTY.—Either party may have the deposition taken of a witness in the Canal Zone, in either of the cases mentioned in section 1181, before a judge, magistrate, or other officer authorized to administer oaths, on serving upon the adverse party previous notice of the time and place of examination, together with a copy of an affidavit, showing that the case is within that section. Such notice must be at least five days, unless, for a cause shown, a judge, by order, prescribe a shorter time. When a shorter time is prescribed, a copy of the order must be served with the notice.

Ante, p. 1114.
Notice.

SEC. 1192. MANNER OF TAKING DEPOSITIONS; MAY BE USED BY EITHER PARTY ON THE TRIAL.—Either party may attend the examination and put such questions, direct and cross, as may be proper. The deposition, when completed, must be carefully read to or by the witness and corrected by him in any particular, if desired; it must then be subscribed by the witness, certified by the judge or officer taking the deposition, inclosed in an envelope or wrapper, sealed, and directed to the clerk of the court in which the action is pending, or to such person as the parties in writing may agree upon, and either delivered by the judge or officer to the clerk or such person, or transmitted through the mail or by some safe private opportunity; and thereupon such deposition may be used by either party upon the trial or other proceeding against any party giving or receiving the notice, subject to all legal exceptions; but if the parties attend at the examination, no objection to the form of an interrogatory shall be made at the trial, unless the same was stated at the time of the examination. If the deposition be taken under subdivisions two, three, and four, of section 1181, proof must be made at the trial that the witness continues absent or infirm, or is dead. The deposition thus taken may be also read in case of the death of the witness.

Manner of taking.

Use by either party on the trial.

Art. 1, p. 1114.

For use in States.

SEC. 1193. DEPOSITION IN THE ZONE TO BE USED IN STATES.—Any party to an action or special proceeding in a court or before a judge of a state, may obtain the testimony of a witness residing in the Canal Zone, to be used in such action or proceeding, in the cases mentioned in the next two sections.

SEC. 1194. HOW TO PROCURE WITNESS UPON COMMISSION.—If a commission to take such testimony has been issued by the court before which such action or proceeding is pending, or by a judge thereof, on exhibiting the commission to the division of the district court in which the witness resides, with an affidavit showing the materiality of his testimony, such court may issue a subpoena to the witness, requiring him to appear and testify before the commissioner named in the commission, at a specified time and place within such division.

Procuring witness upon commission.

Subpoena.

SEC. 1195. COMPELLING THE WITNESSES TO APPEAR AND TESTIFY.—Whenever any mandate, writ, or commission is issued out of any court of record in any State, Territory, District, or foreign jurisdiction, or whenever, upon notice or agreement, it is required to take the testimony of a witness or witnesses in the Canal Zone, witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in the Canal Zone.

Compelling witness to appear and testify.

SEC. 1196. HOW, IF COMMISSION NOT ISSUED.—If a commission has not been issued, and it appears to the district judge, or to a magistrate, by affidavit satisfactory to him:

Procedure when no commission has issued.

1. That the testimony of the witness is material to either party, and that he resides in the division or subdivision in which such judge or magistrate holds office;
2. That a commission to take the testimony of such witness has not been issued;
3. That, according to the law of the State where the action or special proceeding is pending, the deposition of a witness taken under such circumstances, and before such judge or magistrate, will be received in the action or proceeding;

He must issue his subpoena requiring the witness to appear and testify before him at a specified time and place.

SEC. 1197. DEPOSITION, HOW TAKEN.—Upon the appearance of the witness, the judge or magistrate must cause his testimony to be taken

Taking of deposition.

in writing, and must certify and transmit the same to the court or judge before whom the action or proceeding is pending, in such manner as the law of that state requires.

Rules of examination.

GENERAL RULES OF EXAMINATION

Order of proof.

SEC. 1198. ORDER OF PROOF, HOW REGULATED.—The order of proof must be regulated by the sound discretion of the court. Ordinarily, the party beginning the case must exhaust his evidence before the other party begins.

Exclusion of witnesses.

SEC. 1199. WHAT WITNESSES MAY BE EXCLUDED.—If either party requires it, the judge may exclude from the court-room any witness of the adverse party not at the time under examination, so that he may not hear the testimony of other witnesses; but a party to the action or proceeding can not be so excluded; and if a corporation is a party thereto, it is entitled to the presence of one of its officers, to be designated by its attorney.

Control of interrogation of witnesses.

SEC. 1200. COURT MAY CONTROL MODE OF INTERROGATION.—The court must exercise a reasonable control over the mode of interrogation, so as to make it as rapid, as distinct, as little annoying to the witness, and as effective for the extraction of the truth, as may be; but subject to this rule, the parties may put such pertinent and legal questions as they see fit. The court, however, may stop the production of further evidence upon any particular point when the evidence upon it is already so full as to preclude reasonable doubt.

“Direct examination” and “cross-examination” defined.

SEC. 1201.—DIRECT EXAMINATION AND CROSS-EXAMINATION DEFINED.—The examination of a witness by the party producing him is denominated the direct examination; the examination of the same witness, upon the same matter, by the adverse party, the cross-examination. The direct examination must be completed before the cross-examination begins, unless the court otherwise direct.

“Leading question.”

SEC. 1202. LEADING QUESTION DEFINED.—A question which suggests to the witness the answer which the examining party desires, is denominated a leading or suggestive question. On a direct examination, leading questions are not allowed, except in the sound discretion of the court, under special circumstances, making it appear that the interests of justice require it.

Refreshing memory.

SEC. 1203. WHEN WITNESS MAY REFRESH MEMORY FROM NOTES.—A witness is allowed to refresh his memory respecting a fact, by anything written by himself, or under his direction, at the time when the fact occurred, or immediately thereafter, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. But in such a case the writing must be produced, and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it, and may read it to the jury. So, also, a witness may testify from such a writing, though he retain no recollection of the particular facts, but such evidence must be received with caution.

Cross-examination; limits of.

SEC. 1204. CROSS-EXAMINATION, AS TO WHAT.—The opposite party may cross-examine the witness as to any facts stated in his direct examination or connected therewith, and in so doing may put leading questions, but if he examine him as to other matters, such examination is to be subject to the same rules as a direct examination.

Impeaching own witness.

SEC. 1205. PARTY PRODUCING WITNESS, HOW FAR MAY IMPEACH HIS CREDIT.—The party producing a witness is not allowed to impeach his credit by evidence of bad character, but he may contradict him by other evidence, and may also show that he has made at other times statements inconsistent with his present testimony, as provided in section 1208.

SEC. 1206. WITNESS, HOW EXAMINED; WHEN REEXAMINED.—A witness once examined can not be reexamined as to the same matter without leave of the court, but he may be reexamined as to any new matter upon which he has been examined by the adverse party. And after the examinations on both sides are once concluded, the witness can not be recalled without leave of the court. Leave is granted or withheld, in the exercise of a sound discretion.

Reexamination of witness.

SEC. 1207. HOW IMPEACHED.—A witness may be impeached by the party against whom he was called, by contradictory evidence or by evidence that his general reputation for truth, honesty, or integrity is bad, but not by evidence of particular wrongful acts, except that it may be shown by the examination of the witness, or the record of the judgment, that he had been convicted of a felony.

Impeaching a witness, by contradictory evidence; general reputation.

SEC. 1208. SAME.—A witness may also be impeached by evidence that he has made, at other times, statements inconsistent, with his present testimony; but before this can be done the statements must be related to him, with the circumstances of times, places, and persons present, and he must be asked whether he made such statements, and if so, allowed to explain them. If the statements be in writing, they must be shown to the witness before any question is put to him concerning them.

Former conflicting statements of witness.

SEC. 1209. EVIDENCE OF GOOD CHARACTER, WHEN ALLOWED.—Evidence of the good character of a party is not admissible in a civil action, nor of a witness in any action, until the character of such party or witness has been impeached, or unless the issue involves his character.

Evidence of good character, admissibility.

SEC. 1210. WRITING SHOWN TO WITNESS MAY BE INSPECTED BY ADVERSE PARTY.—Whenever a writing is shown to a witness, it may be inspected by the opposite party, and no question must be put to the witness concerning a writing until it has been so shown to him.

Inspection of writings shown witness.

SEC. 1211. EXAMINATION OF ADVERSE PARTY.—A party to the record of any civil action or proceeding or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent or managing agent of any corporation which is a party to the record, may be examined by the adverse party as if under cross-examination, subject to the rules applicable to the examination of other witnesses. The party calling such adverse witness shall not be bound by his testimony, and the testimony given by such witness may be rebutted by the party calling him for such examination by other evidence. Such witness, when so called, may be examined by his own counsel, but only as to the matters testified to on such examination.

Examination of adverse party.

EFFECT OF EVIDENCE

Effect of evidence.

SEC. 1212. JURY JUDGES OF EFFECT OF EVIDENCE, BUT TO BE INSTRUCTED ON CERTAIN POINTS.—Where trial is by jury, the jury, subject to the control of the court, in the cases specified in this code, are the judges of the effect or value of evidence addressed to them, except when it is declared to be conclusive. They are, however, to be instructed by the court on all proper occasions:

Jury to be judge of.

1. That their power of judging of the effect of evidence is not arbitrary, but to be exercised with legal discretion, and in subordination to the rules of evidence;

Instructions by the court.

2. That they are not bound to decide in conformity with the declarations of any number of witnesses, which do not produce conviction in their minds, against a less number or against a presumption or other evidence satisfying their minds;

Power of judging not to be arbitrary, etc.

Number of witnesses not controlling.

Witness testifying falsely.

3. That a witness false in one part of his testimony is to be distrusted in others;

Testimony of accomplice.

4. That the testimony of an accomplice ought to be viewed with distrust, and the evidence of the oral admissions of a party with caution;

Affirmative must be proved in civil action; preponderance of evidence.

5. That in civil cases the affirmative of the issue must be proved, and when the evidence is contradictory the decision must be made according to the preponderance of evidence; that in criminal cases guilt must be established beyond reasonable doubt;

Proof beyond reasonable doubt in criminal prosecution.

Intrinsic value not controlling.

6. That evidence is to be estimated not only by its own intrinsic weight, but also according to the evidence which it is in the power of one side to produce and of the other to contradict; and, therefore,

When weaker evidence offered, if stronger available.

7. That if weaker and less satisfactory evidence is offered, when it appears that stronger and more satisfactory was within the power of the party, the evidence offered should be viewed with distrust.

Rights and duties of witnesses.

RIGHTS AND DUTIES OF WITNESSES

Attendance under subpoena compulsory.

SEC. 1213. WITNESS BOUND TO ATTEND WHEN SUBPENAED.—A witness, served with a subpoena, must attend at the time appointed, with any papers under his control lawfully required by the subpoena, and answer all pertinent and legal questions; and, unless sooner discharged, must remain until the testimony is closed.

Testimony compulsory.

SEC. 1214. WITNESS BOUND TO ANSWER QUESTIONS.—A witness must answer questions legal and pertinent to the matter in issue, though his answer may establish a claim against himself; but he need not give an answer which will have a tendency to subject him to punishment for a felony; nor need he give an answer which will have a direct tendency to degrade his character, unless it be to the very fact in issue, or to a fact from which the fact in issue would be presumed. But a witness must answer as to the fact of his previous conviction for felony.

Exceptions. Self-incriminatory, etc., testimony.

Right to protection.

SEC. 1215. RIGHT OF WITNESS TO PROTECTION.—It is the right of a witness to be protected from irrelevant, improper, or insulting questions, and from harsh or insulting demeanor; to be detained only so long as the interests of justice require it; to be examined only as to matters legal and pertinent to the issue.

Exemption from arrest.

SEC. 1216. WITNESS PROTECTED FROM ARREST WHEN ATTENDING, OR GOING, OR RETURNING.—Every person who has been, in good faith, served with a subpoena to attend as a witness before a court, judge, commissioner, referee, or other person, in a case where the disobedience of the witness may be punished as a contempt, is exonerated from arrest in a civil action while going to the place of attendance, necessarily remaining there, and returning therefrom.

Arrest void.

Liability of person arresting witness.

SEC. 1217. ARREST VOID, AND PARTY MAKING ARREST LIABLE, AND SO FORTH.—The arrest of a witness, contrary to the preceding section, is void, and, when willfully made, is a contempt of the court; and the person making it is responsible to the witness arrested for double the amount of the damages which may be assessed against him, and is also liable to an action at the suit of the party serving the witness with the subpoena, for the damages sustained by him in consequence of the arrest.

Arrest by officer.

SEC. 1218. TO MAKE AFFIDAVIT IF ARRESTED.—An officer is not liable to the party for making the arrest in ignorance of the facts creating the exoneration, but is liable for any subsequent detention of the party, if such party claim the exemption, and make an affidavit stating:

Affidavit by party arrested.

Under subpoena.

1. That he has been served with a subpoena to attend as a witness before a court, officer, or other person, specifying the same, the place

of attendance, and the action or proceeding in which the subpoena was issued; and

2. That he has not thus been served by his own procurement, with the intention of avoiding an arrest;

3. That he is at the time going to the place of attendance, or returning therefrom, or remaining there in obedience to the subpoena.

The affidavit may be taken by the officer, and exonerates him from liability for discharging the witness when arrested.

SEC. 1219. COURT MAY DISCHARGE WITNESS FROM ARREST.—The court or officer before whom the attendance is required, may discharge the witness from an arrest made in violation of section 1216. If the court has adjourned before the arrest, or before application for the discharge, a judge of the court may grant the discharge.

Not of own procurement.

Trial is in progress.

Exoneration of officer for discharge.

Discharge from arrest by court.

EVIDENCE IN PARTICULAR CASES, AND MISCELLANEOUS AND GENERAL PROVISIONS

Evidence in particular cases, miscellaneous and general provisions.

EVIDENCE IN PARTICULAR CASES

Evidence in particular cases.

SEC. 1220. AN OFFER EQUIVALENT TO TENDER.—An offer in writing to pay a particular sum of money, or to deliver a written instrument or specific personal property, is, if not accepted, equivalent to the actual production and tender of the money, instrument, or property.

Offer equivalent to tender.

SEC. 1221. WHOEVER PAYS ENTITLED TO RECEIPT.—Whoever pays money, or delivers an instrument or property, is entitled to a receipt therefor from the person to whom the payment or delivery is made, and may demand a proper signature to such receipt as a condition of the payment or delivery.

Right to receipt.

SEC. 1222. OBJECTIONS TO TENDER MUST BE SPECIFIED.—The person to whom a tender is made must, at the time, specify any objection he may have to the money, instrument, or property, or he must be deemed to have waived it; and if the objection be to the amount of money, the terms of the instrument, or the amount or kind of property, he must specify the amount, terms, or kind which he requires, or be precluded from objecting afterwards.

Objections to tender.

SEC. 1223. COMPROMISE OFFER OF NO AVAIL.—An offer of compromise is not an admission that anything is due.

Compromise offer not admission.

SEC. 1224. ADMISSION OF DEFENDANT IN DIVORCE PROCEEDINGS.—In proceedings for divorce, no admission of the defendant shall be taken as evidence unless the court shall be satisfied that such admission was made in sincerity and without fraud or collusion to enable the plaintiff to obtain a divorce. (Act Cong. Sept. 21, 1922, C. 370, § 16, 42 Stat. 1010.)

Admissions of defendant in divorce proceedings.

Vol. 42, p. 1010.

PROCEEDINGS TO PERPETUATE TESTIMONY

Proceedings to perpetuate testimony.

SEC. 1225. EVIDENCE MAY BE PERPETUATED.—The testimony of a witness may be taken and perpetuated as provided in sections 1226 to 1231.

Testimony of witness.

SEC. 1226. MANNER OF APPLICATION FOR ORDER; ORDER.—The applicant must produce to the judge of the district court a petition, verified by the oath of the applicant, stating:

Petition.

1. That the applicant expects to be a party to an action in a court in the Canal Zone, and, in such case, the names of the persons whom he expects will be adverse parties; or,

Expectation of future legal action.

2. That the proof of some fact is necessary to perfect the title to property in which he is interested, or to establish marriage, descent, heirship, or any other matter which may hereafter become material to establish, though no suit may at the time be anticipated, or, if anticipated, he may not know the parties to such suit; and,

Proof of certain fact essential.

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|--|---|
| Name of witness, facts involved, etc. | 3. The name of the witness to be examined, his place of residence, and a general outline of the facts expected to be proved. |
| Order to issue. | The judge to whom such petition is presented must make an order allowing the examination, and designating the officer before whom the same must be taken, and prescribing the notice to be given, which notice, if the parties expectant are known and reside in the Canal Zone, must be personally served, and, if unknown, such notice must be served on the clerk of the court, and by publication thereof in some newspaper, to be designated by the judge, for the same period required for the publication of summons. The judge must also designate in his order the clerk of the court to whom the deposition must be returned when taken. |
| Notice. | |
| Taking of deposition. | SEC. 1227. NOTICE OF TIME AND PLACE TO BE GIVEN.—The person appointed by the judge to take the depositions is authorized, if a resident of the Canal Zone, on receiving a copy of the order of the judge, and of the notice prescribed in the last section, with proof of its personal service or publication; or, if a resident without the Canal Zone, on receiving the commission mentioned in the next section, with proof of like service or publication of the notice; to take the deposition of the witness named in the order of the judge, or in the commission, or, if more than one witness is thus named, of such of them as appear before him, at the time designated, and the taking of the same may be continued from time to time. |
| Manner of taking. | SEC. 1228. MANNER OF TAKING THE DEPOSITION.—The examination must be by question and answer, and if the testimony is to be taken in a State of the United States, it must be taken upon a commission to be issued by the judge allowing the examination, under the seal of the court of which he is judge, and upon interrogatories, to be settled in the same manner as in cases of depositions taken under commission in pending actions, unless the parties expectant, if known, otherwise agree. If such parties are unknown, notice of the settlement of the interrogatories shall be published in some newspaper for such time as the judge may designate. The deposition, when completed, must be carefully read to or by the witness and be subscribed by him, then certified by the officer or person taking the same, and shall then be sealed up and delivered or transmitted to the clerk designated in the order of the judge allowing the examination, who shall file the same when received. The judge allowing the examination shall file with the clerk the order for the examination, the petition on which the same was granted, with proof of service of the order and notice. |
| Deposition to be read to, and subscribed by witness. | |
| All papers to be filed. | |
| Papers prima facie evidence. | SEC. 1229. PAPERS PRIMA FACIE EVIDENCE.—The petition and order, and papers filed by the judge, as provided in section 1228, or a certified copy thereof, are prima facie evidence of the facts stated therein to show compliance with the provisions of sections 1225 to 1231. |
| <i>Ante</i> , p. 1121. | |
| Production of, in court. | SEC. 1230. WHEN THE EVIDENCE MAY BE PRODUCED.—If a trial be had between the parties named in the petition as parties expectant, or their successors in interest, or between any parties wherein it may be material to establish the facts which such depositions prove, or tend to prove, upon proof of the death, or insanity of the witnesses, or that they can not be found or are unable, by reason of age or other infirmity, to give their testimony, the depositions or copies thereof may be used by either party, subject to all legal objections; but if the parties attended at the examination, no objections to the form of an interrogatory can be made at the trial, unless the same was stated at the examination. |
| Effect of. | SEC. 1231. EFFECT OF THE DEPOSITION.—The deposition so taken and read in evidence has the same effect as the oral testimony of the witness, and no other, and every objection to the witness, or to |

the relevancy of any question put to him, or of any answer given by him, may be made in the same manner as if he were examined orally at the trial.

ADMINISTRATION OF OATHS AND AFFIRMATIONS

Administration of oaths, etc.

Officials authorized to administer.

SEC. 1232. JUDICIAL AND CERTAIN OFFICERS AUTHORIZED TO ADMINISTER OATHS.—Every court, every judge, or clerk of any court, every magistrate, and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has power to administer oaths or affirmations.

Form of.

SEC. 1233. FORM OF ORDINARY OATH TO A WITNESS.—An oath, or affirmation, in an action or proceeding, may be administered as follows, the person who swears, or affirms, expressing his assent when addressed in the following form: "You do solemnly swear (or affirm, as the case may be), that the evidence you shall give in this issue (or matter), pending between ——— and ———, shall be the truth, the whole truth, and nothing but the truth, so help you God."

Form may be varied.

SEC. 1234. FORM MAY BE VARIED TO SUIT WITNESS' BELIEF.—Whenever the court before which a person is offered as a witness is satisfied that he has a peculiar mode of swearing, connected with or in addition to the usual form of administration, which, in his opinion, is more solemn or obligatory, the court may, in its discretion, adopt that mode.

Form, non-Christians.

SEC. 1235. SAME.—When a person is sworn who believes in any other than the Christian religion, he may be sworn according to the peculiar ceremonies of his religion, if there be any such.

Affirmation, etc.

SEC. 1236. ANY PERSON WHO PREFERS IT MAY DECLARE OR AFFIRM.—Any person who desires it may, at his option, instead of taking an oath make his solemn affirmation or declaration, by assenting, when addressed, in the following form: "You do solemnly affirm (or declare) that" and so forth, as in section 1233.

GENERAL PROVISIONS

General provisions.

SEC. 1237. QUESTIONS OF FACT, HOW TRIED.—All questions of fact, where the trial is by jury, other than those mentioned in the next section, are to be decided by the jury, and all evidence thereon is to be addressed to them, except when otherwise provided by this code.

Trial of questions of fact, by jury.

SEC. 1238. QUESTIONS OF LAW ADDRESSED TO THE COURT.—All questions of law, including the admissibility of testimony, the facts preliminary to such admissions, and the construction of statutes and other writings, and other rules of evidence, are to be decided by the court, and all discussions of law addressed to it. Whenever the knowledge of the court is, by this code, made evidence of a fact, the court is to declare such knowledge to the jury, who are bound to accept it.

Questions of law, by court.

SEC. 1239. QUESTIONS OF FACT BY COURT OR REFEREE.—The provisions contained in this chapter respecting the evidence on a trial before a jury, are equally applicable on the trial of a question of fact before a court, referee, or other officer.

Of fact, by judge, referee, etc.

CHAPTER 39.—REPEALS

REPEALS.

SEC. 1240. REPEAL OF EXISTING LAWS.—The Code of Civil Procedure of the Canal Zone promulgated by the Executive Order of March 22, 1907, and all amendments thereto, and all other acts, ordinances, orders, and parts thereof in conflict herewith, are hereby repealed.

Executive Order No. 597½, as amended. All acts, ordinances, etc., in conflict herewith.

Approved, February 27, 1933.

[CHAPTER 128.]

AN ACT

February 27, 1933.
[H. R. 7522.]
[Public, No. 376.]

To provide a new civil code for the Canal Zone and to repeal the existing civil code.

Civil Code of Canal Zone. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the seventy-seven chapters hereinafter set forth shall constitute the Civil Code of the Canal Zone.

PRELIMINARY PROVISIONS.

CHAPTER 1.—PRELIMINARY PROVISIONS

- Title.** **SECTION 1. TITLE OF THIS ACT.**—This Act shall be known as the Civil Code of the Canal Zone.
- Effective date.** **SEC. 2. WHEN THIS CODE TAKES EFFECT.**—This code shall take effect on the first day of October, nineteen hundred and thirty-three.
- Not retroactive.** **SEC. 3. NOT RETROACTIVE.**—No part of it is retroactive, unless expressly so declared.
- Rules of construction.** **SEC. 4. RULES OF CONSTRUCTION.**—The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this code. The code establishes the law of the Canal Zone respecting the subjects to which it relates, and its provisions are to be liberally construed with a view to effect its objects and to promote justice.
- Construing provisions similar to existing laws.** **SEC. 5. PROVISIONS SIMILAR TO EXISTING LAWS, HOW CONSTRUED.**—The provisions of this code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments.
- Actions, etc., not affected.** **SEC. 6. ACTIONS, AND SO FORTH, NOT AFFECTED.**—No action or proceeding commenced before this code takes effect, and no right accrued, is affected by its provisions.
- Holidays. Executive Order No. 1888.** **SEC. 7. LEGAL HOLIDAYS.**—Except as otherwise provided in section 12 of the Executive order of February 2, 1914, as amended, the following are the legal holidays in the Canal Zone: Every Sunday, January 1, February 22, Good Friday, May 30, July 4, Labor Day, November 3, Thanksgiving Day, and December 25. If a legal holiday other than Sunday falls on the first day of the week, the Monday following will be observed as a legal holiday. As far as practicable, all public business will be suspended on these days.
- Business days.** **SEC. 8. BUSINESS DAYS.**—All other days than those mentioned in section 7 are to be deemed business days for all purposes.
- Computation of time.** **SEC. 9. COMPUTATION OF TIME.**—The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.
- Performances on holidays.** **SEC. 10. CERTAIN ACTS NOT TO BE DONE ON HOLIDAYS.**—Whenever any act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, which day falls upon a holiday, it may be performed upon the next business day, with the same effect as if it had been performed upon the day appointed.
- Words and phrases, construction.** **SEC. 11. WORDS AND PHRASES, HOW CONSTRUED.**—Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, or are defined in section 12, are to be construed according to such peculiar and appropriate meaning or definition.

CROSS REFERENCES

Technical words, how construed, see sections 361 and 556.
Construction of words in contracts, see sections 555 and 556.

Post, pp. 1173, 1198.
Post, p. 1198.

SEC. 12. WORDS; DEFINITION; SIGNIFICATION OF WORDS.—Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word person includes a corporation as well as a natural person; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term “testify”, and every written one in the term “depose”; signature or subscription includes mark, when the person can not write, his name being written near it, by a person who writes his own name as a witness; provided, that when a signature is by mark it must in order that the same may be acknowledged or may serve as the signature to any sworn statement be witnessed by two persons who must subscribe their own names as witnesses thereto. The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

Definition; signification.

1. The word “property” includes property real and personal;
2. The words “real property” are coextensive with lands, tenements, and hereditaments;
3. The words “personal property” include money, goods, chattels, things in action, and evidences of debt;
4. The word “month” means a calendar month, unless otherwise expressed;
5. The word “will” includes codicil.

SEC. 13. NOTICE, ACTUAL AND CONSTRUCTIVE.—Notice is:

Notice.
Active.
Constructive.

1. Actual—which consists in express information of a fact; or,
2. Constructive—which is imputed by law.

SEC. 14. CONSTRUCTIVE NOTICE, WHEN DEEMED.—Every person who has actual notice of circumstances sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he might have learned such fact.

CHAPTER 2.—PERSONS

PERSONS.

SECTION 15. MINORS, WHO ARE.—Minors are all persons under twenty-one years of age: *Provided*, That this section shall be subject to the provisions of chapters 4 to 6 of this code and shall not be construed as repealing or limiting the provisions of section 148: *Provided, further*, That upon the lawful marriage of any female of the age of eighteen years or over but under the age of twenty-one years, such female shall be deemed an adult person for the purpose of entering into any engagement or transaction respecting property or any contract, the same as if such person were over twenty-one years of age.

Minors.
Proviso.
Construction.
Post, p. 1143.

Married females, of
18 to 21 years.

SEC. 16. PERIODS OF MINORITY, HOW CALCULATED.—The periods specified in section 15 must be calculated from the first minute of the day on which persons are born to the same minute of the corresponding day completing the period of minority.

Calculation of periods
of minority.

SEC. 17. ADULTS, WHO ARE.—All other persons are adults.

Adults.

SEC. 18. UNBORN CHILD.—A child conceived, but not yet born, is to be deemed an existing person, so far as may be necessary for its interests in the event of its subsequent birth.

Unborn child, status.

CROSS REFERENCE

Post, pp. 1155, 1157, 1174, 1181.

Posthumous children, rights of, see sections 213, 231, 370, and 419.

Minors.
Delegation of powers.

SEC. 19. DELEGATION OF POWERS; MINORS.—A minor can not give a delegation of power, nor, under the age of eighteen, make a contract relating to real property, or any interest therein, or relating to any personal property not in his immediate possession or control.

Contracts by.

SEC. 20. CONTRACTS BY MINORS.—A minor may make any other contract than as specified in section 19, in the same manner as an adult, subject only to his power of disaffirmance under the provisions of this chapter, and subject to the provisions of the chapter on marriage.

When may disaffirm.

SEC. 21. WHEN MINOR MAY DISAFFIRM.—In all cases other than those specified in sections 22 and 23, the contract of a minor, if made whilst he is under the age of eighteen, may be disaffirmed by the minor himself, either before his majority or within a reasonable time afterwards; or, in case of his death within that period, by his heirs or personal representatives; and if the contract be made by the minor whilst he is over the age of eighteen, it may be disaffirmed in like manner upon restoring the consideration to the party from whom it was received, or paying its equivalent.

Can not disaffirm contract for necessities.

SEC. 22. MINOR CAN NOT DISAFFIRM CONTRACT FOR NECESSARIES.—A minor cannot disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary for his support, or that of his family, entered into by him when not under the care of a parent or guardian able to provide for him or them.

Statutory obligations.

SEC. 23. MINOR CAN NOT DISAFFIRM CERTAIN OBLIGATIONS.—A minor can not disaffirm an obligation, otherwise valid, entered into by him under the express authority or direction of a statute.

Contracts by persons without understanding.

SEC. 24. CONTRACTS BY PERSONS WITHOUT UNDERSTANDING.—A person entirely without understanding has no power to make a contract of any kind, but he is liable for the reasonable value of things furnished to him necessary for his support or the support of his family.

CROSS REFERENCE

Post, p. 1191.

Contracts of insane persons, see sections 491 and 492.

Unsound mind.

SEC. 25. CONTRACTS BY PERSONS OF UNSOUND MIND.—A contract of a person of unsound mind, but not entirely without understanding, made before his incapacity has been judicially determined, is subject to rescission, as provided in sections 580 to 583.

CROSS REFERENCE

Post, pp. 1201, 1337.

Rescission of contracts, see sections 580 to 583 and 1645 to 1647.

Powers of persons whose incapacity has been adjudged.

SEC. 26. POWERS OF PERSONS WHOSE INCAPACITY HAS BEEN ADJUDGED.—After his incapacity has been judicially determined, a person of unsound mind can make no contract, nor delegate any power or waive any right, until his restoration to capacity. But a certificate from the medical superintendent or resident physician of the insane asylum to which such person may have been committed, showing that such person had been discharged therefrom, cured and restored to reason, shall establish the presumption of legal capacity in such person from the time of such discharge.

Tort liability of minors; exemplary damages.

SEC. 27. MINORS LIABLE FOR WRONGS, BUT NOT LIABLE FOR EXEMPLARY DAMAGES.—A minor, or person of unsound mind, of whatever degree, is civilly liable for a wrong done by him, but is not liable in exemplary damages unless at the time of the act he was capable of knowing that it was wrongful.

SEC. 28. MINORS MAY ENFORCE THEIR RIGHTS.—A minor may enforce his rights by civil action, or other legal proceedings, in the same manner as a person of full age, except that a guardian must conduct the same.

Minors may enforce rights.

CHAPTER 3.—PERSONAL RIGHTS

PERSONAL RIGHTS.

SECTION 29. GENERAL PERSONAL RIGHTS.—Besides the personal rights mentioned or recognized in the Executive Order of May 9, 1904, and in the Code of Criminal Procedure, every person has, subject to the qualifications and restrictions provided by law, the right of protection from bodily restraint or harm, from personal insult, from defamation, and from injury to his personal relations.

General.

SEC. 30. DEFAMATION, WHAT.—Defamation is effected by:

Defamation.

- 1. Libel;
- 2. Slander.

SEC. 31. LIBEL, WHAT.—Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation.

Libel.

CROSS REFERENCE

Privileged publication, see sections 33 and 34.

SEC. 32. SLANDER, WHAT.—Slander is a false and unprivileged publication other than libel, which:

Slander.

- 1. Charges any person with crime, or with having been indicted, convicted, or punished for crime;
- 2. Imputes in him the present existence of an infectious, contagious, or loathesome disease;
- 3. Tends directly to injure him in respect to his office, profession, trade, or business, either by imputing to him general disqualification in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to his office, profession, trade, or business that has a natural tendency to lessen its profits;
- 4. Imputes to him impotence of a want of chastity; or,
- 5. Which, by natural consequence, causes actual damage.

SEC. 33. PRIVILEGED PUBLICATIONS.—A privileged publication is one made—

Privileged publications.

- 1. In the proper discharge of an official duty.
- 2. In any judicial proceeding, or in any other official proceeding authorized by law: *Provided*, That an allegation or averment contained in any pleading or affidavit filed in an action for divorce or an action prosecuted under section 97 made of or concerning a person by or against whom no affirmative relief is prayed in such action shall not be a privileged publication as to the person making said allegation or averment within the meaning of this section unless such pleading be verified or affidavit sworn to, and be made without malice, by one having reasonable and probable cause for believing the truth of such allegation or averment and unless such allegation or averment be material and relevant to the issues in such action.

Proviso.
Allegation in divorce, etc., proceedings.
Post, p. 1136.

- 3. In a communication, without malice, to a person interested therein, (1) by one who is also interested, or (2) by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or (3) who is requested by the person interested to give the information.

4. By a fair and true report, without malice, in a public journal, of (1) a judicial or (2) other public official proceeding, or (3) of anything said in the course thereof, or (4) of a verified charge or complaint made by any person to a public official, upon which complaint a warrant shall have been issued.

5. By a fair and true report, without malice, of (1) the proceedings of a public meeting, if such meeting was lawfully convened for a lawful purpose and open to the public, or (2) the publication of the matter complained of was for the public benefit.

Malice not inferred.

SEC. 34. MALICE NOT INFERRED.—In the cases provided for in subdivisions three, four, and five, of section 33, malice is not inferred from the communication or publication.

Personal relations forbid abduction and seduction.

SEC. 35. PERSONAL RELATIONS FORBID ABDUCTION AND SEDUCTION.—The rights of personal relations forbid:

1. The abduction of a husband from his wife, or of a parent from his child.

2. The abduction or enticement of a wife from her husband, or a child from a parent, or from a guardian entitled to its custody.

3. The seduction of daughter or orphan sister.

CROSS REFERENCE

Post, p. 1333.

Damages for seduction, see section 1619.

Right to use force.

SEC. 36. RIGHT TO USE FORCE.—Any necessary force may be used to protect from wrongful injury the person or property of oneself, or of a wife, husband, child, parent, or other relative, or member of one's family, or of a ward, servant, master, or guest.

MARRIAGE.

CHAPTER 4.—MARRIAGE

What constitutes.

SEC. 37. WHAT CONSTITUTES MARRIAGE.—Marriage is a personal relation arising out of a civil contract, to which the consent of parties capable of making that contract is necessary. Consent alone will not constitute marriage; it must be followed by a solemnization authorized by this code.

How proved.

SEC. 38. MARRIAGE; HOW PROVED.—Consent to marriage and solemnization thereof may be proved under the same general rules of evidence as facts are proved in other cases.

When are void.

SEC. 39. WHAT MARRIAGES VOID WITHOUT BEING SO DECREED.—(a) A marriage celebrated in the Canal Zone after December 29, 1926, shall be void, without being so decreed—

Post, p. 1180.

(1) If between persons related by consanguinity within the fourth degree, determined according to sections 405 to 409;

(2) If either party thereto has been previously married and such previous marriage has not been terminated by death, annulment, or a final decree of divorce;

(3) If either party thereto is not present in person at the celebration of the marriage.

By judicial decree.
Vol. 44, p. 927.

(b) A void marriage may, in addition, be declared by judicial decree, or be shown in any collateral proceeding, to have been void from the time of its celebration. (Act Cong. Dec. 29, 1926, c. 19, § 8, 44 Stat. 927.)

Voidable.

SEC. 40. WHAT MARRIAGES VOIDABLE.—(a) A marriage celebrated in the Canal Zone after December 29, 1926, shall be voidable—

(1) If either party thereto, at the time of the marriage, is an idiot or a lunatic;

(2) If the consent of either party thereto was procured by force or fraud;

(3) If either party thereto is, at the time of the marriage, incapable, from physical cause, of entering into the marriage state;

(4) If, because of the age of either party thereto, a written consent under section 46 was required, and the marriage was celebrated without such consent; or

(5) If, at the time of the marriage, the male is under seventeen or the female is under fourteen years of age.

(b) A voidable marriage shall be held to be valid until it is annulled, by judicial decree, as of the date of such decree. (Acts Cong. Dec. 29, 1926, c. 19, § 9, 44 Stat. 927; Jan. 22, 1927, c. 52, 44 Stat. 1023.)

Post, p. 1130.

Valid until judicially annulled.
Vol. 44, pp. 928, 1023.

SEC. 41. ANNULMENT OF MARRIAGE CELEBRATED ELSEWHERE.—(a) A marriage celebrated outside of the Canal Zone may be declared void or may be annulled in the same manner and with the same effect as though it had been celebrated in the Canal Zone if the petitioner shall have resided in the Canal Zone within a period of thirty days before and a period of thirty days after the date of such marriage.

Marriages outside of Canal Zone.

(b) A suit to have any such marriage celebrated outside the Canal Zone declared void or annulled may, in addition, be instituted by the district attorney for the Canal Zone in the name of the government of the Canal Zone. (Act Cong. Dec. 29, 1926, c. 19, § 10, 44 Stat. 928.)

Institution of suit by Government.
Vol. 44, p. 928.

SEC. 42. JURISDICTION OF ANNULMENT SUIT; WHO MAY INSTITUTE SUIT.—(a) The district court shall have jurisdiction of a suit to have a marriage declared void or annulled.

Jurisdiction of suit.

(b) In the case of a male under twenty-one or a female under eighteen years of age such suit may be instituted through a next friend or by a parent or guardian. In the case of an idiot or a lunatic such suit may be instituted through a next friend.

In case of minors.

(c) No suit to have a marriage annulled may be instituted by a person who, when fully capable of contracting marriage, entered into such marriage willfully and with knowledge of the circumstances rendering such marriage voidable. (Act Cong. Dec. 29, 1926, c. 19, § 11, 44 Stat. 928.)

Knowledge of voidable circumstances a bar to annulment.
Vol. 44, p. 928.

SEC. 43. LEGITIMACY OF CHILDREN OF ANNULLED MARRIAGES.—A judgment of nullity of marriage does not affect the legitimacy of children begotten before the judgment.

Legitimacy of children of annulled marriages.

CROSS REFERENCES

Divorce as affecting legitimacy of children, see section 90.

Post, p. 1137.

Legitimate children, who are, see sections 136 and 138.

Post, p. 1141.

Legitimacy of children of annulled marriage, see section 408.

Post, p. 1170.

Presumption of legitimacy of children, see sections 136 and 137.

Post, p. 1141.

Who may dispute legitimacy of child, see section 138.

Post, p. 1141.

SEC. 44. CUSTODY OF CHILDREN OF ANNULLED MARRIAGES.—The court must award the custody of the children of a marriage annulled on the ground of fraud or force to the innocent parent, and may also provide for their education and maintenance out of the property of the guilty party.

Custody of.

SEC. 45. EFFECT OF JUDGMENT OF NULLITY.—A judgment of nullity of marriage rendered is conclusive only as against the parties to the action and those claiming under them.

Effect of judgment of nullity.

CROSS REFERENCE

Effect of decree of divorce, see section 98.

Post, p. 1137.

SEC. 46. CAPABILITY OF MINORS TO CONTRACT MARRIAGE.—(a) Except as provided in subdivision (b), a male under twenty-one years of age or a female under eighteen years of age may not enter into a marriage in the Canal Zone.

Age restriction of minors.

Consent of parents, etc.

(b) A male seventeen years of age or over and under twenty-one years of age, or a female fourteen years of age or over and under eighteen years of age, may enter into a marriage with the written consent of his or her natural or adopted parents, or of the parent having custody of such male or female if such parents are divorced, or of one of such parents if the other is dead, or has deserted his or her family, or has been adjudged insane or a lunatic, or of a legally appointed guardian if there is no parent qualified to give such consent. (Act Cong. Dec. 29, 1926, c. 19, § 12, 44 Stat. 928.)

Vol. 44, p. 928.

License.

SEC. 47. APPLICATION FOR AND ISSUANCE OF LICENSE; FEE.—(a) No marriage shall be celebrated in the Canal Zone unless a license to marry has first been secured from the clerk of the division of the district court in which the marriage is to be celebrated: *Provided, however,* That no marriage license shall be granted unless one of the parties thereto is an American citizen, or a resident of the Canal Zone: *And provided further,* That no marriage license shall be issued to a leper except upon a certificate of approval by the Chief Health Officer of the Canal Zone. Such license when issued shall be accompanied by a marriage certificate to be filled in by the person celebrating the marriage.

Provisos. Citizenship requirement.

Lepers.

Issue by clerk.

(b) Such clerk shall, upon application therefor in accordance with subdivision (c), accompanied by the written consent when required by subdivision (b) of section 46, issue a license to marry if it appears to the satisfaction of such clerk from the sworn statement of the persons desiring to marry, or, if required by such clerk, from the sworn statement of another, that no legal impediment to the marriage is known to exist.

Statement required.

- (c) The application for a license to marry shall state—
 - (1) The name, address, age, color, and race of each of the persons to be married;
 - (2) The relationship, if any, of such persons, by consanguinity or affinity;
 - (3) If either of such persons has been previously married, then the date and place of each previous marriage, the name of each person to whom previously married, and the manner in which each such marriage has been terminated.

(d) The governor shall prescribe the form of the application for a license to marry, of the license to marry, and of the marriage certificate.

Fee.

(e) The clerk shall be paid a fee of \$2 upon the issuance of a license to marry, and shall keep a record of all licenses issued and of all applications for licenses, together with any written consent of parents or a parent or guardian or the chief health officer accompanying the same. Such fee shall be disposed of in the same manner as other fees received by such clerk. (Acts Cong. Dec. 29, 1926, c. 19, § 13, 44 Stat. 928; Jan. 22, 1927, c. 52, 44 Stat. 1023.)

Vol. 44, pp. 928, 1023.

Celebration of marriages. Who authorized.

SEC. 48. WHO MAY CELEBRATE MARRIAGES; LICENSE TO CELEBRATE MARRIAGES.—(a) A marriage may be celebrated in the Canal Zone only by—

- (1) A magistrate of the Canal Zone.
- (2) A minister in good standing in any religious society or denomination who resides in the Canal Zone.

Republic of Panama.

(3) A minister in good standing in any religious society or denomination who resides in the city of Colon or the city of Panama, in the Republic of Panama, if he has procured from the clerk of the district court for the Canal Zone a license authorizing such minister to celebrate marriages in the Canal Zone.

(b) The clerk shall issue the license provided for in paragraph (3) of subdivision (a) to any such minister if such clerk is satisfied that such minister is qualified to celebrate marriages in the Canal Zone. The clerk shall be paid a fee of \$2 for issuing and recording any such license. Such fee shall be disposed of in the same manner as other fees received by such clerk. (Act Cong. Dec. 29, 1926, c. 19, § 14, 44 Stat. 929.)

License to minister in Panama.

Vol. 44, p. 929.

SEC. 49. CERTIFYING, SIGNING, RETURN, AND RECORDING OF LICENSE; MARRIAGE CERTIFICATE.—(a) The judicial officer or minister celebrating a marriage shall—

Marriage certificate, etc.

(1) Certify upon the marriage license that he celebrated such marriage, giving his official title and the time when and place where such marriage was celebrated;

(2) Cause two persons who witnessed the marriage to sign their names on the marriage license as witnesses, each giving his place of residence;

(3) At the time of the marriage, fill out and sign the marriage certificate accompanying the license and deliver it to one of the parties to the marriage; and

(4) Within thirty days after the date of the marriage, return such license, so certified and witnessed, to the clerk who issued such license.

(b) Upon return of a license as required in subdivision (a), the clerk shall file the same after making registry thereof in a book to be kept in his office for that purpose only, such registry to contain the Christian and surnames of the parties, the time of their marriage, and the name and title of the person who celebrated the marriage. (Act Cong. Dec. 29, 1926, c. 19, § 15, 44 Stat. 929.)

Return of certified license.

Vol. 44, p. 929.

SEC. 50. VIOLATIONS OF PROVISIONS OF THIS CHAPTER; PUNISHMENT.—(a) Any judicial officer or minister who is qualified to celebrate marriages in the Canal Zone and any clerk of court who violates any of the provisions of sections 47, 48, or 49 shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$25, or by imprisonment for not more than thirty days, or both.

Violations; punishment.

Acte, p. 1130.

(b) Any person who knowingly makes or causes to be made any false oath as to any material matter for the purpose of procuring or aiding another to procure a marriage license shall be deemed guilty of perjury and shall, upon conviction thereof, be punished by imprisonment in the penitentiary for not more than ten years.

(c) Any person who knowingly files or causes to be filed with the clerk a written consent, any signature to which is a forgery, shall be deemed guilty of uttering a forged instrument and shall, upon conviction thereof, be punished by imprisonment in the penitentiary for not more than fourteen years.

(d) Any person who is not qualified to celebrate marriages in the Canal Zone under this chapter and who celebrates in the Canal Zone what purports to be a marriage ceremony shall, upon conviction thereof, be punished by imprisonment in the penitentiary for not more than three years. (Acts Cong. Dec. 29, 1926, c. 19, § 16, 44 Stat. 929; Jan. 22, 1927, c. 52, 44 Stat. 1023.)

Vol. 44, p. 929.

SEC. 51. DECLARATION WHERE THERE IS NO RECORD.—If no record of the solemnization of a marriage heretofore contracted, be known to exist, the parties may join in a written declaration of such marriage, substantially showing:

Declaration where no record exists.

(1) The names, ages, and residences of the parties.

(2) The fact of marriage.

(3) That no record of such marriage is known to exist. Such declaration must be subscribed by the parties and attested by at least three witnesses.

To be acknowledged and recorded.

SEC. 52. TO BE ACKNOWLEDGED AND RECORDED.—Declarations of marriage must be acknowledged and recorded in the office of the clerk of the district court.

Validity. Either party may test.

SEC. 53. EITHER PARTY MAY PROCEED TO TEST VALIDITY OF MARRIAGE.—If either party to any marriage denies the same, or refuses to join in a declaration thereof, the other may proceed, by action in the district court, to have the validity of the marriage determined and declared.

Contracted without the Zone. *Ante*, p. 1129.

SEC. 55. MARRIAGES CONTRACTED WITHOUT THE ZONE.—Except as otherwise provided in section 41, all marriages contracted without the Canal Zone, which would be valid by the laws of the country in which the same were contracted, are valid in the Canal Zone.

DIVORCE.

CHAPTER 5.—DIVORCE

Cross references.

CROSS REFERENCES

Vol. 42, p. 1010.

Admission of defendant as evidence, see section 16 of Act Sept. 21, 1922, c. 370, 42 Stat. 1010.

Vol. 42, p. 1010.

Cross complaint for divorce and proceedings thereon, see section 19 of Act Sept. 21, 1922, c. 370, 42 Stat. 1010.

Vol. 42, p. 1010.

Practice in general in suits for divorce, see section 16, as amended, of Act Sept. 21, 1922, c. 370, 42 Stat. 1010.

Vol. 42, p. 1010.

Process and service thereof in suits for divorce, see section 16, as amended, of Act Sept. 21, 1922, c. 370, 42 Stat. 1010.

Vol. 42, p. 1010.

Time for appearance and answer, see section 16, as amended, of Act Sept. 21, 1922, c. 370, 42 Stat. 1010.

Vol. 42, p. 1008.

Venue of suits for divorce, see section 13 of Act Sept. 21, 1922, c. 370, 42 Stat. 1008.

CAUSES FOR DIVORCE

Causes.

SEC. 60. CAUSES FOR DIVORCE.—In every case in which a marriage has been, or hereafter may be, contracted and solemnized between any two persons, and it shall be adjudged, in the manner hereinafter provided, (1) that either party has committed adultery subsequent to the marriage except as hereinafter provided; or (2) has willfully deserted and absented herself or himself from the husband or wife without any reasonable cause for a period of two years; or (3) has been guilty of willful neglect which shall consist of the willful failure of the husband to provide for his wife the necessaries of life, he having the ability to do so, or the willful failure to do so by reason of voluntary idleness, profligacy, or dissipation, in either case continued for a period of one year; or (4) has been guilty of habitual drunkenness for the space of two years; or (5) has attempted the life of the other by any means showing malice; or (6) has been guilty of extreme cruelty; or (7) has been subsequent to the marriage, convicted of felony, it shall be lawful for the injured party to obtain a divorce and dissolution of such marriage contract in the district court of the Canal Zone. (Act Cong. Sept. 21, 1922, c. 370, § 12, 42 Stat. 1008.)

Vol. 42, p. 1008.

"Adultery," defined.

SEC. 61. ADULTERY DEFINED.—Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife.

"Desertion," defined.

SEC. 62. DESERTION, WHAT.—Willful desertion is the voluntary separation of one of the married parties from the other with intent to desert.

How manifested.

SEC. 63. DESERTION, HOW MANIFESTED.—Persistent refusal to have reasonable matrimonial intercourse as husband and wife, when health or physical condition does not make such refusal reasonably necessary, or the refusal of either party to dwell in the same house with the other party, when there is no just cause for such refusal, is desertion.

SEC. 64. IN CASE OF STRATAGEM OR FRAUD, WHO COMMITS DESERTION.—When one party is induced, by the stratagem or fraud of the other party, to leave the family dwelling-place, or to be absent, and during such absence the offending party departs with intent to desert the other, it is desertion by the party committing the stratagem or fraud, and not by the other.

Offending party.
In case of stratagem,
etc.

SEC. 65. IN CASE OF CRUELTY, WHERE ONE PARTY LEAVES OTHER, WHO COMMITS DESERTION.—Departure or absence of one party from the family dwelling-place, caused by extreme cruelty or by threats of bodily harm from which danger would be reasonably apprehended from the other, is not desertion by the absent party, but it is desertion by the other party.

In case of cruelty.

SEC. 66. SEPARATION BY CONSENT NOT DESERTION.—Separation by consent, with or without the understanding that one of the parties will apply for a divorce, is not desertion.

Separation, not de-
sertion.

CROSS REFERENCES

Agreement for separation, see section 114.
Consent revocable, see section 68.

Post, p. 1132.

SEC. 67. ABSENCE BECOMES DESERTION, WHEN.—Absence or separation, proper in itself, becomes desertion whenever the intent to desert is fixed during such absence or separation.

When absence be-
comes desertion.

SEC. 68. CONSENT TO SEPARATE REVOCABLE.—Consent to a separation is a revocable act, and if one of the parties afterwards, in good faith, seeks a reconciliation and restoration, but the other refuses it, such refusal is desertion.

Consent to separate
revocable.

SEC. 69. DESERTION, HOW CURED; EFFECT OF REFUSING CONDONATION.—If one party deserts the other, and before the expiration of the statutory period required to make the desertion a cause of divorce, returns and offers in good faith to fulfill the marriage contract, and solicits condonation, the desertion is cured. If the other party refuse such offer and condonation, the refusal shall be deemed and treated as desertion by such party from the time of refusal.

Desertion, how
cured; refusing con-
donation.

SEC. 70. WIFE MUST ABIDE BY HUSBAND'S SELECTION OF HOME, OR IT IS DESERTION ON HER PART.—The husband may choose any reasonable place or mode of living, and if the wife does not conform thereto, it is desertion.

Selection of home,
etc.

SEC. 71. IF PLACE IS UNFIT, AND WIFE REFUSES TO CONFORM, IT IS DESERTION BY HUSBAND.—If the place or mode of living selected by the husband is unreasonable and grossly unfit, and the wife does not conform thereto, it is desertion on the part of the husband from the time her reasonable objections are made known to him.

If place unfit.

SEC. 72. HABITUAL INTEMPERANCE, WHAT.—Habitual drunkenness is that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or which would reasonably inflict a course of great mental anguish upon the innocent party.

Habitual intemper-
ance.

SEC. 73. EXTREME CRUELTY, WHAT.—Extreme cruelty is the wrong-ful infliction of grievous bodily injury, or grievous mental suffering, upon the other by one party to the marriage.

Extreme cruelty.

CAUSES FOR DENYING DIVORCE

Denial of divorce.

SEC. 74. DIVORCES DENIED, ON SHOWING WHAT.—Divorces must be denied upon showing:

Reasons.

1. Connivance; or,
2. Collusion; or,
3. Condonation; or,
4. Recrimination; or,
5. Limitation and lapse of time.

CROSS REFERENCES

Connivance, see section 75.

Collusion, see section 77.

Condonation, see sections 78 et seq.

Post, p. 1135. Recrimination, see sections 85 et seq.

Post, p. 1135. Limitation and lapse of time, see sections 87 et seq.

Connivance.

SEC. 75. **CONNIVANCE, WHAT.**—Connivance is the corrupt consent of one party to the commission of the acts of the other, constituting the cause of divorce.

Corrupt consent.

SEC. 76. **CORRUPT CONSENT, HOW MANIFESTED.**—Corrupt consent is manifested by passive permission, with intent to connive at or actively procure the commission of the acts complained of.

Collusion.

SEC. 77. **COLLUSION, WHAT.**—Collusion is an agreement between husband and wife that one of them shall commit, or appear to have committed, or to be represented in court as having committed, acts constituting a cause of divorce, for the purpose of enabling the other to obtain a divorce.

Condonation.

SEC. 78. **CONDONATION, WHAT.**—Condonation is the conditional forgiveness of a matrimonial offense constituting a cause of divorce.

CROSS REFERENCES

Revoking condonation, see section 84.

Post, p. 1135.

Condonation of a recriminatory defense, see section 86.

Elements of.

SEC. 79. **REQUISITES TO CONDONATION.**—The following requirements are necessary to condonation:

1. A knowledge on the part of the condoner of the facts constituting the cause of divorce;

2. Reconciliation and remission of the offense by the injured party;

3. Restoration of the offending party to all marital rights.

Implication of.

SEC. 80. **CONDONATION IMPLIES WHAT.**—Condonation implies a condition subsequent; that the forgiving party must be treated with conjugal kindness.

Evidence of.

SEC. 81. **EVIDENCE OF CONDONATION.**—Where the cause of divorce consists of a course of offensive conduct, or arises, in cases of cruelty, from excessive acts of ill-treatment which may, aggregately, constitute the offense, cohabitation, or passive endurance, or conjugal kindness, shall not be evidence of condonation of any of the acts constituting such cause, unless accompanied by an express agreement to condone.

When can be made.

SEC. 82. **CONDONATION; CAN ONLY BE MADE WHEN.**—In cases mentioned in section 81, condonation can be made only after the cause of divorce has become complete, as to the acts complained of.

Concealment of facts.

SEC. 83. **CONCEALMENT OF FACTS IN CERTAIN CASES MAKES CONDONATION VOID.**—A fraudulent concealment by the condonee of facts constituting a different cause of divorce from the one condoned, and existing at the time of condonation, avoids such condonation.

How revoked.

SEC. 84. **CONDONATION, HOW REVOKED.**—Condonation is revoked and the original cause of divorce revived:

1. When the condonee commits acts constituting a like or other cause of divorce; or,

2. When the condonee is guilty of great conjugal unkindness, not amounting to a cause of divorce, but sufficiently habitual and gross to show that the conditions of condonation had not been accepted in good faith, or not fulfilled.

SEC. 85. RECRIMINATION, WHAT.—Recrimination is a showing by the defendant of any cause of divorce against the plaintiff, in bar of the plaintiff's cause of divorce.

Recrimination.

SEC. 86. CONDONATION; WHEN TO BAR DEFENSE.—Condonation of a cause of divorce, shown in the answer as a recriminatory defense, is a bar to such defense, unless the condonation be revoked, as provided in section 84, or two years have elapsed after the condonation, and before the accruing or completion of the cause of divorce against which the recrimination is shown.

When condonation is a bar to defense.
Ante, p. 1134.

SEC. 87. DIVORCE, WHEN DENIED.—A divorce must be denied:

Denial of divorce.

(1) When the cause is adultery and the action is not commenced within two years after the commission of the act of adultery, or after its discovery by the injured party; or,

(2) When the cause is conviction of felony, and the action is not commenced before the expiration of two years after a pardon, or the termination of the period of sentence.

(3) In all other cases when there is an unreasonable lapse of time before the commencement of the action.

SEC. 88. LAPSE OF TIME ESTABLISHES CERTAIN PRESUMPTIONS.—Unreasonable lapse of time is such a delay in commencing the action as establishes the presumption that there has been connivance, collusion, or condonation of the offense, or full acquiescence in the same, with intent to continue the marriage relation notwithstanding the commission of such offense.

Certain presumptions established by lapse of time.

SEC. 89. PRESUMPTIONS MAY BE REBUTTED.—The presumptions arising from lapse of time may be rebutted by showing reasonable grounds for the delay in commencing the action.

Rebuttal.

SEC. 90. LIMITATION OF TIME.—There are no limitations of time for commencing actions for divorce, except such as are contained in section 87.

Limitation of time.

SEC. 91. RESIDENCES OF PLAINTIFF IN SUIT FOR DIVORCE.—(a) Any person having an official residence within the territorial limits of the Canal Zone, or who resides therein for the purpose of any occupation or employment, shall, during such residence, be deemed a resident of the Canal Zone for the purpose of this chapter and sections 13, 15, 16, and 19 of Act September 21, 1922, as amended, notwithstanding that he or she may not have acquired a permanent domicile within the Canal Zone.

Residence of plaintiff in divorce suit.

Vol. 42, p. 1008-1010;
Vol. 44, p. 927.

(b) No plaintiff shall be entitled to a divorce in pursuance of the provisions of said sections who has not actually resided on the Canal Zone continuously during the whole year next before the filing of his or her complaint, which residence shall be duly proven by the plaintiff to the satisfaction of the court by at least two witnesses who are residents of the Canal Zone; and the plaintiff shall file with the complaint his or her own affidavit, in which he or she shall state the length of time plaintiff has resided on the Canal Zone, the place or places where he or she has resided for the last preceding year, and his or her office or occupation. (Act Cong. Sept. 21, 1922, c. 370, § 13 as modified, 42 Stat. 1008.)

Residence requirements.

Vol. 42, p. 1008.

CROSS REFERENCE

Venue in suit for divorce, see section 13 of Act of September 21, 1922, c. 370, 42 Stat. 1008.

Vol. 42, p. 1008.

GENERAL PROVISIONS

General provisions.

SEC. 92. MARRIAGE, HOW DISSOLVED.—Marriage is dissolved only:

How marriage is dissolved.

(1) By the death of one of the parties; or

(2) By the judgment of a court of competent jurisdiction decreeing a divorce of the parties.

Custody, etc., of children pending suit.

SEC. 93. CUSTODY AND CARE OF CHILDREN PENDING SUIT.—The court may, on the application of either party, make such order concerning the custody and care of the minor children of the parties during the pendency of the suit as may be deemed expedient and for the benefit of the children. (Act Cong. Sept. 21, 1922, c. 370, § 17, 42 Stat. 1010.)

Vol. 42, p. 1010.

Alimony.

SEC. 94. ALIMONY PENDING SUIT.—In all cases of divorce the court may require the husband to pay to the wife or pay into court for her use during the pendency of the suit such sum or sums of money as may enable her to maintain or defend the suit; and in every suit for divorce, the wife, when it is just and equitable, shall be entitled to alimony during the pendency of the suit. And in case of appeal or writ of error by the husband, the district court may grant and enforce the payment of such money for her defense and such equitable alimony during the pendency of the appeal or writ of error as to the court shall seem reasonable and proper. (Act. Cong. Sept. 21, 1922, c. 370, § 20, 42 Stat. 1010.)

Vol. 42, p. 1010.

CROSS REFERENCE

Post, p. 1138.

Property resorted to in executing this section, see section 102.

When bill is taken as confessed; default.

SEC. 95. WHEN BILL IS TAKEN AS CONFESSED; DEFAULT.—If the bill is taken as confessed, the court shall proceed to hear the cause by examination of witnesses in open court, and in no case of default shall the court grant a divorce unless the judge is satisfied that all proper means have been taken to notify the defendant of the pendency of the suit, and that the cause of divorce has been fully proven by competent evidence. Whenever the district judge is satisfied that the interests of the defendant require it, the court may order such additional notice as equity may seem to require. (Act Cong. Sept. 21, 1922, c. 370, § 16, 42 Stat. 1010.)

Vol. 42, p. 1010.

Maintenance by husband where divorce denied.

SEC. 96. MAINTENANCE BY HUSBAND WHERE DIVORCE DENIED.—Though judgment of divorce is denied, the court may, in an action for divorce, provide for the maintenance by the husband, of the wife and children of the marriage, or any of them.

CROSS REFERENCES

Post, p. 1137.

Alimony generally, see section 101.

Post, p. 1138.

Property resorted to in executing this section, see section 102.

Action for maintenance.

SEC. 97. ACTION FOR PERMANENT SUPPORT OF WIFE.—When the husband willfully deserts the wife or when the husband willfully fails to provide for the wife or when the wife has any cause of action for divorce as provided in section 60, she may, without applying for divorce, maintain in the district court an action against him for permanent support and maintenance of herself or of herself and children. During the pendency of such action the court may, in its discretion, require the husband to pay as alimony any money necessary for the prosecution of the action and for support and maintenance, and execution may issue therefor in the discretion of the court. The court, in granting the wife permanent support and maintenance of herself, or of herself and children, in any such action, shall make the same disposition of the community property as would have been made if the marriage had been dissolved by the decree of a court of competent jurisdiction. The final judgment in such action may be enforced by the court by such order or orders as in its discretion it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked at the discretion of the court.

Ante, p. 1132.

CROSS REFERENCE

Property resorted to in executing this section, see section 102.

Post, p. 1138.

SEC. 98. EFFECT OF DIVORCE IN GENERAL.—The effect of a judgment decreeing a divorce is to restore the parties to the state of unmarried persons.

Effect of divorce in general.

SEC. 99. LEGITIMACY OF CHILDREN.—No divorce shall in anywise affect the legitimacy of the children of such marriage. (Act Cong. Sept. 21, 1922, c. 370, § 18, 42 Stat. 1010.)

Legitimacy of children.
Vol. 42, p. 1010.

CROSS REFERENCES

Issue of marriage dissolved by divorce legitimate, see section 403.

Post, p. 1179.

Legitimacy of children of annulled marriages, see section 43.

Ante, p. 1129.

SEC. 100. INTERLOCUTORY ORDER AND APPEAL THEREFROM; FINAL DECREE OF DIVORCE.—(a) No final decree granting a divorce shall be entered until after the expiration of the period of six months from the date of the entry of an interlocutory order adjudging that a case for divorce has been proved, and every such interlocutory order shall expressly state that no divorce is granted by it. An appeal may be taken from any such interlocutory order in the same manner and within the same time as an appeal from a final decree of such court in any other proceeding.

Interlocutory order.

Appeal.

(b) After the expiration of such period of six months, or if an appeal is taken and the case is pending at the time of the expiration of such period then after the final disposition of the case if determined in favor of the plaintiff, the court, upon application filed within thirty days after the expiration of such period or such final disposition, by the person in whose favor such interlocutory order was entered, shall enter a final decree granting a divorce. If no such application is made, the court may, on its own motion, within three months after the expiration of such thirty-day period, enter a final decree of divorce. No appeal may be taken from such final decree.

Final decree.

(Act Cong. Sept. 21, 1922, c. 370, § 21, 42 Stat. 1011; Act Cong. Dec. 29, 1926, c. 19, § 5 as modified, 44 Stat. 926.)

Vol. 42, p. 1011; Vol. 44, p. 926.

SEC. 101. ALIMONY AND MAINTENANCE; CARE, CUSTODY, AND SUPPORT OF CHILDREN.—When a divorce shall be decreed the court may make such order touching the alimony and maintenance of the wife, the care, custody, and support of the children, or any of them as, from the circumstances of the parties and the nature of the case, shall be reasonable and just, and in case the wife be plaintiff, to order the defendant to give reasonable security for such alimony and maintenance, or may enforce the payment of such alimony and maintenance in any other manner consistent with the rules and practice of the court. And the court may, on application, from time to time make such alterations in the allowance of alimony and maintenance and the care, custody, and support of the children as shall appear reasonable and proper. In decreeing a divorce to the wife the court may order the husband to pay alimony in a gross sum or in installments as may seem best. And it may make such orders and enforce the same by attachment and secure the payment of such alimony, but judgment for alimony can not be taken when the defendant is not personally served with summons or does not voluntarily appear. (Act Cong. Sept. 21, 1922, c. 370, § 20, 42 Stat. 1010.)

Alimony and maintenance; care, etc., of children.

Security for alimony.

Vol. 42, p. 1010.

CROSS REFERENCE

Property resorted to in executing this section, see section 102.

Property subject to alimony, etc., orders.
Ante, pp. 1136, 1137.

SEC. 102. COURT SHALL RESORT TO WHAT, IN EXECUTING CERTAIN SECTIONS.—In executing sections 94, 96, 97, and 101, the court must resort:

1. To the community property; then,
2. To the separate property of the husband.

When wife has sufficient for her support.

SEC. 103. IF WIFE HAS SUFFICIENT FOR HER SUPPORT, COURT MAY WITHHOLD ALLOWANCE.—When the wife has either a separate estate, or there is community property sufficient to give her alimony or a proper support, the court, in its discretion, may withhold any allowance to her out of the separate property of the husband.

Support, etc., of children from community, etc., property.

SEC. 104. COMMUNITY AND SEPARATE PROPERTY MAY BE SUBJECTED TO SUPPORT AND EDUCATE CHILDREN.—The community property and the separate property may be subjected to the support and education of the children in such proportions as the court deems just.

Disposition of community property.

SEC. 105. DISPOSITION OF COMMUNITY PROPERTY ON DIVORCE.—In case of the dissolution of the marriage by the decree of a court of competent jurisdiction, the community property shall be assigned to the respective parties in such proportions as the court, from all the facts of the case, and the condition of the parties, may deem just.

Order for.

SEC. 106. SAME.—The court, in rendering a decree of divorce, must make such order for the disposition of the community property, as in this chapter provided, and, whenever necessary for that purpose, may order a partition or sale of the property and a division or other disposition of the proceeds.

Conveyance of property equitably belonging to other spouse.

SEC. 107. COMPELLING CONVEYANCE OF PROPERTY BELONGING TO OTHER SPOUSE.—Whenever a divorce is granted, if it shall appear to the court that either party holds the title to property equitably belonging to the other, the court may compel conveyance thereof to the party entitled to the same, upon such terms as it shall deem equitable. (Act Cong. Sept. 21, 1922, c. 370, § 20, 42 Stat. 1010.)

Vol. 42, p. 1010.

Resumption of maiden, etc., name.
Vol. 42, p. 1010.

SEC. 108. RESUMPTION OF MAIDEN OR FORMER HUSBAND'S NAME.—The court, upon granting to a woman a divorce from the bonds of matrimony, may allow her to resume her maiden name or the name of any former husband. (Act Cong. Sept. 21, 1922, c. 370, § 20, 42 Stat. 1010.)

Decrees, etc., prior to September 21, 1922, legalized.

SEC. 109. DECREES AND ORDERS PRIOR TO SEPTEMBER 21, 1922, LEGALIZED.—All proceedings in the district court of the Canal Zone, wherein and whereby a decree of divorce was granted prior to September 21, 1922, upon personal service, or service by publication, and wherein other orders were made affecting the status of the parties or their children, are hereby legalized. (Act Cong. Sept. 21, 1922, c. 370, § 22, 42 Stat. 1011.)

Vol. 42, p. 1011.

HUSBAND AND WIFE.

CHAPTER 6.—HUSBAND AND WIFE

Mutual obligations.

SECTION 110. MUTUAL OBLIGATIONS OF HUSBAND AND WIFE.—Husband and wife contract towards each other obligations of mutual respect, fidelity, and support.

CROSS REFERENCES

Post, p. 1142.

Mother aiding in support of children, see section 140.

Post, p. 1141.

Husband's support of wife, see sections 129 and 130.

Ante, p. 1133.

Husband's selection of dwelling place, etc., see section 70.

Rights of husband.

SEC. 111. RIGHTS OF HUSBAND, AS HEAD OF FAMILY.—The husband is the head of the family. He may choose any reasonable place or mode of living, and the wife must conform thereto.

CROSS REFERENCES

Parent changing residence of child, see section 157.
 Wife's support of husband, see section 131.

Post, p. 1144.

Post, p. 1141.

SEC. 112. IN OTHER RESPECTS THEIR INTERESTS SEPARATE.—Neither husband nor wife has any interest in the property of the other, but neither can be excluded from the other's dwelling.

Property interests separate.

SEC. 113. HUSBAND AND WIFE MAY MAKE CONTRACTS.—Either husband or wife may enter into any engagement or transaction with the other, or with any other person, respecting property, which either might if unmarried; subject, in transactions between themselves, to the general rules which control the actions of persons occupying confidential relations with each other, as defined by chapters 49 and 50 on trusts.

Individual contractual rights.

Post, pp. 1258-1261.

SEC. 114. HUSBAND AND WIFE; PROPERTY RELATIONS.—A husband and wife can not, by any contract with each other, alter their legal relations, except as to property, and except that they may agree, in writing, to an immediate separation, and may make provision for the support of either of them and of their children during such separation.

Alteration of legal status.

CROSS REFERENCE

Marriage settlements, see sections 132 to 134.

Post, p. 1141.

SEC. 115. CONSIDERATION FOR AGREEMENT OF SEPARATION.—The mutual consent of the parties is a sufficient consideration for such an agreement as is mentioned in section 114.

Consideration for agreement of separation.

SEC. 116. MAY HOLD PROPERTY HOW.—A husband and wife may hold property by joint interests, by interests in common, or as community property.

How property may be held.

SEC. 117. SEPARATE PROPERTY OF THE WIFE.—All property of the wife, owned by her before marriage, and that acquired afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is her separate property. The wife may, without the consent of her husband, convey her separate property.

Separate property of wife.

SEC. 118. SEPARATE PROPERTY OF THE HUSBAND.—All property owned by the husband before marriage, and that acquired afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is his separate property.

Separate property of husband.

CROSS REFERENCES

Community property, see section 202.

Post, p. 1184.

Community property liable for what debts, see section 122.

Post, p. 1140.

Husband's control over community property, see section 123.

Post, p. 1140.

Descent of community property, see sections 417 and 418.

Post, p. 1181.

SEC. 119. PROPERTY ACQUIRED AFTER MARRIAGE.—All other property acquired after marriage by either husband or wife, or both, including personal property wherever situated, heretofore or hereafter acquired while domiciled elsewhere, which would not have been the separate property of either if acquired while residing in the Canal Zone, is community property; but whenever personal property, or any interest therein or encumbrance thereon, is acquired by a married woman by an instrument in writing the presumption is that the same is her separate property, and if acquired by such married woman and her husband, or by her and any other person, the presumption is that she takes the part acquired by her, as an interest in common, unless a different intention is expressed in the instrument; and the presumptions in this section mentioned are conclusive in favor of a purchaser, encumbrancer, payor, or any other person dealing with such married woman, in good faith and for a valuable consideration.

Property acquired after marriage.

CROSS REFERENCE

- Post*, p. 1154. See, also, section 202.
- Inventory of separate property of wife. SEC. 120. INVENTORY OF SEPARATE PROPERTY OF WIFE.—A full and complete inventory of the separate personal property of the wife may be made out and signed by her, acknowledged or proved in the manner required by chapter 22 of this code, and recorded in the office of the registrar of property.
- Post*, p. 1164. SEC. 121. FILING INVENTORY NOTICE OF WIFE'S TITLE.—The filing of the inventory in the office of the registrar of property is notice and prima facie evidence of the title of the wife.
- Filing inventory, notice of title. SEC. 122. COMMUNITY PROPERTY; CONTRACTS BY WIFE.—The property of the community is not liable for the contracts of the wife, made after marriage, unless secured by mortgage thereof executed by the husband.
- Community property; wife's contracts.

CROSS REFERENCES

- Post*, p. 1141. Debts of wife, see sections, 125, 126, and 129.
- Post*, p. 1141. Community property is liable for husband's debts, see section 128.
- Post*, p. 1141. Necessaries furnished wife, see section 129.
- Wife's earnings. SEC. 123. EARNINGS OF WIFE NOT LIABLE FOR DEBTS OF THE HUSBAND.—The earnings of the wife are not liable for the debts of the husband.
- Wife's earnings, when living separate. SEC. 124. EARNINGS OF WIFE, WHEN LIVING SEPARATE, SEPARATE PROPERTY.—The earnings and accumulations of the wife, while she is living separate from her husband, are her separate property.
- Liability for antenuptial debts of wife. SEC. 125. LIABILITY FOR DEBTS OF WIFE CONTRACTED BEFORE MARRIAGE.—The separate property of the husband is not liable for the debts of the wife contracted before the marriage.
- Liability of wife's property. SEC. 126. LIABILITY OF SEPARATE PROPERTY OF WIFE.—The separate property of the wife is liable for her own debts contracted before or after her marriage, but is not liable for her husband's debts; provided, that the separate property of the wife is liable for the payment of debts contracted by the husband or wife for the necessaries of life furnished to them or either of them while they are living together; provided, that the provisions of the foregoing proviso shall not apply to the separate property of the wife held by her at the time of her marriage or acquired by her by devise, succession, or gift, other than by gift from the husband, after marriage.
- Necessaries. SEC. 127. MARRIED WOMAN'S TORTS.—For civil injuries committed by a married woman, damages may be recovered from her alone, and her husband shall not be liable therefor, except in cases where he would be jointly liable with her if the marriage did not exist.
- Married woman's torts. SEC. 128. MANAGEMENT OF COMMUNITY PERSONAL PROPERTY.—The husband has the management and control of the community personal property, with like absolute power of disposition, other than testamentary, as he has of his separate estate: *Provided, however*, That he can not make a gift of such community personal property, or dispose of the same without a valuable consideration, or sell, convey, or encumber the furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the wife or minor children that is community, without the written consent of the wife.
- Management of communal personality.
- Proviso.*
Disposal without valuable consideration.

CROSS REFERENCES

- Ante*, p. 1139. Community property generally, see section 119.
- Ante*, p. 1138. Dissolution of the community by divorce, see section 106.
- Post*, p. 1181. Testamentary control over community property, see sections 417 and 418.

SEC. 129. SUPPORT OF WIFE.—If the husband neglects to make adequate provision for the support of his wife, except in the cases mentioned in section 130, any other person may, in good faith, supply her with articles necessary for her support, and recover the reasonable value thereof from the husband.

Support of wife, liability for.

SEC. 130. HUSBAND NOT LIABLE WHEN ABANDONED BY WIFE.—A husband abandoned by his wife is not liable for her support until she offers to return, unless she was justified, by his misconduct, in abandoning him; nor is he liable for her support when she is living separate from him, by agreement, unless such support is stipulated in the agreement.

When wife abandons husband.

SEC. 131. WHEN WIFE MUST SUPPORT HUSBAND.—The wife must support the husband when he has not deserted her, out of her separate property, when he has no separate property, and there is no community property, and he is unable, from infirmity, to support himself.

When wife must support husband.

CROSS REFERENCES

Mutual obligations of support, see section 110.

Anie, p. 1138.

SEC. 132. RIGHTS OF HUSBAND AND WIFE GOVERNED BY WHAT.—The property rights of husband and wife are governed by this chapter, unless there is a marriage settlement containing stipulations contrary thereto.

Property rights of husband and wife.

SEC. 133. MARRIAGE SETTLEMENT CONTRACTS, HOW EXECUTED.—All contracts for marriage settlements must be in writing; subscribed by the party to be charged or by his agent thereunto authorized in writing; and acknowledged or proved in the manner prescribed in chapter 22 of this code.

Marriage settlement contracts.

SEC. 134. MINORS MAY MAKE MARRIAGE SETTLEMENTS.—A minor capable of contracting marriage may make a valid marriage settlement.

Minors may make.

CHAPTER 7.—CHILDREN BY BIRTH

SECTION 135. LEGITIMACY OF ISSUE OF WIFE COHABITING WITH HUSBAND.—The issue of a wife cohabiting with her husband, who is not impotent, is indisputably presumed to be legitimate.

CHILDREN BY BIRTH.

Legitimacy.

SEC. 136. LEGITIMACY OF CHILDREN BORN IN WEDLOCK.—All children born in wedlock are presumed to be legitimate.

Children born in wedlock.

CROSS REFERENCES

Father legitimating child by acknowledging it, see section 164.

Post, p. 1145.

Illegitimates, heirs to whom, see section 408.

Post, p. 1179.

Legitimacy of children of nullified marriage, see section 43.

Anie, p. 1129.

Legitimizing children by marriage of parents, see section 139.

Mother entitled to custody of illegitimate unmarried minor, see section 144.

Post, p. 1142.

Mother succeeds to estate of illegitimate, see section 404.

Post, p. 1180.

Rebutting presumption of legitimacy, see section 138.

SEC. 137. LEGITIMACY OF CHILDREN BORN AFTER DISSOLUTION OF MARRIAGE.—All children of a woman who has been married, born within ten months after the dissolution of the marriage, are presumed to be legitimate children of that marriage.

Children born after dissolution of marriage.

SEC. 138. WHO MAY DISPUTE THE LEGITIMACY OF A CHILD.—The presumption of legitimacy can be disputed only by the husband or wife, or the descendant of one or both of them. Illegitimacy, in such case, may be proved like any other fact.

Who may dispute legitimacy.

SEC. 139. WHEN CHILD BECOMES LEGITIMATE.—A child born before wedlock becomes legitimate by the subsequent ¹ marriage of its parents.

Legitimation by marriage.

¹ So in original.

Obligation for support, etc.

SEC. 140. OBLIGATION OF PARENTS FOR THE SUPPORT AND EDUCATION OF THEIR CHILDREN.—The parent entitled to the custody of a child must give him support and education suitable to his circumstances; provided, that if a child has earnings of his own sufficient therefor, the cost of his support and education may be taken therefrom. If the support and education which the father of a legitimate child is able to give are inadequate, the mother must assist him to the extent of her ability.

Custody of minors.

SEC. 141. CUSTODY OF MINORS.—The father and mother of a legitimate unmarried minor child are equally entitled to its custody and services. If either the father or mother be dead or unable or refuse to take the custody or has abandoned his or her family, the other is entitled to its custody and services.

CROSS REFERENCES

- Action for control of child, see section 143.
- Control over property of child, see section 146.
- Property of child, parent as such has no control of, see section 146.
- Relinquishing right to child's earnings, see section 155.

Post, p. 1143.

Custody, when parents separated.

SEC. 142. HUSBAND AND WIFE LIVING SEPARATE, NEITHER TO HAVE SUPERIOR RIGHT TO CUSTODY OF CHILDREN.—The husband and father, as such, has no rights superior to those of the wife and mother, in regard to the care, custody, education, and control of the children of the marriage, while such husband and wife live separate and apart from each other.

Action for exclusive control of children; decree.

SEC. 143. WHEN HUSBAND OR WIFE MAY BRING ACTION FOR THE EXCLUSIVE CONTROL OF CHILDREN; DECREE IN SUCH CASES.—Without application for a divorce, the husband or the wife may bring an action for the exclusive control of the children of the marriage; and the district court may, during the pendency of such action, or at the final hearing thereof, or afterwards, make such order or decree in regard to the support, care, custody, education, and control of the children of the marriage, as may be just, and in accordance with the natural rights of the parents and the best interests of the children, and may at any time thereafter amend, vary, or modify such order or decree, as the natural rights and the interests of the parties, including the children, may require.

Custody of illegitimate child.

SEC. 144. CUSTODY OF ILLEGITIMATE CHILD.—The mother of an illegitimate unmarried minor is entitled to its custody and services.

CROSS REFERENCE

Post, p. 1180.

Inheritance from illegitimate child, see section 404.

Allowance to parents.

SEC. 145. ALLOWANCE TO PARENTS.—The district court may direct an allowance to be made to the parent of a child, out of its property, for its past or future support and education, on such conditions as may be proper, whenever such direction is for its benefit.

Control child's property.

SEC. 146. PARENT CAN NOT CONTROL PROPERTY OF CHILD.—The parent, as such, has no control over the property of the child.

Remedy for parental abuse.

SEC. 147. REMEDY FOR PARENTAL ABUSE.—The abuse of parental authority is the subject of judicial cognizance in a civil action brought by the child, or by its relative within the third degree, or by the district attorney of the Canal Zone; and when the abuse is established, the child may be freed from the dominion of the parent, and the duty of support and education enforced.

CROSS REFERENCE

Parental duty, see section 140.

Ante, p. 1142.

SEC. 148. WHEN PARENTAL AUTHORITY CEASES.—The authority of a parent ceases:

When parental authority ceases.

1. Upon the appointment, by a court, of a guardian of the person of a child;
2. Upon the marriage of the child; or,
3. Upon its attaining majority.

SEC. 149. REMEDY WHEN PARENT DIES WITHOUT PROVIDING FOR THE SUPPORT OF HIS CHILD.—If a parent chargeable with the support of a child dies, leaving it a public charge, and leaving an estate sufficient for its support, the district attorney may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditors against that estate, and against the heirs and next of kin of the parent.

Remedy when parent dies without providing for child's support, etc.

SEC. 150. RECIPROCAL DUTIES OF PARENTS AND CHILDREN IN MAINTAINING EACH OTHER.—It is the duty of the father, the mother, and the children of any poor person who is unable to maintain himself by work, to maintain such person to the extent of their ability. The promise of an adult child to pay for necessaries previously furnished to such parent is binding.

Reciprocal duties of maintenance.

CROSS REFERENCES

Mother supporting children, see section 140.

Ante, p. 1142.

Wife supporting husband, see section 131.

Ante, p. 1141.

SEC. 151. WHEN PARENT IS LIABLE FOR NECESSARIES SUPPLIED TO CHILD.—If a parent neglects to provide articles necessary for his child who is under his charge, according to his circumstances, a third person may in good faith supply such necessaries, and recover the reasonable value thereof from the parent.

Liability for child's necessaries.

CROSS REFERENCE

Infant liable on contract for necessaries, see section 22.

Ante, p. 1126.

SEC. 152. WHEN PARENT IS NOT LIABLE FOR SUPPORT FURNISHED HIS CHILD.—A parent is not bound to compensate the other parent, or a relative, for the voluntary support of his child, without an agreement for compensation, nor to compensate a stranger for the support of a child who has abandoned the parent without just cause.

When parent is not liable for support furnished.

SEC. 153. HUSBAND NOT BOUND FOR THE SUPPORT OF HIS WIFE'S CHILDREN BY A FORMER MARRIAGE.—A husband is not bound to maintain his wife's children by a former husband; but if he receives them into his family and supports them, it is presumed that he does so as a parent, and, where such is the case, they are not liable to him for their support, nor he to them for their services.

Liability for support of wife's children by former marriage.

SEC. 154. COMPENSATION AND SUPPORT OF ADULT CHILD.—Where a child, after attaining majority, continues to serve and to be supported by the parent, neither party is entitled to compensation, in the absence of an agreement therefor.

Compensation and support of adult child.

SEC. 155. PARENT MAY RELINQUISH SERVICES AND CUSTODY OF CHILD.—The parent, whether solvent or insolvent, may relinquish to the child the right of controlling him. Abandonment by the parent is presumptive evidence of such relinquishment.

Parent may relinquish control of child.

SEC. 156. WAGES OF MINORS.—The wages of a minor employed in service may be paid to him.

Wages of minors.

Residence of child.

SEC. 157. RIGHT OF PARENT TO DETERMINE THE RESIDENCE OF CHILD.—A parent entitled to the custody of a child has a right to change his residence, subject to the power of the proper court to restrain a removal which would prejudice the rights or welfare of the child.

CROSS REFERENCE

Ante, p. 1138.

Residence, husband's right to change, see section 111.

CHILDREN BY
ADOPTION.

CHAPTER 8.—CHILDREN BY ADOPTION

How adopted.

Petition.

SEC. 158. HOW CHILD MAY BE ADOPTED.—A resident of the Canal Zone, not married, or a husband and wife jointly, may petition the district court for leave to adopt a minor child; but a written consent must be given for the adoption by the child, if of the age of fourteen years, and by each of his or her living parents who is not hopelessly insane or intemperate, or has not abandoned such child, or if there are no such parents, or if the parents are unknown, or have abandoned such child, or if they are hopelessly insane or intemperate, then by the legal guardian, or if there is no such guardian, then by a discreet and suitable person appointed by the court to act in the proceedings as the next friend of such child; but when such child is an inmate of a charitable or eleemosynary institution within the Canal Zone, and has been previously abandoned by its parents or guardians thereto, then the written consent of the head of such institution must be given; provided, nevertheless, that nothing herein contained shall authorize a guardian to adopt his ward before the termination of the guardianship and the final settlement and approval of his accounts as guardian by the court. (E. O. Mar. 22, 1907, § 794; Act Cong. Aug. 24, 1912, c. 390, §§ 2, 9, 37 Stat. 561; E. O. Mar. 12, 1914, § 10; Act Cong. Sept. 21, 1922, c. 370, § 3, 42 Stat. 1006.)

Executive Order No.
597¹/₂.
Vol. 37, p. 561; Vol.
42, p. 1006.

Adoption by step-
father.

SEC. 159. ADOPTION BY STEPFATHER.—A resident of the Canal Zone, being the husband of any woman who has a minor child by a deceased husband, may petition the district court for leave to adopt such minor child and for a change in the name of such child; but the written consent must be given to the adoption by the child, if of the age of fourteen years, and by the mother of such child, if she is not hopelessly insane or intemperate, or if such mother is hopelessly insane or intemperate, then by the legal guardian of such child, or if there is no such guardian, then by a discreet and suitable person appointed by the court to act in the proceedings as the next friend of such child. (E. O. Mar. 22, 1907, § 795; Act Cong. Aug. 24, 1912, c. 390, §§ 2, 9, 37 Stat. 561; E. O. Mar. 12, 1914, § 10; Act Cong. Sept. 21, 1922, c. 370, § 3, 42 Stat. 1006.)

Executive Order No.
597¹/₂.
Vol. 37, p. 561; Vol.
42, p. 1006.

Order of the court.

SEC. 161. ORDER OF THE COURT.—When the foregoing provisions are complied with, if the court is satisfied with the ability of the petitioner to bring up and educate the child properly, having reference to the degree and condition of the child's parents and the fitness and propriety of such adoption, it shall make an order setting forth the facts and declaring that from that date said child, to all legal intents and purposes, is the child of the petitioner and that its name is thereby changed. The order shall be recorded in the records of the court. (E. O. Mar. 22, 1907, § 796; Act Cong. Aug. 24, 1912, c. 390, §§ 2, 9, 37 Stat. 561; E. O. Mar. 12, 1914, § 10; Act Cong. Sept. 21, 1922, c. 370, § 3, 42 Stat. 1006.)

Effect.

SEC. 162. EFFECT OF THE ORDER.—The natural parents, except when such child is adopted under the provisions of section 159, shall, by such order, be divested of all legal rights and obligations in respect to the child, and the child shall be free from all legal obliga-

tions of obedience and maintenance with respect to them. Such child shall be to all intents and purposes the child and legal heir of the person adopting him or her, entitled to all the rights and privileges, and subject to all the obligations of a child of such person begotten in lawful wedlock. (E. O. Mar. 22, 1907, § 797; Act Cong. Aug. 24, 1912, c. 390, §§ 2, 9, 37 Stat. 561; E. O. Mar. 12, 1914, § 10; Act Cong. Sept. 21, 1922, c. 370, § 3, 42 Stat. 1006.)

Executive Order No. 56714.
Vol. 37, p. 561; Vol. 42, p. 1006.

SEC. 163. CONSENT TO ADOPTION OF ILLEGITIMATE CHILD.—If the child to be adopted is illegitimate, the consent of the father to adoption shall not be required. (E. O. Mar. 22, 1907, § 798; Act Cong. Aug. 24, 1912, c. 390, §§ 2, 9, 37 Stat. 561; E. O. Mar. 12, 1914, § 10; Act Cong. Sept. 21, 1922, c. 370, § 3, 42 Stat. 1006.)

Illegitimate child.

SEC. 164. ADOPTION OF ILLEGITIMATE CHILD BY FATHER.—The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this chapter do not apply to such an adoption.

Adoption by father.

CROSS REFERENCE

Affecting inheritance, see section 403.

Post, p. 1170.

CHAPTER 9.—GUARDIAN AND WARD

GUARDIAN AND WARD.

CROSS REFERENCE

Judicial appointment of guardians, see Code Civil Procedure.

Ante, p. 1078.

SEC. 165. GUARDIAN, WHAT.—A guardian is a person appointed to take care of the person or property of another.

"Guardian," defined.

SEC. 166. WARD, WHAT.—The person over whom or over whose property a guardian is appointed, is called his ward.

"Ward," defined.

SEC. 166a. KINDS OF GUARDIANS.—Guardians are either:

Kinds of.

1. General; or,
2. Special.

CROSS REFERENCES

Testamentary guardians, see section 166e.

Ante, p. 1081.

Guardians ad litem, see Code Civil Procedure.

General guardian.

SEC. 166b. GENERAL GUARDIAN, WHAT.—A general guardian is a guardian of the person or of all the property of the ward within the Canal Zone, or of both.

Special guardian.

SEC. 166c. SPECIAL GUARDIAN, WHAT.—Every other is a special guardian.

SEC. 166d. GUARDIAN; APPOINTMENT BY WILL, AND SO FORTH.—A guardian of the person or estate, or of both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointing:

Appointment, by will, etc.

One. If the child be legitimate, by the father, with the written consent of the mother; or by either parent, if the other be dead or incapable of consent.

Two. If the child be illegitimate, by the mother.

SEC. 166e. APPOINTMENT BY WILL OR DEED OF GUARDIAN.—A guardian of the person or estate, or of both, of an insane or incompetent person may be appointed by will or deed, to take effect upon the death of the person appointing;

Guardian of an insane, etc., person.
Appointment by will.

1. If the insane or incompetent person be unmarried, or be a person whose marriage has been annulled or dissolved by death or divorce, by the father, with the written consent of the mother, or by either parent if the other be dead or incapable of consent.

2. If the insane or incompetent person be married and a person whose marriage has not been annulled or dissolved by divorce, then by the spouse.

Rules for awarding custody of minor.

SEC. 166f. RULES FOR AWARDING CUSTODY OF MINOR.—In awarding the custody of a minor, or in appointing a general guardian, the court or officer is to be guided by the following considerations:

1. By what appears to be for the best interest of the child in respect to its temporal and its mental and moral welfare; and if the child is of a sufficient age to form an intelligent preference, the court may consider that preference in determining the question;

2. As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but other things being equal, if the child is of tender years, it should be given to the mother; if it is of an age to require education and preparation for labor and business, then to the father;

3. Of two persons equally entitled to the custody in other respects, preference is to be given as follows:

- (1) To a parent;
- (2) To one who was indicated by the wishes of a deceased parent;
- (3) To one who already stands in the position of a trustee of a fund to be applied to the child's support;
- (4) To a relative.

4. Any parent who knowingly or willfully abandons, or having the ability so to do, fails to maintain his minor child under the age of fourteen years, forfeits the guardianship of such child.

CROSS REFERENCE

Ante, p. 1142.

Respective rights of parents, see section 141.

Relation confidential.

SEC. 167. RELATION CONFIDENTIAL.—The relation of guardian and ward is confidential, and is subject to the provisions of chapters 49 and 50 of this code on trusts.

Post, pp. 1258, 1261.

Guardian under court's direction.

SEC. 168. GUARDIAN UNDER DIRECTION OF COURT.—In the management and disposition of the person or property committed to him, a guardian may be regulated and controlled by the court.

Death of joint guardian.

SEC. 169. DEATH OF A JOINT GUARDIAN.—On the death of one of two or more joint guardians, the power continues to the survivor until a further appointment is made by the court.

CROSS REFERENCE

Post, p. 1264.

Survival of trust, see section 1033.

Removal of guardian.

SEC. 169a. REMOVAL OF GUARDIAN.—A guardian may be removed by the district court for any of the following causes:

1. For abuse of his trust;
2. For continued failure to perform his duties;
3. For incapacity to perform his duties;
4. For gross immorality;
5. For having an interest adverse to the faithful performance of his duties;
6. For removal from the Canal Zone;
7. In the case of a guardian of the property, for insolvency; or,
8. When it is no longer proper that the ward should be under guardianship.

How guardian appointed by parent is superseded.

SEC. 169b. GUARDIAN APPOINTED BY PARENT, HOW SUPERSEDED.—The power of a guardian appointed by a parent is superseded:

1. By his removal, as provided by section 169a;
2. By the solemnized marriage of the ward; or
3. By the ward's attaining majority.

SEC. 169c. SUSPENSION OF POWER OF GUARDIAN.—The power of a guardian appointed by a court, is suspended only: Suspension of power of guardian.

One. By order of the court; or

Two. If the appointment was made solely because of the ward's minority, by his attaining majority; or

Three. The guardianship over the person of the ward, by the marriage of the ward.

SEC. 169d. RELEASE BY WARD.—After a ward has come to his majority, he may settle accounts with his guardian, and give him a release, which is valid if obtained fairly and without undue influence. Release by ward.

SEC. 169e. GUARDIAN'S DISCHARGE.—A guardian appointed by a court is not entitled to his discharge until one year after the ward's majority. Guardian's discharge.

CHAPTER 10.—FOREIGN CORPORATIONS GENERALLY

FOREIGN CORPORATIONS GENERALLY.

CROSS REFERENCES

In respect to corporations engaged in the sale of securities, see sections 180 et seq. Post, p. 1149.

Fraudulent insolvencies by corporations and other frauds in their management, see sections 396 to 409 of the Criminal Code.

SECTION 170. APPLICATION FOR LICENSE TO DO BUSINESS; ACCOMPANYING PAPERS; PROCESS AGENT; FILING FEE.—No corporation organized under the laws of any State or Territory of the United States or of any foreign country shall do business in the Canal Zone or maintain an office therein until it shall have filed with the executive secretary of the Panama Canal: Application for business license. Accompanying papers; process agent; fee.

(a) An application for a license setting forth the name of the corporation, the names of its officers and directors, and a statement showing the general nature of the business in which it desires to engage in the Canal Zone;

(b) A certified copy of its articles of incorporation, or of its charter, or of the statute or statutes or legislative or executive or governmental acts creating it, in cases where it has been created by charter or statute or legislative or executive or governmental act, duly certified by the Secretary of State or other officer authorized by law to certify such copy;

(c) An affidavit sworn to by any authorized officer of such corporation which shall state the amount of its authorized capital stock at or within sixty days prior to such filing;

(d) Every corporation must, at the time of filing its application, file in the office of the Executive Secretary a designation of some person residing within the Canal Zone and the place of business or residence of such person upon whom process issued by authority of or under any law of the Canal Zone may be served. With such designation shall be submitted a certified copy of the minutes of the board of directors of such corporation authorizing such designation. Process may be served on the person so designated, or, in the event that such person can not be found at the place designated or in the event that no such person is designated, then on the Executive Secretary of the Panama Canal, or his successor in office, and such service shall be a valid service on such corporation. When the Executive Secretary shall have been served with process as provided herein he shall without delay communicate the same to the corporation concerned at its last known address and no default judgment shall be entered against such corporation in any action in which process is served on the Executive Secretary until at least 60 days after the date of such service;

(e) Corporations licensed under the provisions of this chapter shall also be required to file with the Executive Secretary any amendment of or change in any of the provisions of its original articles of incorporation;

(f) With the application for license there shall also be submitted the sum of \$10, which amount shall cover the filing fee and the annual license fee for the remainder of the calendar year during which the license is issued.

Insurance companies to file additional documents and deposits.

SEC. 171. INSURANCE COMPANIES TO FILE ADDITIONAL DOCUMENTS AND DEPOSITS.—In addition to the requirements hereinbefore prescribed, insurance companies organized under the laws of any State or Territory of the United States or of any foreign country shall be required to file the following documents:

(a) A certificate of the Commissioner of Insurance or other duly authorized official, showing that the company is authorized to transact business in the State or country under whose laws the company is organized;

(b) A duly certified copy of the last annual statement of the insurance company to the Commissioner of Insurance or other duly authorized official in the State or country where the company is organized;

(c) A deposit with the executive secretary or his successor in office of \$10,000 in cash or current marketable securities, which shall be held in trust by the executive secretary for the account of the company, to satisfy any judgment that may be rendered against the company under any insurance policies that it may issue.

Insurance companies to file statement and to pay license tax.

SEC. 172. INSURANCE COMPANIES TO FILE STATEMENT AND PAY LICENSE TAX.—Insurance companies licensed under this chapter shall file with the executive secretary between January 1 and March 1 of each year a verified statement showing the business transacted within the Canal Zone by the company during the previous calendar year and a duly certified copy of its annual report to the insurance commissioner of the State, Territory, or country in which the company is organized. Such insurance companies shall pay before March 1 of each year, in lieu of all other taxes save the annual fee provided for in section 174, a license tax equal to 1½ per centum of its net premium receipts in the Canal Zone for the calendar year preceding.

Issuance of license.

SEC. 173. ISSUANCE OF LICENSE.—Upon compliance with the foregoing conditions, the Governor of the Panama Canal, if he is satisfied that the business desired to be transacted is proper, legitimate, permissible under the laws of the Canal Zone, and not in conflict with the policy of administering the Canal Zone as an adjunct of the Panama Canal, may issue a license to do business in the Canal Zone.

Annual license fee.

SEC. 174. ANNUAL LICENSE FEE.—The right to continue to do business after the period for which the license is issued shall be contingent upon the payment of a license fee of \$10, payable in advance, on January 1 of each year.

Punishment for transacting business without license.

SEC. 175. TRANSACTING BUSINESS WITHOUT LICENSE, HOW PUNISHED; CONTRACTS VOID.—Any corporation which does business in the Canal Zone without having complied with the provisions of this chapter shall be subject to a fine of not more than \$500, and any agent or person acting for such corporation, unless it shall have complied with the provisions of this chapter, shall, upon conviction, be punished as for a misdemeanor. In addition to this penalty, every contract made by or on behalf of any such foreign corporation affecting the liability thereof or relating to property within the Canal Zone shall be held void on its behalf and on behalf of its assigns, but shall be enforceable against it or them.

Contracts void.

Loss of benefits.

SEC. 176. SAME; LOSS OF BENEFIT OF LIMITATION LAWS.—Corporations doing business in the Canal Zone which fail to comply with

the provisions of this chapter shall not be entitled to the benefit of the laws of the Canal Zone limiting the time for the commencement of civil actions.

SEC. 177. LICENSE UNDER CHAPTER 11 SUFFICIENT.—No corporation licensed under the provisions of chapter 11 of this code shall be required to comply with the provisions of this chapter.

License under chapter 11 sufficient.

SEC. 178. "CORPORATION" INCLUDES JOINT STOCK COMPANIES.—The term "corporation" as used in this chapter shall include joint stock companies.

"Corporation" to include joint stock company.

SEC. 179. REVOCATION OF LICENSE.—The Governor of The Panama Canal is authorized to revoke any license issued hereunder if, upon examination, he shall be satisfied that the operations of the corporation are conducted in an illegal manner, or in a manner contrary to public policy or to the policy of administering the Canal Zone as an adjunct of the Panama Canal.

Revocation of license.

CHAPTER 11.—SECURITIES SALES LAW

SECURITY SALES LAW.

CROSS REFERENCES

Foreign corporations generally, see section 170 et seq.

Ante, p. 1147.

Fraudulent insolvencies by corporations and other frauds in their management, see sections 396 to 409 of the Criminal Code.

SEC. 180. PERMIT TO SELL SECURITIES.—No company shall sell, or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it shall have first applied for and secured from the Governor of the Panama Canal a permit authorizing it to do so. Such application shall be in writing and shall be verified. In such application the applicant shall set forth the names and addresses of its officers, the location of its principal office, the name of its Canal Zone representative, an itemized account of its financial condition, the amount and character of its assets and liabilities, a detailed statement of the plan upon which it proposes to transact business, a copy of any prospectus or advertisement, or other description of such securities, then prepared by or for it for distribution or publication, and such additional information concerning the company, its condition and affairs, as the governor may require. If the applicant is a partnership or an unincorporated association or joint stock company, it shall file with its application a copy of its articles of partnership or association, and all other papers pertaining to its organization. If the applicant is a corporation, it shall file with its application a copy of all minutes of any proceedings of its directors or stockholders or members relating to or affecting the issue of such securities, a copy of its articles of incorporation and of its by-laws and of any amendments thereto, and also a certificate, executed by the proper officer of the State, Territory, or country in which such corporation is organized, dated not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in such State, Territory, or country.

Permits to sell securities.

SEC. 181. DESIGNATION OF PROCESS AGENT.—Every company, at the time of filing its application, shall file in the office of the executive secretary a designation of some person residing within the Canal Zone and stating the place of business or residence of such person upon whom process issued by authority of or under any law of the Canal Zone may be served. With such designation shall be submitted a certified copy of the minutes of the board of directors of such company authorizing such designation. Process may be served on the person so designated, or, in the event that such person can not be found at the place designated or in the event that no person is

Designation of process agent.

designated, then on the executive secretary of the Panama Canal, or his successor in office, and such service shall be a valid service on such corporation. When the executive secretary shall have been served with process as provided herein he shall without delay communicate the same to the company concerned at its last known address and no default judgment shall be entered against such corporation in any action in which process is served on the executive secretary until at least sixty days after the date of such service.

Examination of application; issuance and revocation of permit.

SEC. 181a. EXAMINATION OF APPLICATION; ISSUANCE AND REVOCATION OF PERMIT.—Upon the filing of such application, it shall be the duty of the governor to examine it, and the other papers and documents filed therewith, or cause the same to be examined, and he may, if he deems it advisable, make or have made a detailed examination, audit, and investigation of the applicant and its affairs. If he finds that the proposed plan of business of the applicant is not unfair, unjust, inequitable, or contrary to the policy of administering the Canal Zone as an adjunct of the Panama Canal, that it intends to transact its business fairly and honestly, and that the securities that it proposes to issue and the methods to be used by it in issuing or disposing of them are not such as, in his opinion, will work a fraud upon the purchaser thereof, the Governor may issue to the applicant a permit authorizing it to issue and dispose of securities, as therein provided, in the Canal Zone. Each such permit shall expire on the thirty-first day of December next following its issuance, unless sooner revoked. Otherwise, he shall deny the application and refuse such permit and notify the applicant in writing of his decision. Every permit shall recite that the issuance thereof is permissive only and does not constitute a recommendation or indorsement of the securities permitted to be sold. The governor may impose such conditions as he may deem necessary to the issue of such securities, and shall have the power to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit, and may, from time to time for cause, amend, alter, or revoke any permit issued by him, or temporarily suspend the rights of the applicant under such permit.

Certificate of agent or broker.

SEC. 181b. CERTIFICATE OF AGENT OR BROKER.—No person or company shall act as an agent or broker, other than for a company holding a permit under the preceding section, until such person or company shall have first applied for and secured from the Governor a certificate, then in effect, authorizing such person or company so to do. Each such certificate shall expire on the thirty-first day of December next after its issuance, unless sooner revoked. To secure such certificate, the applicant shall make and file in the office of the Governor an application therefor in writing, verified by or in behalf of the applicant. In such application the applicant shall set forth, in addition to such other information as may be required by the Governor:

Additional information required.

1. The name and address of the applicant, and, if it be a corporation, association, or joint-stock company, the name and address of each of its managing officers and agents, and, if it be a partnership, the name and address of each of the partners;
2. A succinct statement of facts showing that the applicant, and its managing officers and agents, if it be a corporation, or members, if it be a partnership, have a good business reputation;
3. If the applicant is a broker, the general plan and character of the business of the applicant.

If the applicant is a corporation or association it shall file with its application a designation of a process agent, as provided in section 181.

SEC. 181c. EXAMINATION OF APPLICATION ; ISSUANCE AND REVOCATION OF PERMIT.—The Governor shall examine such application, or cause the same to be examined, and shall make such further investigation of the applicant and its affairs as he shall deem advisable. If, from such examination, the Governor shall be satisfied that the business reputation of the applicant and of its officers or members, if any, is good, and that the conduct of such business will not conflict with the policy of administering the Canal Zone as an adjunct of the Panama Canal, he may issue such certificate. Otherwise he shall refuse the same and deny the application and notify the applicant of his decision. The Governor may at any time revoke any broker's or agent's certificate issued by him if he shall find that the holder thereof is of bad business repute, or had violated any provision of this chapter, or has engaged in, or is about to engage in, any fraudulent transaction, or if he shall find that the conduct of such business conflicts with good policy in the administration of the Canal Zone.

Examination of application; issuance and revocation of permit.

SEC. 181d. REPORT ON SALE OF SECURITIES.—Every company or broker authorized under this chapter to sell securities shall thereafter, at such times as they may be required by the Executive Secretary, make and file in the office of the Executive Secretary, a report, setting forth, in such form as the Executive Secretary may prescribe, the securities sold by it under the authority of any permit issued by him, the proceeds derived therefrom, the disposition of such proceeds, and such other information concerning its property, officers, or affairs, relating to or affecting the value of such securities, as the Executive Secretary may require.

Report on sale of securities.

SEC. 181e. FEES.—Each company or broker shall, with its application for a permit or certificate, remit the sum of \$10, which amount shall cover the filing fee and the annual license fee for the remainder of the calendar year during which the permit or certificate is issued, but no part of such fee shall be returned if the application is disapproved. The annual fee for renewal of a permit or certificate issued hereunder shall be \$10, payable in advance on or before January first of each year.

Fees.

SEC. 181f. PENALTY FOR VIOLATION.—Any company, agent, or broker, which shall directly or indirectly issue or cause to be issued, or solicit the sale of any security contrary to the provisions of this chapter, shall be subject to a fine of not more than \$500. In addition to this penalty, every contract made by or on behalf of any such company, agent, or broker affecting the liability thereof shall be void on its behalf and on behalf of its assigns, but shall be enforceable against it or them.

Penalty for violation.

SEC. 181g. DEFINITIONS.—The following words have in this chapter the signification attached to them in this section, unless otherwise apparent from the context:

Definitions.

1. The word "company" includes all corporations, associations, joint-stock companies, and partnerships;

"Company."

2. The word "security" includes all stocks, bonds, or other evidences of property or interest in any company;

"Security."

3. The word "agent" as used in this chapter means and includes every person or company employed or appointed by a company or broker who shall, within the Canal Zone, either as an employee or otherwise, for a compensation, sell, offer for sale, negotiate for the sale of, or take a subscription for the sale of any security;

"Agent."

"Broker."

4. The word "broker" as used in this chapter includes every person or company, other than an agent, who shall for a commission, in the Canal Zone, engage either wholly or in part in the business of selling, offering for sale, negotiating for the sale of, or otherwise dealing in any security or securities issued by others, or of underwriting any issue of securities, or of purchasing such securities for the purpose of reselling them or of offering them for sale to the public.

NATURE OF
PROPERTY.

CHAPTER 12.—NATURE OF PROPERTY

Property defined.

SEC. 182. PROPERTY, WHAT.—The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this code, the thing of which there may be ownership is called property.

CROSS REFERENCES

Post, p. 1158.

Personal property, see sections 189 and 238 et seq.
Real property, see section 186.

In what property
may exist.

SEC. 183. IN WHAT PROPERTY MAY EXIST.—There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the goodwill of a business, trade-marks and signs, and of rights created or granted by statute.

CROSS REFERENCE

Post, p. 1158.

Products of the mind, see sections 240 et seq.

Wild animals.

SEC. 184. WILD ANIMALS.—Animals wild by nature are the subjects of ownership, while living, only when on the land of the person claiming them, or when tamed, or taken and held in possession, or disabled and immediately pursued.

Real and personal
property.

SEC. 185. REAL AND PERSONAL.—Property is either:

1. Real or immovable; or,
2. Personal or movable.

Real property.

SEC. 186. REAL PROPERTY.—Real or immovable property consists of:

1. Land;
2. That which is affixed to land;
3. That which is incidental or appurtenant to land;
4. That which is immovable by law.

CROSS REFERENCES

Post, p. 1213.

Land defined, see section 187.
Fixtures, see section 660.

Land defined.

SEC. 187. LAND.—Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance.

Fixtures.

SEC. 188. FIXTURES.—A thing is deemed to be affixed to land when it is attached to it by roots, as in the case of trees, vines, or shrubs; or imbedded in it, as in the case of walls; or permanently resting upon it, as in the case of buildings; or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts, or screws.

CROSS REFERENCE

Post, p. 1159.

Ownership of fixtures, see section 248.

Personal property.

SEC. 189. PERSONAL PROPERTY.—Every kind of property that is not real is personal.

CROSS REFERENCES

| | |
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| Accession to personal property, see sections 250 to 258. | <i>Post</i> , p. 1160. |
| Choses in action, see sections 238 and 239. | <i>Post</i> , p. 1158. |
| Confusion of goods, see sections 250 to 258. | <i>Post</i> , p. 1160. |
| Law governing, see section 237. | <i>Post</i> , p. 1158. |
| Modes of acquisition of, see section 247. | <i>Post</i> , p. 1159. |
| Products of mind, see sections 240 to 245. | <i>Post</i> , p. 1158. |

CHAPTER 13.—OWNERS OF PROPERTY

OWNERS OF PROPERTY.

SEC. 190. OWNER.—All property has an owner, whether that owner is the government, and the property public, or the owner an individual, and the property private.

Owner.

SEC. 191. WHO MAY OWN PROPERTY.—Any person, whether citizen or alien, may take, hold, and dispose of property within the Canal Zone.

Who may own.

CROSS REFERENCE

Aliens, right to inherit property, see section 420.

Post, p. 1181.

SEC. 192. ALIENS INHERITING MUST CLAIM WITHIN FIVE YEARS.—If a nonresident alien takes by succession, he must appear and claim the property within five years from the time of succession, or be barred. The property in such case is disposed of as provided in sections 648 et seq., of the Code of Civil Procedure.

Aliens inheriting.

CROSS REFERENCE

When and how aliens may inherit, see section 420.

Post, p. 1181.

CHAPTER 14.—MODIFICATIONS OF OWNERSHIP

MODIFICATIONS OF OWNERSHIP.

INTERESTS IN PROPERTY

SECTION 193. OWNERSHIP, ABSOLUTE OR QUALIFIED.—The ownership of property is either:

Ownership.

1. Absolute; or,
2. Qualified.

SEC. 194. WHEN ABSOLUTE.—The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws.

When absolute.

CROSS REFERENCES

Ownership in what property may exist, see sections 183 and 184.

Ante, p. 1152.

Ownership, termination of, see sections 231 et seq.

Post, p. 1157.

Perpetual interest defined, see section 206.

Post, p. 1154.

SEC. 195. WHEN QUALIFIED.—The ownership of property is qualified:

When qualified.

1. When it is shared with one or more persons;
2. When the time of enjoyment is deferred or limited;
3. When the use is restricted.

SEC. 196. SEVERAL OWNERSHIP, WHAT.—The ownership of property by a single person is designated as a sole or several ownership.

Sole ownership.

SEC. 197. OWNERSHIP OF SEVERAL PERSONS.—The ownership of property by several persons is either:

Ownership by several persons.

1. Of joint interests;
2. Of partnership interests;
3. Of interests in common;
4. Of community interest of husband and wife.

CROSS REFERENCES

Community property, see section 202.
 Interest in common, see sections 200 and 201.
 Joint interest, see section 193.
 Partnership interests, see section 199.

Ante, p. 1153.

Joint interest.

SEC. 198. JOINT INTEREST, WHAT.—A joint interest is one owned by several persons in equal shares, by a title created by a single will or transfer, when expressly declared in the will or transfer to be a joint tenancy, or when granted or devised to executors or trustees as joint tenants.

Partnership interest.

SEC. 199. PARTNERSHIP INTEREST, WHAT.—A partnership interest is one owned by several persons, in partnership, for partnership purposes.

Interest in common.

SEC. 200. INTEREST IN COMMON, WHAT.—An interest in common is one owned by several persons, not in joint ownership or partnership.

CROSS REFERENCES

See, also, sections 198 and 201.
 Husband and wife as owners in common, see section 116.
 Legacy to two or more makes them owners in common, see section 381.

Ante, p. 1139.

Post, p. 1175.

Interests in common.

SEC. 201. WHAT INTERESTS ARE IN COMMON.—Every interest created in favor of several persons in their own right is an interest in common, unless acquired by them in partnership, for partnership purposes, or unless declared in its creation to be a joint interest, as provided in section 198, or unless acquired as community property.

CROSS REFERENCE

Interests in common, see sections 198 and 200.

Community property.

SEC. 202. COMMUNITY PROPERTY.—Community property is property acquired by husband and wife, or either, during marriage, when not acquired as the separate property of either or as joint interests or interests in common.

CROSS REFERENCE

See also section 119.

Ante, p. 1139.

Interests as to time.

SEC. 203. INTERESTS AS TO TIME.—In respect to the time of enjoyment, an interest in property is either:

1. Present or future; and,
2. Perpetual or limited.

Present interest.

SEC. 204. PRESENT INTEREST, WHAT.—A present interest entitles the owner to the immediate possession of the property.

Future interest.

SEC. 205. FUTURE INTEREST, WHAT.—A future interest entitles the owner to the possession of the property only at a future period.

CROSS REFERENCES

Post, pp. 1156, 1157.

Post, p. 1155.

Post, p. 1157.

Accumulations as future interests, see sections 224 et seq., and 230.

Conditions upon enjoyment of estates, see sections 217 et seq.

Terminating future interests, see sections 231 et seq.

Perpetual interest.

SEC. 206. PERPETUAL INTEREST, WHAT.—A perpetual interest has a duration equal to that of the property.

Limited interest.

SEC. 207. LIMITED INTEREST, WHAT.—A limited interest has a duration less than that of the property.

Kinds of future interests.

SEC. 208. KINDS OF FUTURE INTERESTS.—A future interest is either:

1. Vested; or,
2. Contingent.

SEC. 209. VESTED INTERESTS.—A future interest is vested when there is a person in being who would have a right, defeasible or indefeasible, to the immediate possession of the property, upon the ceasing of the intermediate or precedent interest.

Vested.

SEC. 210. CONTINGENT INTERESTS.—A future interest is contingent, whilst the person in whom, or the event upon which, it is limited to take effect remains uncertain.

Contingent.

SEC. 211. TWO OR MORE FUTURE INTERESTS.—Two or more future interests may be created to take effect in the alternative, so that if the first in order fails to vest, the next in succession shall be substituted for it, and take effect accordingly.

Alternative.

SEC. 212. CERTAIN FUTURE INTERESTS NOT TO BE VOID.—A future interest is not void merely because of the improbability of the contingency on which it is limited to take effect.

Certain future interests not to be void.

SEC. 213. POSTHUMOUS CHILDREN.—When a future interest is limited to successors, heirs, issue, or children, posthumous children are entitled to take in the same manner as if living at the death of their parent.

Posthumous children.

CROSS REFERENCES

Future interests defeated by birth of posthumous child, see section 231.

Post, p. 1157.

Succession by posthumous children, see sections 344, 370, 419.

Post, pp. 1171, 1174, 1181.

SEC. 214. QUALITIES OF EXPECTANT ESTATES.—Future interests pass by succession, will, and transfer, in the same manner as present interests.

Qualities of expectant estates.

SEC. 215. SAME.—A mere possibility, such as the expectancy of an heir apparent, is not to be deemed an interest of any kind.

Mere possibility not deemed an interest.

CROSS REFERENCE

Mere possibility cannot be transferred, see section 262.

Post, p. 1161.

SEC. 216. WHAT FUTURE INTERESTS ARE RECOGNIZED.—No future interest in property is recognized by the law, except such as is defined in this code.

What future interests recognized.

CONDITIONS OF OWNERSHIP

SEC. 217. FIXING THE TIME OF ENJOYMENT.—The time when the enjoyment of property is to begin or end may be determined by computation, or be made to depend on events. In the latter case, the enjoyment is said to be upon condition.

Conditions of ownership.

Fixing time of enjoyment.

CROSS REFERENCE

Conditional Legacies, see section 376.

Post, p. 1175.

SEC. 218. CONDITIONS.—Conditions are precedent or subsequent. The former fix the beginning, the latter the ending, of the right.

Conditions.

CROSS REFERENCES

Conditional obligations, see sections 430 to 433.

Post, p. 1183.

Conditions concurrent, see section 433.

Post, p. 1183.

Conditions precedent, what are, see sections 377 and 432.

Post, pp. 1175, 1183.

Conditions subsequent, what are, see sections 380 and 434.

Post, pp. 1175, 1183.

SEC. 219. CERTAIN CONDITIONS PRECEDENT VOID.—If a condition precedent requires the performance of an act wrong of itself, the instrument containing it is so far void, and the right can not exist. If it requires the performance of an act not wrong of itself, but otherwise unlawful, the instrument takes effect and the condition is void.

Conditions precedent, when void.

CROSS REFERENCES

Post, p. 1183.

Conditions precedent, see section 432.

Post, p. 1184.

Unlawful conditions void, see section 437.

Restraining marriage, void.

SEC. 220. CONDITIONS RESTRAINING MARRIAGE VOID.—Conditions imposing restraints upon marriage, except upon the marriage of a minor, are void; but this does not affect limitations where the intent was not to forbid marriage, but only to give the use until marriage.

CROSS REFERENCE

Post, p. 1201.

Contracts in restraint of marriage, see section 578.

Restraining alienation, void.

SEC. 221. CONDITIONS RESTRAINING ALIENATION VOID.—Conditions restraining alienation, when repugnant to the interest created, are void.

CROSS REFERENCE

Restraints upon alienation, see section 222.

RESTRAINTS UPON ALIENATION

Restrains upon alienation.

SEC. 222. RESTRAINTS UPON ALIENATION.—The absolute power of alienation can not be suspended, by any limitation or condition whatever, for a longer period than as follows:

1. During the continuance of the lives of persons in being at the creation of the limitation or condition; or

2. For a period not to exceed twenty-five years from the time of the creation of the suspension.

Future interests void, which suspend power of alienation.

SEC. 223. FUTURE INTERESTS VOID, WHICH SUSPEND POWER OF ALIENATION.—Every future interest is void in its creation which, by any possibility, may suspend the absolute power of alienation for a longer period than is prescribed in this chapter. Such power of alienation is suspended when there are no persons in being by whom an absolute interest in possession can be conveyed.

Accumulations.

ACCUMULATIONS

Disposition of income.

SEC. 224. DISPOSITIONS OF INCOME.—Dispositions of the income of property to accrue and to be received at any time subsequent to the execution of the instrument creating such disposition, are governed by the rules prescribed in this chapter in relation to future interests.

When void.

SEC. 225. ACCUMULATIONS, WHEN VOID.—All directions for the accumulation of the income of property, except such as are allowed by this chapter, are void.

Accumulations of income.

SEC. 226. ACCUMULATION OF INCOME.—An accumulation of the income of property, for the benefit of one or more persons, may be directed by any will or transfer in writing sufficient to pass the property out of which the fund is to arise, as follows:

1. If such accumulation is directed to commence on the creation of the interest out of which the income is to arise, it must be made for the benefit of one or more minors then in being, and terminate at the expiration of their minority; or,

2. If such accumulation is directed to commence at any time subsequent to the creation of the interest out of which the income is to arise, it must commence within the time in this chapter permitted for the vesting of future interests, and during the minority of the beneficiaries, and terminate at the expiration of such minority.

CROSS REFERENCES

Post, pp. 1176, 1177.Annuities and bequest of income, see sections 383¹ (3) and 391.*Post*, p. 1157.

Ownership of undisposed accumulations, see section 230.

¹ So in original.

SEC. 227. OTHER DIRECTIONS, WHEN VOID IN PART.—If in either of the cases mentioned in section 226 the direction for an accumulation is for a longer term than during the minority of the beneficiaries, the direction only, whether separable or not from other provisions of the instrument, is void as respects the time beyond such minority.

When direction void in part.
Ante, p. 1156.

SEC. 228. APPLICATION OF INCOME TO SUPPORT, ET CETERA, OF MINOR.—When a minor for whose benefit an accumulation has been directed is destitute of other sufficient means of support and education, the proper court, upon application, may direct a suitable sum to be applied thereto out of the fund.

Application of income to support, etc., of minor.

CHAPTER 15.—RIGHTS OF OWNERS

R I G H T S O F OWNERS.

SECTION 229. INCREASE OF PROPERTY.—The owner of a thing owns also all its products and accessions.

Increase of property.

CROSS REFERENCES

Accessions to personal property, see sections 250 et seq.
Fixtures, see section 248.

Post, p. 1160.
Post, p. 1159.

SEC. 230. IN CERTAIN CASES, WHO ENTITLED TO INCOME OF PROPERTY.—When, in consequence of a valid limitation of a future interest, there is a suspension of the power of alienation or of the ownership during the continuation of which the income is undisposed of, and no valid direction for its accumulation is given, such income belongs to the persons presumptively entitled to the next eventual interest.

Who entitled to income of property in certain cases.

CHAPTER 16.—TERMINATION OF OWNERSHIP

T E R M I N A T I O N OF OWNERSHIP.

SEC. 231. FUTURE INTERESTS, WHEN DEFEATED.—A future interest, depending on the contingency of the death of any person without successors, heirs, issue, or children, is defeated by the birth of a posthumous child of such person, capable of taking by succession.

Future interests, when defeated.

CROSS REFERENCE

Posthumous children, see section 213.

Ante, p. 1155.

SEC. 232. SAME.—A future interest may be defeated in any manner or by any act or means which the party creating such interest provided for or authorized in the creation thereof; nor is a future interest, thus liable to be defeated, to be on that ground adjudged void in its creation.

SEC. 233. FUTURE INTERESTS, WHEN NOT DEFEATED.—No future interest can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent interest, nor by any destruction of such precedent interest by forfeiture, surrender, merger, or otherwise, except as provided by section 234, or where a forfeiture is imposed by statute as a penalty for the violation thereof.

When not defeated.

SEC. 234. SAME.—No future interest, valid in its creation, is defeated by the determination of the precedent interest before the happening of the contingency on which the future interest is limited to take effect; but should such contingency afterwards happen, the future interest takes effect in the same manner and to the same extent as if the precedent interest had continued to the same period.

GENERAL DEFINITIONS AFFECTING PROPERTY.

CHAPTER 17.—GENERAL DEFINITIONS AFFECTING PROPERTY

Income.

Ante, pp. 1152-1157.

SECTION 235. INCOME, WHAT.—The income of property, as the term is used in chapters 12 to 16 of this code, includes the rents and profits of real property, the interest on money, dividends upon stock, and other produce of personal property.

Time of creation.

Ante, pp. 1152-1157.

SEC. 236. TIME OF CREATION, WHAT.—The delivery of the grant, where a limitation, condition, or future interest is created by grant, and the death of the testator, where it is created by will, is to be deemed the time of the creation of the limitation, condition, or interest within the meaning of chapters 12 to 16 of this code.

PERSONAL PROPERTY AND PARTICULAR KINDS THEREOF.

CHAPTER 18.—PERSONAL PROPERTY AND PARTICULAR KINDS THEREOF

In general.

PERSONAL PROPERTY IN GENERAL

By what law governed.

SECTION 237. BY WHAT LAW GOVERNED.—If there is no law to the contrary, in the place where personal property is situated, it is deemed to follow the person of its owner, and is governed by the law of his domicile.

Things in action.

THINGS IN ACTION

Defined.

SEC. 238. THINGS IN ACTION DEFINED.—A thing in action is a right to recover money or other personal property by a judicial proceeding.

Transfer and survivorship.

SEC. 239. TRANSFER AND SURVIVORSHIP.—A thing in action arising out of the violation of a right of property, or out of an obligation, may be transferred by the owner. Upon the death of the owner it passes to his personal representatives, except where, in the cases provided in the Code of Civil Procedure, it passes to his devisees or successor in office.

CROSS REFERENCES

Post, p. 1301.

Assignment of debt secured by mortgage carries security, see section 1348.

Post, p. 1184.

Burden of obligation not transferable, see section 443.

Post, p. 1259.

Insurance policy transfer of, see section 1247.

Post, p. 1159.

Literary property is assignable, see section 242.

Post, p. 1185.

Nonnegotiable written contract for payment of money or property transferable by indorsement, see section 445.

Post, p. 1182.

Obligation defined, see section 424.

Post, p. 1161.

Property of any kind may be transferred, see section 261.

Post, p. 1184.

Right arising out of obligation transferable, see section 444.

Post, p. 1161.

Right of repossession can be transferred, see section 263.

Post, p. 1161.

Transfer may be oral, when, see section 264.

Post, p. 1161.

Mere possibility can not be transferred, see section 262.

Products of the mind.

PRODUCTS OF THE MIND

Subject to ownership.

SEC. 240. HOW FAR THE SUBJECT OF OWNERSHIP.—The author of any product of the mind, whether it is an invention, or a composition in letters or art, or a design, with or without delineation, or other graphical representation, has an exclusive ownership therein, and in the representation or expression thereof, which continues so long as the product and the representations or expressions thereof made by him remain in his possession.

SEC. 241. JOINT AUTHORSHIP.—Unless otherwise agreed, a product of the mind in the production of which several persons are jointly concerned, is owned by them as follows:

Joint authorship.

1. If the product is single, in equal proportions;
2. If it is not single, in proportion to the contribution of each.

SEC. 242. TRANSFER.—The owner of any product of the mind, or of any representation or expression thereof, may transfer his property in the same.

Transfer.

SEC. 243. EFFECT OF PUBLICATION.—If the owner of a product of the mind intentionally makes it public, a copy or reproduction may be made public by any person, without responsibility to the owner, subject to the law of copyright.

Effect of publication; copyright.

CROSS REFERENCE

Copyright law, see section 246.

SEC. 244. SUBSEQUENT INVENTOR, AUTHOR, AND SO FORTH.—If the owner of a product of the mind does not make it public, any other person subsequently and originally producing the same thing has the same right therein as the prior author, which is exclusive to the same extent against all persons except the prior author, or those claiming under him.

Subsequent inventor, author, etc.

SEC. 245. PRIVATE WRITINGS.—Letters and other private communications in writing belong to the person to whom they are addressed and delivered; but they cannot be published against the will of the writer, except by authority of law.

Private writings.

PATENTS, TRADE-MARKS, AND COPYRIGHTS

SEC. 246. PATENT, TRADE-MARK, AND COPYRIGHT LAWS EXTENDED TO ZONE.—The patent, trade-mark, and copyright laws of the United States shall have the same force and effect in the Canal Zone as in continental United States, and the District Court of the Canal Zone is given the same jurisdiction in cases arising under such laws as is exercised by a United States district court.

Patents, trade-marks, and copyrights.

Laws extended to Zone.

CROSS REFERENCE

Products of the mind, see sections 240 et seq.

Ante, p. 1158.

CHAPTER 19.—MODES IN WHICH PROPERTY MAY BE ACQUIRED

ACQUISITION OF PROPERTY.

SECTION 247. PROPERTY, HOW ACQUIRED.—Property is acquired by:

Property, how acquired.

1. Accession;
2. Transfer;
3. Will; or
4. Succession.

CHAPTER 20.—ACCESSION

ACCESSION.

SECTION 248. FIXTURES.—When a person affixes his property to the land of another, without an agreement permitting him to remove it, the thing affixed, except as provided in section 249, belongs to the owner of the land, unless he chooses to require the former to remove it.

Fixtures.

CROSS REFERENCE

Ante, p. 1152.

Fixtures, see section 188.

Trade, etc., fixtures.
Removal by tenant.

SEC. 249. WHAT FIXTURES TENANT MAY REMOVE.—A tenant may remove from the demised premises, any time during the continuance of his term, anything affixed thereto for the purposes of trade, manufacture, ornament, or domestic use, if the removal can be effected without injury to the premises, unless the thing has, by the manner in which it is affixed, become an integral part of the premises.

Accession by uniting
several things.

SEC. 250. ACCESSION BY UNITING SEVERAL THINGS.—When things belonging to different owners have been united so as to form a single thing, and can not be separated without injury, the whole belongs to the owner of the thing which forms the principal part; who must, however, reimburse the value of the residue to the other owner, or surrender the whole to him.

What is deemed prin-
cipal part.

SEC. 251. PRINCIPAL PART, WHAT.—That part is to be deemed the principal to which the other has been united only for the use, ornament, or completion of the former, unless the latter is the more valuable, and has been united without the knowledge of its owner, who may, in the latter case, require it to be separated and returned to him, although some injury should result to the thing to which it has been united.

SEC. 252. SAME.—If neither part can be considered the principal, within the rule prescribed by section 251, the more valuable, or, if the values are nearly equal, the more considerable in bulk, is to be deemed the principal part.

Uniting materials
and workmanship.

SEC. 253. UNITING MATERIALS AND WORKMANSHIP.—If one makes a thing from materials belonging to another, the latter may claim the thing on reimbursing the value of the workmanship, unless the value of the workmanship exceeds the value of the materials, in which case the thing belongs to the maker, on reimbursing the value of the materials.

Inseparable materi-
als.

SEC. 254. INSEPARABLE MATERIALS.—Where one has made use of materials which in part belong to him and in part to another, in order to form a thing of a new description, without having destroyed any of the materials, but in such a way that they can not be separated without inconvenience, the thing formed is common to both proprietors; in proportion, as respects the one, of the materials belonging to him, and as respects the other, of the materials belonging to him and the price of his workmanship.

Materials of several
owners.

SEC. 255. MATERIALS OF SEVERAL OWNERS.—When a thing has been formed by the admixture of several materials of different owners, and neither can be considered the principal substance, an owner without whose consent the admixture was made may require a separation, if the materials can be separated without inconvenience. If they can not be thus separated, the owners acquire the thing in common, in proportion to the quantity, quality, and value of their materials; but if the materials of one were far superior to those of the others, both in quantity and value, he may claim the thing on reimbursing to the others the value of their materials.

Willful trespassers.

SEC. 256. WILLFUL TRESPASSERS.—The foregoing sections of this chapter are not applicable to cases in which one willfully uses the materials of another without his consent; but, in such cases, the product belongs to the owner of the material, if its identity can be traced.

Election between
thing and its value.

SEC. 257. OWNER MAY ELECT BETWEEN THE THING AND ITS VALUE.—In all cases where one whose material has been used without his knowledge, in order to form a product of a different description, can claim an interest in such product, he has an option to demand either

restitution of his material in kind, in the same quantity, weight, measure, and quality, or the value thereof; or where he is entitled to the product, the value thereof in place of the product.

SEC. 258. **WRONGDOER LIABLE IN DAMAGES.**—One who wrongfully employs materials belonging to another is liable to him in damages, as well as under the foregoing provisions of this chapter.

Wrongdoer liable in damages.

CHAPTER 21.—TRANSFER OF PROPERTY

TRANSFER OF PROPERTY.

DEFINITION OF TRANSFER

SEC. 259. **TRANSFER, WHAT.**—Transfer is an act of the parties, or of the law, by which the title to property is conveyed from one living person to another.

Transfer defined.

CROSS REFERENCES

Transfer, see sections 260 and 267.

Transfer in writing is called a grant, see section 267.

SEC. 260. **VOLUNTARY TRANSFER.**—A voluntary transfer is an executed contract, subject to all rules of law concerning contracts in general; except that a consideration is not necessary to its validity.

Voluntary transfer.

CROSS REFERENCES

Gifts, see section 281 et seq.

Transfer, see sections 259 and 267.

Post, p. 1163.

WHAT MAY BE TRANSFERRED

SEC. 261. **WHAT MAY BE TRANSFERRED.**—Property of any kind may be transferred, except as otherwise provided by sections 262 and 263.

What may be transferred.

SEC. 262. **POSSIBILITY.**—A mere possibility, not coupled with an interest, can not be transferred.

Mere possibility.

CROSS REFERENCE

Mere possibility not deemed an interest, see section 215.

Ante, p. 1155.

SEC. 263. **RIGHT OF REPOSSESSION CAN BE TRANSFERRED.**—A right of repossession for breach of condition subsequent, can be transferred.

Right of repossession can be transferred.

MODE OF TRANSFER

SEC. 264. **WHEN ORAL.**—A transfer may be made without writing, in every case in which a writing is not expressly required by statute.

Mode of transfer.

Orally.

CROSS REFERENCES

What contracts must be in writing, see sections 541 and 600.

Fraudulent instruments and transfers, see sections 1659 and 1660.

Post, pp. 1197, 1204.

Post, p. 1338.

SEC. 265. **WHEN MUST BE IN WRITING.**—An interest in an existing trust can be transferred only by operation of law, or by a written instrument, subscribed by the person making the transfer, or by his agent.

In writing.

SEC. 266. **TRANSFER BY SALE, AND SO FORTH.**—The mode of transferring other personal property by sale is regulated by chapter 34 of this code.

By sale, etc.

Post, p. 1204.

SEC. 267. **GRANT, WHAT.**—A transfer in writing is called a grant or bill of sale. The term "grant," in this and sections 268 to 280, includes both these instruments.

"Grant" defined.

CROSS REFERENCES

Ante, p. 1161. Construction of grants, see section 273 et seq.
Transfer,¹ see sections 259 and 260.

Delivery necessary. **SEC. 268. DELIVERY NECESSARY.**—A grant takes effect, so as to vest the interest intended to be transferred, only upon its delivery by the grantor.

CROSS REFERENCES

Post, p. 1197. Constructive delivery, see section 272.
Contract in writing takes effect only from delivery, see section 543.

Date of delivery. **SEC. 269. DATE.**—A grant duly executed is presumed to have been delivered at its date.

Absolute delivery necessary. **SEC. 270. DELIVERY TO GRANTEE IS NECESSARILY ABSOLUTE.**—A grant can not be delivered to the grantee conditionally. Delivery to him, or to his agent as such, is necessarily absolute, and the instrument takes effect thereupon, discharged of any condition on which the delivery was made.

Delivery in escrow. **SEC. 271. DELIVERY IN ESCROW.**—A grant may be deposited by the grantor with a third person, to be delivered on performance of a condition, and, on delivery by the depository, it will take effect. While in the possession of the third person, and subject to condition, it is called an escrow.

Constructive delivery. **SEC. 272. CONSTRUCTIVE DELIVERY.**—Though a grant be not actually delivered into the possession of the grantee, it is yet to be deemed constructively delivered in the following cases:

1. Where the instrument is, by the agreement of the parties at the time of execution, understood to be delivered, and under such circumstances that the grantee is entitled to immediate delivery; or

2. Where it is delivered to a stranger for the benefit of the grantee, and his assent is shown, or may be presumed.

Interpretation of grants.

INTERPRETATION OF GRANTS

SEC. 273. GRANTS, HOW INTERPRETED.—Grants are to be interpreted in like manner with contracts in general, except so far as otherwise provided in this subchapter.

CROSS REFERENCES

Post, pp. 1197, 1198. Interpretation of contracts, see sections 546, 547, and 552.
Ante, p. 1161. Word "grant" includes bill of sale, see section 267.

Limitations, how controlled. **SEC. 274. LIMITATIONS, HOW CONTROLLED.**—A clear and distinct limitation in a grant is not controlled by other words less clear and distinct.

Recitals, resort to. **SEC. 275. RECITALS, WHEN RESORTED TO.**—If the operative words of a grant are doubtful, recourse may be had to its recitals to assist the construction.

CROSS REFERENCE

Post, p. 1199. Interpretation of doubtful words, see section 565.

Interpretation against grantor.

SEC. 276. INTERPRETATION AGAINST GRANTOR.—A grant is to be interpreted in favor to the grantee, except that a reservation in any grant, and every grant by a public officer or body, as such, to a private party, is to be interpreted in favor of the grantor.

Irreconcilable provisions.

SEC. 277. IRRECONCILABLE PROVISIONS.—If several parts of a grant are absolutely irreconcilable, the former part prevails.

¹ So in original.

SEC. 278. MEANING OF "HEIRS" AND "ISSUE," IN CERTAIN REMAINDERS.—Where a future interest is limited by a grant to take effect on the death of any person without heirs, or heirs of his body, or without issue, or in equivalent words, such words must be taken to mean successors, or issue living at the death of the person named as ancestor.

Meaning of "heirs" and "issue" in certain remainders.

CROSS REFERENCE

"Heirs" and "Issue," interpretation of, see section 366.

Post, p. 1174.

EFFECT OF TRANSFER

SEC. 279. WHAT TITLE PASSES.—A transfer vests in the transferee all the actual title to the thing transferred which the transferor then has, unless a different intention is expressed or is necessarily implied.

Effect of transfer.

What title passes.

SEC. 280. INCIDENTS.—The transfer of a thing transfers also all its incidents, unless expressly excepted; but the transfer of an incident to a thing does not transfer the thing itself.

Incidents.

CROSS REFERENCE

What passes, see section 1728.

Post, p. 1346.

SEC. 281. GIFTS DEFINED.—A gift is a transfer of personal property, made voluntarily, and without consideration.

Gifts defined.

CROSS REFERENCES

Gift as fraud on creditors, see sections 1659 et seq.

Post, p. 1338.

Voluntary transfers, see sections 260 and 1659.

Ante, p. 1161; post, p. 1338.

SEC. 282. GIFT, HOW MADE.—A verbal gift is not valid, unless the means of obtaining possession and control of the thing are given, nor, if it is capable of delivery, unless there is an actual or symbolical delivery of the thing to the donee.

How made.

SEC. 283. GIFT NOT REVOCABLE.—A gift, other than a gift in view of death, can not be revoked by the giver.

Not revocable.

CROSS REFERENCE

Revoking gifts mortis causa, see section 286.

SEC. 284. GIFT IN VIEW OF DEATH, WHAT.—A gift in view of death is one which is made in contemplation, fear, or peril of death, and with intent that it shall take effect only in case of the death of the giver.

Gift causa mortis.

CROSS REFERENCE

Revocation, see section 286.

SEC. 285. WHEN GIFT PRESUMED TO BE IN VIEW OF DEATH.—A gift made during the last illness of the giver, or under circumstances which would naturally impress him with an expectation of speedy death, is presumed to be a gift in view of death.

When gift presumed to be.

SEC. 286. REVOCATION OF GIFT IN VIEW OF DEATH.—A gift in view of death may be revoked by the giver at any time, and is revoked by his recovery from the illness, or escape from the peril, under the presence of which it was made, or by the occurrence of any event which would operate as a revocation of a will made at the same time, but when the gift has been delivered to the donee, the rights of a bona fide purchaser from the donee before the revocation, shall not be affected by the revocation.

Revocation.

CROSS REFERENCE

Gift inter vivos not revocable, see section 283.

Effect of will upon.

SEC. 287. EFFECT OF WILL UPON GIFT.—A gift in view of death is not affected by a previous will; nor by a subsequent will, unless it expresses an intention to revoke the gift.

When treated as legacy.

SEC. 288. WHEN TREATED AS LEGACY.—A gift in view of death must be treated as a legacy, so far as relates only to the creditors of the giver.

PROOF AND ACKNOWLEDGMENT OF INSTRUMENTS.

CHAPTER 22.—PROOF AND ACKNOWLEDGMENT OF INSTRUMENTS

By whom taken. In Canal Zone.

SEC. 289. BY WHOM ACKNOWLEDGMENTS MAY BE TAKEN IN CANAL ZONE.—The proof or acknowledgment of any instrument required by law to be proved or acknowledged may be made before the district judge, the clerk of the district court, a magistrate, or before any notary public of the Canal Zone.

Without Canal Zone.

SEC. 290. BY WHOM TAKEN WITHOUT CANAL ZONE.—The proof or acknowledgment of an instrument may be made without the Canal Zone, but within the United States, and within the jurisdiction of the officer, before the judge of any court of record or the clerk thereof or before any notary public within any State, Territory, District, or possession of the United States.

Taken in foreign country.

SEC. 291. BY WHOM TAKEN IN FOREIGN COUNTRY.—If an instrument is one executed in a foreign country, the same may be acknowledged before any diplomatic or consular officer or commercial agent of the United States accredited to such country or before any officer of such foreign country authorized to take acknowledgments, the signature and official character of such officer to be certified by a diplomatic, consular, or commercial official of the United States.

Power to issue certificates on.

SEC. 292. OFFICERS EMPOWERED TO ISSUE PROPER CERTIFICATES.—The officers authorized to take acknowledgments under sections 289 to 291 are empowered to issue proper certificates of the same.

Requisites for acknowledgment.

SEC. 293. REQUISITES FOR ACKNOWLEDGMENT.—The acknowledgment of an instrument must not be taken unless the officer taking it knows or has satisfactory evidence, on the oath or affirmation of a credible witness, that the person making such acknowledgment is the individual who is described in and who executed the instrument; or, if executed by a corporation, that the person making such acknowledgment is the president or secretary of such corporation, or other person who executed it on its behalf.

Officer must indorse.

SEC. 294. OFFICER MUST INDORSE CERTIFICATE.—An officer taking the acknowledgment of an instrument must indorse thereon or attach thereto a certificate substantially in the forms hereinafter prescribed.

Form.

SEC. 295. GENERAL FORM OF CERTIFICATE.—The certificate of acknowledgment, unless it is otherwise in this chapter provided, must be substantially in the following form: "United States of America, Canal Zone, ss. On this _____ day of _____, in the year _____, before me (here insert name and quality of the officer), personally appeared _____, known to me (or proved to me on the oath of _____) to be the person whose name is subscribed to the within instrument, and acknowledged that he (she or they) executed the same": *Provided, however,* That any acknowledgment taken without the Canal Zone in accordance with the laws of the place where the acknowledgment is made, shall be sufficient in the Canal Zone: *And provided further,* That the certificate of the clerk of a court of record of the county or district where such acknowl-

edgment is taken, that the officer certifying to the same is authorized by law so to do, and that the signature of the said officer to such certificate is his true and genuine signature, and that such acknowledgment is taken in accordance with the laws of the place where the same is made, shall be prima facie evidence of the facts stated in the certificate of said clerk.

SEC. 296. FORM OF ACKNOWLEDGMENT BY CORPORATION.—The certificate of acknowledgment of an instrument executed by a corporation must be substantially in the following form:

“UNITED STATES OF AMERICA,

Acknowledgment by corporation.

Canal Zone, ss:

“On this _____ day of _____, in the year _____, before me (here insert the name and quality of the officer), personally appeared _____, known to me (or proved to me on the oath of _____) to be the president (or the secretary) of the corporation that executed the within instrument (where, however, the instrument is executed in behalf of the corporation by some one other than the president or secretary insert: known to me (or proved to me on the oath of _____) to be the person who executed the within instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same).”

SEC. 297. FORM OF CERTIFICATE OF ACKNOWLEDGMENT BY ATTORNEY IN FACT.—The certificate of acknowledgment by an attorney in fact must be substantially in the following form:

“UNITED STATES OF AMERICA,

By attorney in fact.

Canal Zone, ss:

“On this _____ day of _____, in the year _____, before me (here insert the name and quality of the officer), personally appeared _____, known to me (or proved to me on the oath of _____) to be the person whose name is subscribed to the within instrument as the attorney in fact of _____, and acknowledged to me that he subscribed the name of _____ thereto as principal, and his own name as attorney in fact.”

SEC. 298. OFFICERS MUST AFFIX THEIR SIGNATURES.—Officers taking and certifying acknowledgments, or proof of instruments for record, must authenticate their certificates by affixing thereto their signatures, followed by the names of their offices; also, their seals of office, if by the laws of the State or country where the acknowledgment or proof is taken, or by authority of which they are acting, they are required to have official seals.

Officers' signatures.

SEC. 299. PROOF OF EXECUTION, HOW MADE.—Proof of the execution of an instrument, when not acknowledged, may be made either:

Proof of execution.

1. By the party executing it, or either of them; or,

2. By a subscribing witness; or,

3. By other witnesses, in cases mentioned in section 302.

SEC. 300. WITNESS MUST BE PERSONALLY KNOWN TO OFFICER.—If by a subscribing witness, such witness must be personally known to the officer taking the proof to be the person whose name is subscribed to the instrument as a witness, or must be proved to be such by the oath of a credible witness.

Witness must be personally known to officer.

SEC. 301. WITNESS MUST PROVE, WHAT.—The subscribing witness must prove that the person whose name is subscribed to the instrument as a party is the person described in it, and that such person executed it, and that the witness subscribed his name thereto as a witness.

Witness must prove, what.

Proof by handwriting.

SEC. 302. HANDWRITING MAY BE PROVED, WHEN.—The execution of an instrument may be established by proof of the handwriting of the party and of a subscribing witness, if there is one, in the following cases:

1. When the parties and all the subscribing witnesses are dead; or,
2. When the parties and all the subscribing witnesses are nonresidents of the Canal Zone; or,
3. When the place of their residence is unknown to the party desiring the proof, and can not be ascertained by the exercise of due diligence; or,
4. When the subscribing witness conceals himself, or can not be found by the officer by the exercise of due diligence in attempting to serve the subpoena or attachment; or,
5. In case of the continued failure or refusal of the witness to testify, for the space of one hour, after his appearance.

What handwriting must prove.

SEC. 303. EVIDENCE OF HANDWRITING MUST PROVE, WHAT.—The evidence taken under section 302 must satisfactorily prove to the officer the following facts:

- (1) The existence of one or more of the conditions mentioned therein; and,
- (2) That the witness testifying knew the person whose name purports to be subscribed to the instrument as a party, and is well acquainted with his signature, and that it is genuine; and,
- (3) That the witness testifying personally knew the person who subscribed the instrument as a witness, and is well acquainted with his signature, and that it is genuine; and,
- (4) The place of residence of the witness.

Certificate of proof.

SEC. 304. CERTIFICATE OF PROOF.—An officer taking proof of the execution of any instrument must, in his certificate indorsed thereon or attached thereto, set forth all the matters required by law to be done or known by him, or proved, before him on the proceeding, together with the names of all the witnesses examined before him, their places of residence respectively, and the substance of their testimony.

Authority of officers.

SEC. 305. OFFICERS AUTHORIZED TO DO CERTAIN THINGS.—Officers authorized to take the proof of instruments are authorized in such proceedings:

1. To administer oaths or affirmations;
2. To employ and swear interpreters;
3. To issue subpoenas, as prescribed in section 1156 of the Code of Civil Procedure;
4. To punish for contempt, as prescribed in sections 1160, 1162, and 1163, of the Code of Civil Procedure.

The civil damages and forfeiture to the party aggrieved are prescribed in section 1161 of the Code of Civil Procedure.

Correction of improper certificate.

SEC. 306. WHEN INSTRUMENT IS IMPROPERLY CERTIFIED, PARTY MAY HAVE ACTION TO CORRECT ERROR.—When the acknowledgment or proof of the execution of an instrument is properly made, but defectively certified, any party interested may have an action in the district court to obtain a judgment correcting the certificate.

Judgment of proof of an instrument.

SEC. 307. IN CERTAIN CASES, PARTIES INTERESTED MAY OBTAIN JUDGMENT OF PROOF OF AN INSTRUMENT.—Any person interested under an instrument entitled to be proved for record, may institute an action in the district court against the proper parties to obtain a judgment proving such instrument.

Effect.

SEC. 308. EFFECT OF JUDGMENT IN SUCH ACTION.—A certified copy of the judgment in a proceeding instituted under section 306 or section 307, showing the proof of the instrument, and attached thereto, entitled such instrument to record, with like effect as if acknowledged.

SEC. 309. INSTRUMENTS HERETOFORE MADE TO BE GOVERNED BY THEN EXISTING LAWS.—The legality of the execution, acknowledgment, proof, form, or record of any instrument made before this code goes into effect, executed, acknowledged, proved, or recorded is not affected by anything contained in this chapter, but depends for its validity and legality upon the laws in force when the act was performed.

Execution, etc., provisions not retroactive.

SEC. 310. DEEDS, AND SO FORTH, AFFECTING LAND IN DISTRICT OF COLUMBIA OR ANY TERRITORY OF UNITED STATES.—Deeds and other instruments affecting land situate in the District of Columbia or any Territory of the United States may be acknowledged in the Canal Zone before any notary public or judge, appointed therein by proper authority, or by any officer therein who has ex officio the powers of a notary public: *Provided*, That the certificate by such notary in the Canal Zone shall be accompanied by the certificate of the governor or acting governor to the effect that the notary taking said acknowledgment was in fact the officer he purported to be; and any deeds or other instruments affecting lands so situate, so acknowledged since January 1, 1905, and accompanied by such certificate shall have the same effect as such deeds or other instruments hereafter so acknowledged and certified. (Act Cong. June 28, 1906, c. 3585, 34 Stat. 552.)

Deeds, etc., affecting lands in District of Columbia or Territories.

Proviso.
Certificate of governor.

Vol. 34, p. 552.

CHAPTER 23.—EXECUTION AND REVOCATION OF WILLS

EXECUTION AND REVOCATION OF WILLS.

SEC. 311. WHO MAY MAKE A WILL.—Every person over the age of eighteen years, of sound mind, may, by last will, dispose of all his estate, and such estate not disposed of by will is succeeded to as provided in chapter 26 of this code, being chargeable in both cases with the payment of all the decedent's debts, as provided in the Code of Civil Procedure.

Capacity to make.

CROSS REFERENCES

Disposition of property in case of intestacy, see section 401 et seq.

Post, p. 1178.

Effect of marriage of man on his will, see section 335.

Post, p. 1170.

Validity of will, see section 315.

Wills of married women, see section 313.

Wills of unmarried women revoked by marriage, see section 336.

Post, p. 1170.

SEC. 312. WILL, OR PART THEREOF, PROCURED BY FRAUD.—A will, or part of a will, procured to be made by duress, menace, fraud, or undue influence, may be denied probate; and a revocation, procured by the same means, may be declared void.

Will procured by fraud.

CROSS REFERENCES

Revocation of will, see section 329.

Post, p. 1169.

Undue influence as affecting contracts, see section 505.

Post, p. 1193.

SEC. 313. WILL OF MARRIED WOMAN.—A married woman may dispose of all her separate estate by will, without the consent of her husband, and may alter or revoke the will in like manner as if she were single. Her will must be executed and proved in like manner as other wills.

Will of married woman.

SEC. 314. WHAT MAY PASS BY WILL.—Every interest in property, to which heirs, husband, widow, or next of kin might succeed, may be disposed of by will, except as otherwise provided in sections 417 and 418.

What may pass by will.

SEC. 315. WRITTEN WILL, HOW TO BE EXECUTED.—Every will, other than a nuncupative will, must be in writing; and every will, other than an olographic will, and a nuncupative will, must be executed and attested as follows:

Execution of will.

1. It must be subscribed at the end thereof by the testator himself, or some person in his presence and by his direction must subscribe his name thereto;

2. The subscription must be made in the presence of the attesting witnesses, or be acknowledged by the testator to them to have been made by him or by his authority;

3. The testator must, at the time of subscribing or acknowledging the same, declare to the attesting witnesses that the instrument is his will; and,

4. There must be two attesting witnesses, each of whom must sign the same as a witness, at the end of the will, at the testator's request and in his presence.

CROSS REFERENCES

Conjoint or mutual will, see section 318.

Nuncupative will, see sections 325 et seq.

Olographic will, see section 316.

Witness to add residence, see section 317.

Post, p. 1169.

"Olographic will," defined.

SEC. 316. DEFINITION OF AN OLOGRAPHIC WILL.—An olographic will is one that is entirely written, dated, and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of the Canal Zone, and need not be witnessed.

Witness to add residence.

SEC. 317. WITNESS TO ADD RESIDENCE.—A witness to a written will must write, with his name, his place of residence; and a person who subscribes the testator's name, by his direction, must write his own name as a witness to the will. But a violation of this section does not affect the validity of the will.

Mutual will.

SEC. 318. MUTUAL WILL.—A conjoint or mutual will is valid, but it may be revoked by any of the testators in like manner with any other will.

Competency of witness.

SEC. 319. COMPETENCY OF SUBSCRIBING WITNESS.—If the subscribing witnesses to a will are competent at the time of attesting its execution, their subsequent incompetency, from whatever cause it may arise, does not prevent the probate and allowance of the will, if it is otherwise satisfactorily proved.

Gifts to subscribing witness void; creditors competent witnesses.

SEC. 320. GIFTS TO SUBSCRIBING WITNESSES VOID; CREDITORS COMPETENT WITNESSES.—All beneficial legacies and gifts whatever, made or given in any will to a subscribing witness thereto, are void, unless there are two other competent subscribing witnesses to the same; but a mere charge on the estate of the testator for the payment of debts does not prevent his creditors from being competent witnesses to his will.

Subscribing witness entitled to his share by succession.

SEC. 321. SUBSCRIBING WITNESS ENTITLED TO HIS SHARE BY SUCCESSION.—If a witness, to whom any beneficial legacy or gift, void by section 320, is made, would have been entitled to any share of the estate of the testator, in case the will should not be established, he succeeds to so much of the share as would be distributed to him, not exceeding the bequest made to him in the will, and he may recover the same of the other legatees named in the will, in proportion to and out of the parts bequeathed to them.

Foreign wills.

SEC. 322. WILL MADE OUT OF THE CANAL ZONE.—A will made out of the Canal Zone which might be proved and allowed by the laws of the state or country in which it was made, may be proved, allowed, and recorded in the Canal Zone, and shall have the same effect as if executed according to the laws of the Zone. ((E. O. Mar. 22, 1907, § 670;) Act Cong. Aug. 24, 1912, c. 390, §§ 2, 9, 37 Stat. 561; E. O. Mar. 12, 1914, § 10; Act Cong. Sept. 21, 1922, c. 370, § 3, 42 Stat. 1006.)

Executive Orders Nos. 597^{1/2}, 1898, Vol. 37, p. 561; Vol. 42, p. 1006.

CROSS REFERENCE

Probate of foreign wills, see the Code of Civil Procedure.

Ante, p. 1026.

SEC. 323. WILL MADE HERE BY ALIEN.—A will made within the Canal Zone by a citizen or subject of another state or country, which is executed in accordance with the law of the state or country of which he is a citizen or subject, and which might be proved and allowed by the law of his own state or country, may be proved, allowed, and recorded in the Canal Zone, and shall have the same effect as if executed according to the laws of the Zone. ((E. O. Mar. 22, 1907, § 671;) Act Cong. Aug. 24, 1912, c. 390, §§ 2, 9, 37 Stat. 561; E. O. Mar. 12, 1912, § 10; Act. Cong. Sept. 21, 1922, c. 370, § 3, 42 Stat. 1006.)

Will made by alien.

Executive Order No. 5974.
Vol. 37, p. 561; Vol. 42, p. 1006.

SEC. 324. REPUBLICATION BY CODICIL.—The execution of a codicil, referring to a previous will, has the effect to republish the will, as modified by the codicil.

Republishing by codicil.

SEC. 325. NUNCUPATIVE WILL, HOW TO BE EXECUTED.—A nuncupative will is not required to be in writing, nor to be declared or attested with any formalities.

Nuncupative will, how executed.

CROSS REFERENCE

Probating nuncupative wills, see sections 326 and 327.

SEC. 326. REQUISITES OF VALID NUNCUPATIVE WILL.—To make a nuncupative will valid, and to entitle it to be admitted to probate, the following requisites must be observed:

Requisites of.

(1) The estate bequeathed must not exceed in value the sum of \$1,000.

(2) It must be proved by two witnesses who were present at the making thereof, one of whom was asked by the testator, at the time, to bear witness that such was his will, or to that effect.

(3) The decedent must, at the time, have been in actual military service in the field, or doing duty on shipboard at sea, and in either case in actual contemplation, fear, or peril of death, or the decedent must have been, at the time, in expectation of immediate death from an injury received the same day.

SEC. 327. PROOF OF NUNCUPATIVE WILLS.—No proof must be received of any nuncupative will, unless it is offered within six months after speaking the testamentary words, nor unless the words, or the substance thereof, were reduced to writing within thirty days after they were spoken.

Proof.

SEC. 328. PROBATE OF NUNCUPATIVE WILLS.—No probate of any nuncupative will must be granted for fourteen days after the death of the testator, nor must any nuncupative will be at any time proved, unless the testamentary words, or the substance thereof, be first committed to writing, and process issued to call in the widow, or other persons interested, to contest the probate of such will, if they think proper.

Probate of.

SEC. 329. WRITTEN WILL, HOW REVOKED.—Except in the cases in this chapter mentioned, no written will, nor any part thereof, can be revoked or altered otherwise than:

Revocation.

1. By a written will, or other writing of the testator, declaring such revocation or alteration, and executed with the same formalities with which a will should be executed by such testator; or,

2. By being burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking the same, by the testator himself, or by some person in his presence and by his direction.

SEC. 330. EVIDENCE OF REVOCATION.—When a will is canceled or destroyed by any other person than the testator, the direction of the

Evidence of.

testator, and the fact of such injury or destruction, must be proved by two witnesses.

When in duplicate.

SEC. 331. REVOCATION OF DUPLICATE.—The revocation of a will, executed in duplicate, may be made by revoking one of the duplicates.

By subsequent will.

SEC. 332. REVOCATION BY SUBSEQUENT WILL.—A prior will is not revoked by a subsequent will, unless the latter contains an express revocation, or provisions wholly inconsistent with the terms of the former will; but in other cases the prior will remains effectual so far as consistent with the provisions of the subsequent will.

Antecedent not revived by revocation of subsequent will.

SEC. 333. ANTECEDENT NOT REVIVED BY REVOCATION OF SUBSEQUENT WILL.—If, after making a will, the testator duly makes and executes a second will, the destruction, cancellation, or revocation of such second will does not revive the first will, unless it appears by the terms of such revocation that it was the intention to revive and give effect to the first will, or unless, after such destruction, cancellation, or revocation, the first will is duly republished.

By marriage and birth of issue.

SEC. 334. REVOCATION BY MARRIAGE AND BIRTH OF ISSUE.—If, after having made a will, the testator marries, and has issue of such marriage, born either in his lifetime or after his death, and the wife or issue survives him, the will is revoked, unless provision has been made for such issue by some settlement, or unless such issue are provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of such revocation can be received.

Will as affected by marriage of man.

SEC. 335. EFFECT OF MARRIAGE OF MAN ON HIS WILL.—If, after making a will, the testator marries, and the wife survives the testator, the will is revoked, unless provision has been made for her by marriage contract, or unless she is provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation can be received.

Of woman.

SEC. 336. EFFECT OF MARRIAGE OF WOMAN ON HER WILL.—If, after making a will, the testatrix marries, and the husband survives the testatrix, the will is revoked, unless provision has been made for him by marriage contract, or unless he is provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation can be received.

Revocation by marriage and birth of issue.

SEC. 337. REVOCATION BY MARRIAGE AND BIRTH OF ISSUE.—If, after making a will, the testatrix marries, and has issue of said marriage, born either in her lifetime or after her death, and the husband or issue survives her, the will is revoked, unless provision has been made for such issue by some settlement, or unless such issue are provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of such revocation can be received.

Contract of sale not revocation.

SEC. 338. CONTRACT OF SALE NOT REVOCATION.—An agreement made by a testator, for the sale or transfer of property disposed of by a will previously made, does not revoke such disposal; but the property passes by the will, subject to the same remedies on the testator's agreement, for a specific performance or otherwise against the legatees, as might be had against the testator's successors, if the same had passed by succession.

Mortgage.

SEC. 339. MORTGAGE NOT REVOCATION OF WILL.—A charge or encumbrance upon any estate, for the purpose of securing the payment of money or the performance of any covenant or agreement, is not a revocation of any will relating to the same estate which was previously executed; but the legacies therein contained must pass, subject to such charge or encumbrance.

SEC. 340. TRANSFER, WHEN NOT A REVOCATION.—A transfer, settlement, or other act of a testator, by which his interest in a thing previously disposed of by his will is altered, but not wholly divested, is not a revocation; but the will passes the property which would otherwise devolve by succession.

Transfer, when not a revocation.

CROSS REFERENCES

Ademption of legacies, see section 382.

Post, p. 1175.

Revocation, see sections 341 and 342.

When a revocation.

SEC. 341. WHEN IT IS A REVOCATION.—If the instrument by which an alteration is made in the testator's interest in a thing previously disposed of by his will expresses his intent that it shall be a revocation, or if it contains provisions wholly inconsistent with the terms and nature of the testamentary disposition, it operates as a revocation thereof, unless such inconsistent provisions depend on a condition or contingency by reason of which they do not take effect.

SEC. 342. REVOCATION OF CODICILS.—The revocation of a will revokes all its codicils.

Revocation of codicils.

SEC. 343. APPLICATION OF PROVISIONS AS TO REVOCATIONS.—The provisions of this chapter in relation to the revocation of wills apply to all wills made by any testator living at the expiration of one year from the time it takes effect.

Application of provisions as to revocations.

SEC. 344. AFTER-BORN CHILD, UNPROVIDED FOR, TO SUCCEED.—Whenever a testator has a child born after the making of his will, either in his lifetime or after his death, and dies leaving such child unprovided for by any settlement, and neither provided for nor in any way mentioned in his will, the child succeeds to the same portion of the testator's property that he would have succeeded to if the testator had died intestate.

After-born child.

CROSS REFERENCE

Succession by posthumous children, see sections 213, 370, and 419.

Ante, p. 1155; post, pp. 1174, 1181.

SEC. 345. CHILDREN OR ISSUE OF CHILDREN OF TESTATOR UNPROVIDED FOR BY HIS WILL.—When any testator omits to provide in his will for any of his children, or for the issue of any deceased child, unless it appears that such omission was intentional, such child, or the issue of such child, has the same share in the estate of the testator as if he had died intestate, and succeeds thereto as provided in section 344.

Children, etc., unprovided for.

SEC. 346. SHARE OF AFTER-BORN CHILD, OUT OF WHAT PART OF ESTATE TO BE PAID.—When any share of the estate of a testator is assigned to a child born after the making of a will, or to a child, or the issue of a child, omitted in the will, as hereinbefore mentioned, the same must first be taken from the estate not disposed of by the will, if any; if that is not sufficient, so much as may be necessary must be taken from all the legatees, in proportion to the value they may respectively receive under the will, unless the obvious intention of the testator in relation to some specific bequest, or other provision in the will, would thereby be defeated; in such case, such specific legacy or provision may be exempted from such apportionment, and a different apportionment, consistent with the intention of the testator, may be adopted.

After-born children, etc., payment of share.

SEC. 347. ADVANCEMENT DURING LIFETIME OF TESTATOR.—If such children, or their descendants, so unprovided for, had an equal proportion of the testator's estate bestowed on them in the testator's lifetime, by way of advancement, they take nothing in virtue of the provisions of sections 344 to 346.

Effect of advancements to.

CROSS REFERENCE

Post, p. 1180.

Advancements in cases of intestacy, see sections 411 to 415.

When legatee dies before testator.

SEC. 348. DISTRIBUTION OF ESTATE WHEN LEGATEE DIES BEFORE TESTATOR.—When any estate is bequeathed to any child or other relation of the testator, and the legatee dies before the testator, leaving lineal descendants, or any such child or other relation is named in a will as a legatee and is dead at the time the will is executed, but leaves lineal descendants surviving the testator, such descendants take the estate so given by the will in the same manner as the legatee would have done had he survived the testator.

CROSS REFERENCES

Post, p. 1181.

"By right of representation," term defined, see section 419.

Post, p. 1175.

Death of legatee, legacy fails when, see sections 374 and 375.

Requests for charitable purposes.

SEC. 349. RESTRICTION ON BEQUESTS FOR CHARITABLE USES; EXCEPTIONS.—No estate shall be bequeathed to any charitable or benevolent society or corporation, or to any person or persons in trust for charitable uses, except the same be done by will duly executed at least thirty days before the decease of the testator; and if so made at least thirty days prior to such death, such legacy shall be valid: *Provided*, that no such bequest shall collectively exceed one-third of the estate of the testator, leaving legal heirs, and in such case a pro rata deduction from such bequests shall be made so as to reduce the aggregate thereof to one-third of such estate; and all dispositions of property made contrary hereto shall be void, and go to the residuary legatee, next of kin, or heirs, according to law: *Provided, however*, That nothing in this section contained shall apply to bequests or devises made by will executed at least six months prior to the death of a testator who leaves no parent, husband, wife, child or grandchild, or when all of such heirs shall have by writing, executed at least six months prior to his death, waived the restriction contained herein.

Provisos. Limitation on amount.

Exception.

Execution provisions not retroactive.

SEC. 350. EXECUTION OF PRIOR WILLS NOT AFFECTED.—The provisions of this chapter do not impair the validity of the execution of any will made before it takes effect.

INTERPRETATION OF WILLS; EFFECT OF VARIOUS PROVISIONS.

CHAPTER 24.—INTERPRETATION OF WILLS, AND EFFECT OF VARIOUS PROVISIONS

Intention of testator.

SEC. 351. TESTATOR'S INTENTION TO BE CARRIED OUT.—A will is to be construed according to the intention of the testator. Where his intention can not have effect to its full extent, it must have effect as far as possible.

CROSS REFERENCES

Post, p. 1175.

Construction of will made before code went into effect, see section 383.

Declaration of testator as evidence, see section 352.

Post, p. 1177.

Intention of testator, see section 395.

To be ascertained from will.

SEC. 352. INTENTION TO BE ASCERTAINED FROM THE WILL.—In case of uncertainty arising upon the face of a will, as to the application of any of its provisions, the testator's intention is to be ascertained from the words of the will, taking into view the circumstances under which it was made, exclusive of his oral declarations.

CROSS REFERENCE

Testator's declarations as to intention, see section 371.

Post, p. 1174.

SEC. 353. RULES OF INTERPRETATION.—In interpreting a will, subject to the law of the Canal Zone, the rules prescribed by the following sections of this chapter are to be observed, unless an intention to the contrary clearly appears.

Rules of interpretation.

SEC. 354. SEVERAL INSTRUMENTS ARE TO BE TAKEN TOGETHER.—Several testamentary instruments, executed by the same testator, are to be taken and construed together as one instrument.

Several instruments construed as one.

SEC. 355. HARMONIZING VARIOUS PARTS.—All the parts of a will are to be construed in relation to each other, and so as, if possible, to form one consistent whole; but where several parts are absolutely irreconcilable the latter must prevail.

Harmonizing various parts.

SEC. 356. IN WHAT CASE BEQUEST NOT AFFECTED.—A clear and distinct bequest can not be affected by an ¹ reasons assigned therefor, or by any other words not equally clear and distinct, or by inference or argument from other parts of the will, or by an inaccurate recital of or reference to its contents in another part of the will.

Case where bequest not affected.

CROSS REFERENCE

Intention of testator, see sections 351 et seq.

Post, p. 1172.

SEC. 357. WHEN AMBIGUOUS OR DOUBTFUL.—Where the meaning of any part of a will is ambiguous or doubtful, it may be explained by any reference thereto, or a recital thereof, in another part of the will.

Ambiguous or doubtful provisions.

SEC. 358. WORDS TAKEN IN ORDINARY SENSE.—The words of a will are to be taken in their ordinary and grammatical sense, unless a clear intention to use them in another sense can be collected, and that other can be ascertained.

Construction of words.

SEC. 359. WORDS TO RECEIVE AN OPERATIVE CONSTRUCTION.—The words of a will are to receive an interpretation which will give to every expression some effect, rather than one which will render any of the expressions inoperative.

To receive an operative construction.

CROSS REFERENCE

Harmonizing various parts, see section 355.

SEC. 360. INTESTACY TO BE AVOIDED.—Of two modes of interpreting a will, that is to be preferred which will prevent a total intestacy.

Intestacy to be avoided.

SEC. 361. EFFECT OF TECHNICAL WORDS.—Technical words in a will are to be taken in their technical sense, unless the context clearly indicates a contrary intention, or unless it satisfactorily appears that the will was drawn solely by the testator, and that he was unacquainted with such technical sense.

Technical words.

CROSS REFERENCE

Technical words, how construed, see sections 11 and 556.

Ante, p. 1124; *post*, p. 1198.

SEC. 362. TECHNICAL WORDS NOT NECESSARY.—Technical words are not necessary to give effect to any species of disposition by a will.

Technical words not necessary.

SEC. 363. POWER TO DEVISE, HOW EXECUTED BY TERMS OF WILL.—Property embraced in a power to devise, passes by a will purporting to devise all the property of the testator.

Power to devise; how executed.

SEC. 364. BEQUEST OF ALL OF PROPERTY.—A bequest of all of the testator's property, in express terms, or in any other terms denoting such intent, passes all the property which he was entitled to dispose of by will at the time of his death.

Bequest of all of property.

¹ So in original.

CROSS REFERENCE

Post, p. 1176.

General and specific legacies, see section 384.

Residuary clause.

SEC. 365. RESIDUARY CLAUSE.—A bequest of the residue of the testator's personal property, passes all the personal property which he was entitled to bequeath at the time of his death, not otherwise effectually bequeathed by his will.

"Heirs," "relatives," etc.

SEC. 366. "HEIRS," "RELATIVES," "ISSUE," "DESCENDANTS," ETC.—A testamentary disposition to "heirs," "relations," "nearest relations," "representatives," "legal representatives," or "personal representatives," or "family," "issue," "descendants," "nearest" of "next of kin" or any person, without other words of qualification, and when the terms are used as words of donation, and not of limitation, vests the property in those who would be entitled to succeed to the property of such person, according to the provisions of chapter 26 of this code on succession.

CROSS REFERENCE

Ante, p. 1163.

"Issue," interpretation of, see section 278.

Words of donation, etc.

SEC. 367. WORDS OF DONATION AND OF LIMITATION.—The terms mentioned in section 366 are used as words of donation, and not of limitation, when the property is given to the person so designated, directly, and not as a qualification of an estate given to the ancestor of such person.

Time to which words refer.

SEC. 368. TO WHAT TIME WORDS REFER.—Words in a will referring to death or survivorship, simply, relate to the time of the testator's death, unless possession is actually postponed, when they must be referred to the time of possession.

Bequests to a class.

SEC. 369. BEQUEST TO A CLASS.—A testamentary disposition to a class includes every person answering the description at the testator's death; but when the possession is postponed to a future period, it includes also all persons coming within the description before the time to which possession is postponed.

CROSS REFERENCE

Posthumous children, see section 370.

Unborn child of class.

SEC. 370. WHEN CHILD BORN AFTER TESTATOR'S DEATH TAKES UNDER WILL.—A child conceived before, but not born until after a testator's death, or any other period when a disposition to a class vests in right or in possession, takes, if answering to the description of the class.

CROSS REFERENCES

Ante, p. 1125.

Child en ventre sa mere, see section 18.

Ante, pp. 1155, 1171;
post, p. 1181.

Succession by posthumous children, see sections 213, 344, and 419.

Mistakes and omissions.

SEC. 371. MISTAKES AND OMISSIONS.—When, applying a will, it is found that there is an imperfect description, or that no person or property exactly answers the description, mistakes and omissions must be corrected, if the error appears from the context of the will or from extrinsic evidence; but evidence of the declarations of the testator as to his intentions can not be received.

CROSS REFERENCE

Ante, p. 1172.

Evidence of intention, see section 352.

When bequests vest.

SEC. 372. WHEN BEQUESTS VEST.—Testamentary dispositions, including bequests to a person on attaining majority, are presumed to vest at the testator's death.

SEC. 373. WHEN CAN NOT BE DIVESTED.—A testamentary disposition, when vested, can not be divested unless upon the occurrence of the precise contingency prescribed by the testator for that purpose.

When can not be divested.

CROSS REFERENCE

Bequest to a class, see section 369.

SEC. 374. DEATH OF A LEGATEE.—If a legatee dies during the lifetime of the testator, the testamentary disposition to him fails, unless an intention appears to substitute some other in his place, except as provided in section 348.

Death of legatee.
Anie, p. 1172.

SEC. 375. INTERESTS IN REMAINDER ARE NOT AFFECTED.—The death of a legatee of a limited interest before the testator's death does not defeat the interests of persons in remainder, who survive the testator.

Interests in remainder not affected.

SEC. 376. CONDITIONAL BEQUESTS.—A conditional disposition is one which depends upon the occurrence of some uncertain event, by which it is either to take effect or be defeated.

Conditional bequest.

CROSS REFERENCES

Conditions of ownership, see section 217 et seq.

Anie, p. 1155.

Conditional obligations, see sections 430 to 438.

Post, p. 1183.

SEC. 377. CONDITION PRECEDENT, WHAT.—A condition precedent in a will is one which is required to be fulfilled before a particular disposition takes effect.

Condition precedent.

CROSS REFERENCE

Conditions precedent, what are, see sections 218 and 432.

Anie, p. 1155; *post*, p. 1183.

SEC. 378. EFFECT OF CONDITION PRECEDENT.—Where a testamentary disposition is made upon a condition precedent, nothing vests until the condition is fulfilled, except where such fulfillment is impossible, in which case the disposition vests, unless the condition was the sole motive thereof, and the impossibility was unknown to the testator, or arose from an unavoidable event subsequent to the execution of the will.

Effect of.

SEC. 379. CONDITIONS PRECEDENT, WHEN DEEMED PERFORMED.—A condition precedent in a will is to be deemed performed when the testator's intention has been substantially, though not literally, complied with.

Performance.

SEC. 380. CONDITIONS SUBSEQUENT, WHAT.—A condition subsequent is where an estate or interest is so given as to vest immediately, subject only to be divested by some subsequent act or event.

Condition subsequent.

CROSS REFERENCE

Conditions subsequent, see sections 218 and 434.

Anie, p. 1155; *post*, p. 1183.

SEC. 381. LEGATEES TAKE AS TENANTS IN COMMON.—A legacy given to more than one person vests in them as owners in common.

Legatees take as tenants in common.

SEC. 382. ADVANCEMENTS, WHEN ADEPTIONS.—Advancements or gifts are not to be taken as ademption of general legacies, unless such intention is expressed by the testator in writing.

Advancement, when ademption.

CROSS REFERENCE

Advancement in cases of intestacy, see sections 411 to 415.

Post, p. 1180.

SEC. 383. CONSTRUCTION OF PRIOR WILLS NOT AFFECTED.—The provisions of this chapter do not affect the construction of any will executed before it takes effect.

Construction provisions not retroactive.

GENERAL PROVISIONS RELATING TO WILLS.

CHAPTER 25.—GENERAL PROVISIONS RELATING TO WILLS

Nature and designation of legacies.

SEC. 384. NATURE AND DESIGNATION OF LEGACIES.—Legacies are distinguished and designated, according to their nature, as follows:

Specific.

1. A legacy of a particular thing, specified and distinguished from all others of the same kind belonging to the testator, is specific; if such legacy fails, resort can not be had to the other property of the testator;

Demonstrative.

2. A legacy is demonstrative when the particular fund or personal property is pointed out from which it is to be taken or paid; if such fund or property fails, in whole or in part, resort may be had to the general assets, as in case of a general legacy;

Annuity.

3. An annuity is a bequest of certain specified sums periodically; if the fund or property out of which they are payable fails, resort may be had to the general assets, as in case of a general legacy;

Residuary.

4. A residuary legacy embraces only that which remains after all the bequests of the will are discharged;

General.

5. All other legacies are general legacies.

CROSS REFERENCE

Post, p. 1177.

Legacy and annuities, when due, see section 393.

Order of resort to estate for debts.

SEC. 385. ORDER OF RESORT TO ESTATE FOR DEBTS.—The property of a testator, except as otherwise specially provided in this code and the Code of Civil Procedure, must be resorted to for the payment of debts, in the following order:

(1) The property which is expressly appropriated by the will for the payment of the debts;

(2) Property not disposed of by the will;

(3) Property which is devised or bequeathed to a residuary legatee;

(4) Property which is not specifically devised or bequeathed; and,

(5) All other property ratably. Before any debts are paid, the expenses of the administration and the allowance to the family must be paid or provided for.

Legacies.

SEC. 386. SAME FOR LEGACIES.—The property of a testator, except as otherwise specially provided in this code and the Code of Civil Procedure, must be resorted to for the payment of legacies, in the following order:

(1) The property which is expressly appropriated by the will for the payment of the legacies.

(2) Property not disposed of by the will.

(3) Property which is devised or bequeathed to a residuary legatee.

(4) Property which is specifically devised or bequeathed.

CROSS REFERENCE

Post, p. 1177.

Payment of legacies, when legacies are due, see section 395.

Legacies, how charged with debts.

SEC. 387. LEGACIES, HOW CHARGED WITH DEBTS.—Legacies to husband, widow, or kindred of any class are chargeable only after legacies to persons not related to the testator.

Abatement.

SEC. 388. ABATEMENT.—Abatement takes place in any class only as between legacies of that class, unless a different intention is expressed in the will.

Specific legacies.

SEC. 389. SPECIFIC LEGACIES.—In a specific legacy, the title passes by the will, but possession can only be obtained from the personal

representative; and he may be authorized by the district court to sell the property devised and bequeathed in the cases herein provided.

CROSS REFERENCE

How title passes in cases of intestacy, see section 402.

Post, p. 1178.

SEC. 390. POSSESSION OF LEGATEES.—Where specific legacies are for life only, the first legatee must sign and deliver to the second legatee, or, if there is none, to the personal representative, an inventory of the property, expressing that the same is in his custody for life only, and that, on his decease, it is to be delivered and to remain to the use and for the benefit of the second legatee, or to the personal representative, as the case may be.

Possession of legacies.

SEC. 391. BEQUEST OF INTEREST.—In case of a bequest of the interest or income of a certain sum or fund, the income accrues from the testator's death.

Bequest of income, etc.

CROSS REFERENCES

Accumulations, see sections 224 et seq.

Ante, p. 1156.

Annuities commence at testator's death, see section 393.

SEC. 392. SATISFACTION.—A legacy, or a gift in contemplation, fear, or peril of death, may be satisfied before death.

Satisfaction.

SEC. 393. LEGACIES, WHEN DUE.—Legacies are due and deliverable at the expiration of one year after the testator's decease. Annuities commence at the testator's decease.

Legacies, when due.

SEC. 394. INTEREST.—Legacies bear interest from the time when they are due and payable, except that legacies for maintenance, or to the testator's widow, bear interest from the testator's decease.

Interest on legacy.

SEC. 395. CONSTRUCTION OF THESE RULES.—Sections 391 to 394 are in all cases to be controlled by a testator's express intention.

Construction of rules.

CROSS REFERENCE

Intention of testator, see section 351.

Ante, p. 1172.

SEC. 396. EXECUTOR ACCORDING TO THE TENOR.—Where it appears, by the terms of a will, that it was the intention of the testator to commit the execution thereof and the administration¹ of his estate to any person as executor, such person, although not named executor, is entitled to letters testamentary in like manner as if he had been named executor.

Executor according to the tenor.

SEC. 397. POWER GIVEN EXECUTOR TO APPOINT IS INVALID.—An authority to an executor to appoint an executor is void.

Power of executor to appoint invalid.

SEC. 398. EXECUTOR NOT TO ACT TILL QUALIFIED.—No person has any power, as an executor, until he qualifies, except that, before letters have been issued, he may pay funeral charges and take necessary measures for the preservation of the estate.

Executor not to act until qualified.

CROSS REFERENCE

Payment of debts, see section 385.

Ante, p. 1175.

SEC. 399. LIABILITY OF BENEFICIARIES FOR TESTATOR'S OBLIGATIONS.—Those to whom property is given by will are liable for the obligations of the testator in the cases and to the extent prescribed by the Code of Civil Procedure.

Liability of beneficiaries for testator's obligations.

¹ So in original.

SUCCESSION.

CHAPTER 26.—SUCCESSION

Defined.

SEC. 400. SUCCESSION DEFINED.—Succession is the coming in of another to take the property of one who dies without disposing of it by will.

Intestate's estate, to whom passes.

SEC. 401. INTESTATE'S ESTATE, TO WHOM PASSES.—The property of one who dies without disposing of it by will, passes to the heirs of the intestate, subject to the control of the district court, and to the possession of any administrator appointed by that court, for the purposes of administration.

Succession to and distribution of estate of deceased person.

SEC. 402. SUCCESSION TO AND DISTRIBUTION OF ESTATE OF DECEASED PERSON.—When any person having title to any estate not otherwise limited by marriage contract, dies without disposing thereof by will, it is succeeded to and must be distributed, unless otherwise expressly provided in this code and the Code of Civil Procedure, subject to the payment of his debts, in the following manner:

When husband or wife and issue survive.

1. If the decedent leaves a surviving husband or wife, and only one child, or the lawful issue of one child, in equal shares to the surviving husband, or wife and child, or issue of such child. If the decedent leaves a surviving husband or wife, and more than one child living, or one child living and the lawful issue of one or more deceased children, one third to the surviving husband or wife, and the remainder in equal shares to his children and to the lawful issue of any deceased child, by right of representation; but if there is no child of decedent living at his death, the remainder goes to all of his lineal descendants; and if all of the descendants are in the same degree of kindred to the decedent, they share equally, otherwise they take according to the right of representation. If the decedent leaves no surviving husband or wife, but leaves issue, the whole estate goes to such issue; and if such issue consists of more than one child living, or one child living and the lawful issue of one or more deceased children, then the estate goes in equal shares to the children living, or to the child living and the issue of the deceased child or children by right of representation;

Surviving husband or wife but no issue.

2. If the decedent leaves no issue, the estate goes one half to the surviving husband or wife, and the other half to the decedent's father and mother in equal shares, and if either is dead the whole of said half goes to the other. If there is no father or mother, then one half goes in equal shares to the brothers and sisters of decedent and to the children or grandchildren of any deceased brother or sister by right of representation. If the decedent leaves no issue, nor husband nor wife, the estate must go to his father and mother in equal shares, or if either is dead then to the other;

When property goes to brothers, sisters, etc.

3. If there is neither issue, husband, wife, father, nor mother then in equal shares to the brothers and sisters of decedent and to the children or grandchildren of any deceased brother or sister, by right of representation;

When whole estate to husband or wife.

4. If the decedent leaves a surviving husband or wife, and neither issue, father, mother, brother, sister, nor the children or grandchildren of a deceased brother or sister, the whole estate goes to the surviving husband or wife;

Next of kin.

5. If the decedent leaves neither issue, husband, wife, father, mother, brother, nor sister, the estate must go to the next of kin, in equal degree, excepting that, when there are two or more collateral kindred, in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor must be preferred to those claiming through an ancestor more remote;

Interest of unmarried minor child, deceased.

6. If the decedent leaves several children, or one child and the issue of one or more children, and any such surviving child dies

under age and not having been married, all the estate that came to the deceased child by inheritance from such decedent descends in equal shares to the other children of the same parent and to the issue of any such other children who are dead by right of representation;

7. If, at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them has left issue, the estate that came to such child by inheritance from his parent descends to the issue of all other children of the same parent; and if all the issue are in the same degree of kindred to the child, they share the estate equally, otherwise they take according to the right of representation;

When all other children dead.

8. If the deceased is a widow, or widower, and leaves no issue, and the estate, or any portion thereof, was common property of such decedent and his or her deceased spouse, while such spouse was living, such property goes in equal shares to the children of such deceased spouse and to the descendants of such children by right of representation, and if none, then one half of such common property goes to the father and mother of such decedent in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such decedent and to the descendants of any deceased brother or sister by right of representation, and the other half goes to the father and mother of such deceased spouse in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such deceased spouse and to the descendants of any deceased brother or sister by right of representation.

Distribution when deceased a widow or widower.

If the estate, or any portion thereof, was separate property of such deceased spouse, while living, and came to such decedent from such spouse by descent or bequest, such property goes in equal shares to the children of such spouse and to the descendants of any deceased child by right of representation, and if none, then to the father and mother of such spouse, in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such spouse and to the descendants of any deceased brother or sister by right of representation.

When estate separate property of deceased spouse.

9. If the decedent leaves no husband, wife, or kindred, and there are no heirs to take his estate or any portion thereof, under subdivision 8 of this section, the same escheats to the United States.

Escheat, when no heirs.

SEC. 403. ILLEGITIMATE CHILDREN TO INHERIT IN CERTAIN EVENTS.— Every illegitimate child is an heir of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock, but he does not represent his father or mother by inheriting any part of the estate of his or her kindred, either lineal or collateral, unless, before his death, his parents shall have intermarried, and his father, after such marriage, acknowledges him as his child, or adopts him into his family; in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate, and without issue, the others inherit his estate, and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother, respectively, their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law, or dissolved by divorce, are legitimate.

Illegitimate children as heirs.

CROSS REFERENCES

Ante, p. 1145.
Ante, p. 1128.
Ante, p. 1137.

Adoption of illegitimate child, see section 164.
 Children of annulled marriage legitimate, see section 43.
 Divorce not to affect legitimacy, see section 99.

Heirs of illegitimate child.

SEC. 404. SUCCESSION TO ILLEGITIMATE CHILD.—The estate of an illegitimate child, who, having title to any estate not otherwise limited by marriage contract, dies without disposing thereof by will, is succeeded to as if he had been born in lawful wedlock if he has been legitimated by a subsequent marriage of his parents, or adopted by his father as provided by section 164; otherwise, it is succeeded to as if he had been born in lawful wedlock and had survived his father and all persons related to him only through his father.

Computation of degrees of kindred.

SEC. 405. DEGREES OF KINDRED, HOW COMPUTED.—The degree of kindred is established by the number of generations, and each generation is called a degree.

Direct and collateral consanguinity.

SEC. 406. SAME; DIRECT AND COLLATERAL CONSANGUINITY.—The series of degrees forms the line; the series of degrees between persons who descend from one another is called direct or lineal consanguinity; and the series of degrees between persons who do not descend from one another, but spring from a common ancestor, is called the collateral line or collateral consanguinity.

Direct, descending and ascending.

SEC. 407. SAME; DIRECT LINE DESCENDING, AND DIRECT LINE ASCENDING.—The direct line is divided into a direct line descending and a direct line ascending. The first is that which connects the ancestors with those who descend from him. The second is that which connects a person with those from whom he descends.

Degrees in.

SEC. 408. SAME; DEGREES IN DIRECT LINE.—In the direct line there are as many degrees as there are generations. Thus, the son is, with regard to the father, in the first degree; the grandson in the second; and vice versa with regard to the father and grandfather toward the sons and grandsons.

Degrees in collateral line.

SEC. 409. SAME; DEGREES IN COLLATERAL LINE.—In the collateral line the degrees are counted by generations, from one of the relations up to the common ancestor, and from the common ancestor to the other relations. In such computation the decedent is excluded, the relative included, and the ancestor counted but once. Thus, brothers are related in the second degree; uncle and nephew in the third degree; cousins german in the fourth, and so on.

Relatives of the half blood.

SEC. 410. RELATIVES OF THE HALF BLOOD.—Kindred of the half blood inherit equally with those of the whole blood in the same degree, unless the inheritance come to the intestate by descent or gift of some one of his ancestors, in which case all those who are not of the blood of such ancestors must be excluded from such inheritance.

Advancements constitute part of distributive share.

SEC. 411. ADVANCEMENTS CONSTITUTE PART OF DISTRIBUTIVE SHARE.—Any estate given by the decedent in his lifetime as an advancement to any child, or other heir, is a part of the estate of the decedent for the purposes of division and distribution thereof among his heirs, and must be taken by such child, or other heir, toward his share of the estate of the decedent.

CROSS REFERENCE

Ante, pp. 1171, 1175.

Advancements, see sections 347 and 382.

Advancements, sufficiency.

SEC. 412. ADVANCEMENTS, WHEN TOO MUCH, OR NOT ENOUGH.—If the amount of such advancement exceeds the share of the heir receiving the same, he must be excluded from any further portion in the division and distribution of the estate, but he must not be required to refund any part of such advancement; and if the amount so

received is less than his share, he is entitled to so much more as will give him his full share of the estate of the decedent.

SEC. 413. WHAT ARE ADVANCEMENTS.—All gifts and grants are made as advancements, if expressed in the gift or grant to be so made, or if charged in writing by the decedent as an advancement, or acknowledged in writing as such, by the child or other successor or heir.

What are.

SEC. 414. VALUE OF ADVANCEMENTS, HOW DETERMINED.—If the value of the estate so advanced is expressed in the grant, or in the charge thereof made by the decedent, or in the acknowledgment of the party receiving it, it must be held as of that value in the division and distribution of the estate; otherwise, it must be estimated according to its value when given, as nearly as the same can be ascertained.

Value of, how determined.

SEC. 415. WHEN HEIR, ADVANCED TO, DIES BEFORE DECEDENT.—If any child, or other heir receiving advancement, dies before the decedent, leaving heirs, the advancement must be taken into consideration in the division and distribution of the estate, and the amount thereof must be allowed accordingly by the representatives of the heirs receiving the advancement, in like manner as if the advancement had been made directly to them.

When heir, advanced to, predeceases decedent.

SEC. 416. INHERITANCE OF HUSBAND AND WIFE FROM EACH OTHER.—The provisions of the preceding sections of this chapter, as to the inheritance of the husband and wife from each other, apply only to the separate property of the decedents.

Inheritance of husband and wife from each other.

SEC. 417. COMMUNITY PROPERTY ON DEATH OF SPOUSE.—Upon the death of either husband or wife, one half of the community property belongs to the surviving spouse; the other half is subject to the testamentary disposition of the decedent, and in the absence thereof goes to the surviving spouse, subject to the provisions of section 418.

Community property on death of spouse.

SEC. 418. COMMUNITY PROPERTY SUBJECT TO ADMINISTRATION; EXCEPTION; HUSBAND'S CONTROL AFTER DEATH OF WIFE.—Community property passing from the control of the husband by reason of his death is subject to administration, his debts, family allowance, and the charges and expenses of administration: *Provided, however,* That the clothing of the decedent and the household effects not exceeding in value \$2,500 shall go to the surviving wife without administration, and shall not be subject to the debts and allowance aforesaid.

Subject to administration.

Proviso. Clothing, household effects, etc.

Community property passing from the control of the husband by virtue of testamentary disposition by the wife is subject to administration, his debts, and the charges and expenses of administration, but the husband, pending administration, shall retain the same power to sell, manage and deal with the community personal property as he had in her lifetime; and his possession and control of the community property shall not be transferred to the personal representative of the wife, except to the extent necessary to carry her will into effect.

Control of husband after wife's death.

CROSS REFERENCE

Community property, defined, see sections 119 and 202.

Ante, pp. 1139, 1154.

SEC. 419. INHERITANCE BY REPRESENTATION.—Inheritance or succession "by right of representation" takes place when the descendants of any deceased heir take the same share or right in the estate of another person that their parents would have taken if living. Posthumous children are considered as living at the death of their parents.

Inheritance by representation.

SEC. 420. ALIENS MAY INHERIT, WHEN, AND HOW.—Resident aliens may take in all cases by succession as citizens; and no person capable of succeeding under the provisions of this chapter is precluded from

Inheritance by aliens.

such succession by reason of the alienage of any relative; but no nonresident foreigner can take by succession unless he appears and claims such succession within five years after the death of the decedent to whom he claims succession.

CROSS REFERENCES

Ante, p. 1153. See, also, section 191.
Ante, p. 1153. Time to claim succession, see section 192.

Escheat of property. **SEC. 421. ESCHEAT OF PROPERTY.**—If a person dies owning any property situated in the Canal Zone and leaving no heir, next of kin, legatee, or other person entitled thereto, such property shall escheat to the United States. (Act Cong. Dec. 29, 1926, c. 19, § 17, 44 Stat. 930.)
 Vol. 44, p. 930.

CROSS REFERENCE

Ante, p. 1179. See, also, section 402 (9).

Successor's liability for decedent's obligations. **SEC. 422. SUCCESSOR LIABLE FOR DECEDENT'S OBLIGATIONS.**—Those who succeed to the property of a decedent are liable for his obligations in the cases and to the extent prescribed by the Code of Civil Procedure.

Person convicted of murder of decedent. **SEC. 423. PERSON CONVICTED OF MURDER OF DECEDENT NOT TO SUCCEED.**—No person who has been convicted of the murder of the decedent shall be entitled to succeed to any portion of his estate; but the portion thereof to which he would otherwise be entitled to succeed descends to the other persons entitled thereto under the provisions of this chapter.

OBLIGATIONS IN GENERAL.

CHAPTER 27.—OBLIGATIONS IN GENERAL

DEFINITION OF OBLIGATIONS

Definition. **SEC. 424. OBLIGATION, WHAT.**—An obligation is a legal duty, by which a person is bound to do or not to do a certain thing.

How created and enforced. **SEC. 425. HOW CREATED AND ENFORCED.**—An obligation arises either from:

- (1) The contract of the parties; or,
- (2) The operation of law. An obligation arising from operation of law may be enforced in the manner provided by law, or by civil action or proceeding.

Interpretation of obligations.

INTERPRETATION OF OBLIGATIONS

GENERAL RULES OF INTERPRETATION

General rules.
Post, p. 1197.

SEC. 426. GENERAL RULES.—The rules which govern the interpretation of contracts are prescribed by chapter 30 of this code. Other obligations are interpreted by the same rules by which statutes of a similar nature are interpreted.

JOINT OR SEVERAL OBLIGATIONS

Joint, several, etc.

SEC. 427. OBLIGATIONS, JOINT OR SEVERAL, ETC.—An obligation imposed upon several persons, or a right created in favor of several persons, may be:

1. Joint;
2. Several; or,
3. Joint and several.

Joint.

SEC. 428. WHEN JOINT.—An obligation imposed upon several persons, or a right created in favor of several persons, is presumed to be joint, and not several, except in the special cases mentioned in the

chapter on the interpretation of contracts. This presumption, in the case of a right, can be overcome only by express words to the contrary.

CROSS REFERENCES

Promise joined in by several, all of whom receive some benefit, is presumed to be joint and several, see section 569. *Post*, p. 1200.

Promise in the singular, but executed by several, is presumed to be joint and several, see section 570. *Post*, p. 1200.

SEC. 429. CONTRIBUTION BETWEEN JOINT PARTIES.—A party to a joint, or joint and several obligation, who satisfies more than his share of the claim against all, may require a proportionate contribution from all the parties joined with him. *Contribution between joint parties.*

CROSS REFERENCE

Surety acquires rights of creditors, see section 1296. *Post*, p. 1295.

CONDITIONAL OBLIGATIONS

SEC. 430. OBLIGATION, WHEN CONDITIONAL.—An obligation is conditional, when the rights or duties of any party thereto depend upon the occurrence of an uncertain event. *Conditional obligations. When conditional.*

SEC. 431. CONDITIONS, KINDS OF.—Conditions may be precedent, concurrent, or subsequent. *Kinds of.*

CROSS REFERENCES

Conditional legacies, see sections 376 and 377. *Ante*, p. 1175.

Conditions concurrent, see section 433.

Conditions of ownership, see sections 217 et seq. *Ante*, p. 1155.

Conditions precedent, see section 432.

Condition subsequent, see section 434.

SEC. 432. CONDITION PRECEDENT.—A condition precedent is one which is to be performed before some right dependent thereon accrues, or some act dependent thereon is performed. *Condition precedent.*

CROSS REFERENCE

Conditions precedent, see sections 217 to 219, 377 and 466. *Ante*, pp. 1155, 1175; *post*, p. 1187.

SEC. 433. CONDITIONS CONCURRENT.—Conditions concurrent are those which are mutually dependent, and are to be performed at the same time. *Conditions concurrent.*

CROSS REFERENCE

Concurrent conditions, performance of, see section 466. *Post*, p. 1187.

SEC. 434. CONDITION SUBSEQUENT.—A condition subsequent is one referring to a future event, upon the happening of which the obligation becomes no longer binding upon the other party, if he chooses to avail himself of the condition. *Condition subsequent.*

CROSS REFERENCE

Conditions subsequent, see sections 218 and 380. *Ante*, pp. 1155, 1175.

SEC. 435. PERFORMANCE, ETC., OF CONDITIONS, WHEN ESSENTIAL.—Before any party to an obligation can require another party to perform any act under it, he must fulfill all conditions precedent thereto imposed upon himself and must be able and offer to fulfill all conditions concurrent so imposed upon him on the like fulfillment by the other party, except as provided by section 436. *Performance, etc., of conditions.*

CROSS REFERENCES

Post, p. 1187.

Concurrent or precedent conditions, performance of, see section 466.
Impossible conditions void, see section 437.

When excused.

SEC. 436. WHEN PERFORMANCE, ETC., EXCUSED.—If a party to an obligation gives notice to another, before the latter is in default, that he will not perform the same upon his part, and does not retract such notice before the time at which performance upon his part is due, such other party is entitled to enforce the obligation without previously performing or offering to perform any conditions upon his part in favor of the former party.

CROSS REFERENCES

Post, p. 1188.

Excuse of performance, see section 474.

Post, p. 1189.

Refusal to accept performance before the time to perform, see section 477.

Impossible and unlawful conditions void.

Post, p. 1195.

SEC. 437. IMPOSSIBLE OR UNLAWFUL CONDITIONS VOID.—A condition in a contract, the fulfillment of which is impossible or unlawful within the meaning of sections 520 to 524, or which is repugnant to the nature of the interest created by the contract, is void.

CROSS REFERENCES

Post, p. 1195.

Conditions, when impossible, see sections 521 et seq.

Post, p. 1195.

Object of contracts, see sections 520 et seq.

Ante, p. 1155.

Unlawful conditions, see sections 219 et seq.

Conditions involving forfeiture.

SEC. 438. CONDITIONS INVOLVING FORFEITURE, HOW CONSTRUED.—A condition involving a forfeiture must be strictly interpreted against the party for whose benefit it is created.

Alternative obligations.

ALTERNATIVE OBLIGATIONS

Right of selection.

SEC. 439. WHO HAS THE RIGHT OF SELECTION.—If an obligation requires the performance of one of two acts, in the alternative, the party required to perform has the right of selection, unless it is otherwise provided by the terms of the obligation.

How lost.

SEC. 440. RIGHT OF SELECTION, HOW LOST.—If the party having the right of selection between alternative acts does not give notice of his selection to the other party within the time, if any, fixed by the obligation for that purpose, or, if none is so fixed, before the time at which the obligation ought to be performed, the right of selection passes to the other party.

Alternatives indivisible.

SEC. 441. ALTERNATIVES INDIVISIBLE.—The party having the right of selection between alternative acts must select one of them in its entirety, and can not select part of one and part of another without the consent of the other party.

When one alternative void.

SEC. 442. NULLITY OF ONE OR MORE OF ALTERNATIVE OBLIGATIONS.—If one of the alternative acts required by an obligation is such as the law will not enforce, or becomes unlawful, or impossible of performance, the obligation is to be interpreted as though the other stood alone.

Transfer of obligations.

TRANSFER OF OBLIGATIONS

Burden of obligation not transferable.

SEC. 443. BURDEN OF OBLIGATION NOT TRANSFERABLE.—The burden of an obligation may be transferred with the consent of the party entitled to its benefit, but not otherwise.

Rights arising out of, transferable.

SEC. 444. RIGHTS ARISING OUT OF OBLIGATION TRANSFERABLE.—A right arising out of an obligation is the property of the person to whom it is due, and may be transferred as such.

CROSS REFERENCES

Assignment of things in action, see section 239. *Ante*, p. 1158.
 Incidents following things transferred, see section 280. *Ante*, p. 1163.
 Literary property is assignable, see section 242. *Ante*, p. 1159.
 Mere possibility can not be transferred, see section 262. *Ante*, p. 1161.
 Nonnegotiable instrument transferable by indorsement, see section 445. *Ante*, p. 1158.
 Products of the mind, assignment of, see section 240. *Ante*, p. 1161.
 Property of any kind may be transferred, see section 261.

SEC. 445. NONNEGOTIABLE INSTRUMENTS MAY BE TRANSFERRED.—A nonnegotiable written contract for the payment of money or personal property may be transferred by indorsement, in like manner with negotiable instruments. Such indorsement shall transfer all the rights of the assignor under the instrument to the assignee, subject to all equities and defenses existing in favor of the maker at the time of the indorsement. *Nonnegotiable instruments may be transferred.*

EXTINCTION OF OBLIGATIONS

Extinction of obligations.

PERFORMANCE

SEC. 446. OBLIGATION EXTINGUISHED BY PERFORMANCE.—Full performance of an obligation, by the party whose duty it is to perform it, or by any other person on his behalf, and with his assent, if accepted by the creditor, extinguishes it. *By performance.*

SEC. 447. PERFORMANCE BY ONE OF SEVERAL JOINT DEBTORS.—Performance of an obligation by one of several persons who are jointly liable under it extinguishes the liability of all. *By one of several joint debtors.*

SEC. 448. PERFORMANCE TO ONE OF JOINT CREDITORS.—An obligation in favor of joint creditors is extinguished by performance rendered to any of them, except in the case of a deposit made by joint owners, which is regulated by chapters 36 to 38 of this code on deposit. *To one of joint creditors. Post, pp. 1226-1242.*

CROSS REFERENCE

Performance to one of joint creditors, see section 711. *Post*, p. 1227.

SEC. 449. EFFECT OF DIRECTIONS BY CREDITORS.—If a creditor, or any one of two or more joint creditors, at any time directs the debtor to perform his obligation in a particular manner, the obligation is extinguished by performance in that manner, even though the creditor does not receive the benefit of such performance. *Effect of directions by creditors.*

SEC. 450. PARTIAL PERFORMANCE.—A partial performance of an indivisible obligation extinguishes a corresponding proportion thereof if the benefit of such performance is voluntarily retained by the creditor, but not otherwise. If such partial performance is of such a nature that the creditor can not avoid retaining it without injuring his own property, his retention thereof is not presumed to be voluntary. *Part performance.*

CROSS REFERENCE

Effect of part performance, see sections 454, 481, and 1281. *Post*, pp. 1186, 1189, 1283.

SEC. 451. PAYMENT, WHAT.—Performance of an obligation for the delivery of money only is called payment. *"Payment," defined.*

CROSS REFERENCE

Tender, effect of, see sections 468 and 472. *Post*, p. 1188.

SEC. 452. APPLICATION OF GENERAL PERFORMANCE.—Where a debtor, under several obligations to another, does an act, by way of perform- *Application of general performance.*

ance, in whole or in part, which is equally applicable to two or more of such obligations, such performance must be applied as follows:

(1) If, at the time of performance, the intention or desire of the debtor that such performance should be applied to the extinction of any particular obligation, be manifested to the creditor, it must be so applied.

(2) If no such application be then made, the creditor, within a reasonable time after such performance, may apply it toward the extinction of any obligation, performance of which was due to him from the debtor at the time of such performance; except that if similar obligations were due to him both individually and as a trustee, he must, unless otherwise directed by the debtor, apply the performance to the extinction of all such obligations in equal proportion; and an application once made by the creditor can not be rescinded without the consent of the debtor.

(3) If neither party makes such application within the time prescribed herein, the performance must be applied to the extinction of obligations in the following order; and, if there be more than one obligation of a particular class, to the extinction of all in that class, ratably:

1. Of interest due at the time of the performance.
2. Of principal due at that time.
3. Of the obligation earliest in date of maturity.
4. Of an obligation not secured by a lien or collateral undertaking.
5. Of an obligation secured by a lien or collateral undertaking.

Offer of performance.

OFFER OF PERFORMANCE

Obligation extin-
guished by.

SEC. 453. OBLIGATION EXTINGUISHED BY OFFER OF PERFORMANCE.—An obligation is extinguished by an offer of performance, made in conformity to the rules herein prescribed, and with intent to extinguish the obligation.

CROSS REFERENCES

By whom offer may be made, see section 455.

Post, p. 1188.

Duties of person making tender, see section 471.

Post, p. 1188.

Tender of payment, see sections 468 and 472.

Post, p. 1188.

Tender of article passes title, see sections 470 and 472.

Offer of partial per-
formance.

SEC. 454. OFFER OF PARTIAL PERFORMANCE.—An offer of partial performance is of no effect.

CROSS REFERENCE

Part performance, effect of, see sections 450, 481, and 1281.

Ante, p. 1185; *post*,
pp. 1189, 1293.

By whom made.

SEC. 455. BY WHOM TO BE MADE.—An offer of performance must be made by the debtor, or by some person on his behalf and with his assent.

To whom made.

SEC. 456. TO WHOM TO BE MADE.—An offer of performance must be made to the creditor, or to any one of two or more joint creditors, or to a person authorized by one or more of them to receive or collect what is due under the obligation, if such creditor or authorized person is present at the place where the offer may be made; and if not, wherever the creditor may be found.

CROSS REFERENCE

Post, p. 1187.

Where offer may be made, see section 457.

SEC. 457. WHERE OFFER MAY BE MADE.—In the absence of an express provision to the contrary, an offer of performance may be made, at the option of the debtor:

Where offer may be made.

1. At any place appointed by the creditor; or,
2. Wherever the person to whom the offer ought to be made can be found; or,
3. If such person can not with reasonable diligence, be found within the Canal Zone, and within a reasonable distance from his residence or place of business, of¹ if he evades the debtor, then at his residence or place of business, if the same can, with reasonable diligence, be found within the Canal Zone; or
4. If this can not be done, then at any place within the Canal Zone.

SEC. 458. WHEN OFFER MUST BE MADE.—Where an obligation fixes a time for its performance, an offer of performance must be made at that time, within reasonable hours, and not before nor afterwards.

When offer must be made.

SEC. 459. SAME.—Where an obligation does not fix the time for its performance, an offer of performance may be made at any time before the debtor, upon a reasonable demand, has refused to perform.

SEC. 460. COMPENSATION AFTER DELAY IN PERFORMANCE.—Where delay in performance is capable of exact and entire compensation, and time has not been expressly declared to be of the essence of the obligation, an offer of performance, accompanied with an offer of such compensation, may be made at any time after it is due, but without prejudice to any rights acquired by the creditor, or by any other person, in the meantime.

Compensation after delay in performance.

SEC. 461. OFFER TO BE MADE IN GOOD FAITH.—An offer of performance must be made in good faith, and in such manner as is most likely, under the circumstances, to benefit the creditor.

Offer to be made in good faith.

SEC. 462. CONDITIONAL OFFER.—An offer of performance must be free from any conditions which the creditor is not bound, on his part, to perform.

Conditional offer.

CROSS REFERENCE

Offer of performance upon condition, see sections 466 and 467.

SEC. 463. ABILITY AND WILLINGNESS ESSENTIAL.—An offer of performance is of no effect if the person making it is not able and willing to perform according to the offer.

Ability and willingness.

SEC. 464. PRODUCTION OF THING TO BE DELIVERED NOT NECESSARY.—The thing to be delivered, if any, need not in any case be actually produced, upon an offer of performance, unless the offer is accepted.

Production of thing to be delivered.

SEC. 465. THING OFFERED TO BE KEPT SEPARATE.—A thing, when offered by way of performance, must not be mixed with other things from which it can not be separated immediately and without difficulty.

Thing offered to be kept separate.

CROSS REFERENCE

Custody of thing offered, see section 471.

Post, p. 1188.

SEC. 466. PERFORMANCE OF CONDITION PRECEDENT.—When a debtor is entitled to the performance of a condition precedent to, or concurrent with, performance on his part, he may make his offer to depend upon the due performance of such condition.

Performance of condition precedent.

CROSS REFERENCES

Conditions precedent defined, see sections 218, 377, and 432.

Ante, pp. 1155, 1175, 1183.

Conditions subsequent defined, see sections 218, 380, and 434.

Ante, pp. 1155, 1175, 1183.

Performance of conditions, see section 435.

Ante, p. 1183.

Unlawful and impossible conditions void, see sections 219 and 437.

Ante, pp. 1155, 1184.

¹ So in original.

Written receipts.

SEC. 467. WRITTEN RECEIPTS.—A debtor has a right to require from his creditor a written receipt for any property delivered in performance of his obligation.

Extinction of pecuniary obligation.

SEC. 468. EXTINCTION OF PECUNIARY OBLIGATION.—An obligation for the payment of money is extinguished by a due offer of payment, if the amount is immediately deposited in the name of the creditor, with some bank of deposit within the Canal Zone, of good repute, and notice thereof is given to the creditor.

CROSS REFERENCE

Tender stopping interest, see section 472.

Objection to mode of offer.

SEC. 469. OBJECTIONS TO MODE OF OFFER.—All objections to the mode of an offer of performance, which the creditor has an opportunity to state at the time to the person making the offer, and which could be then obviated by him, are waived by the creditor, if not then stated.

Title to thing offered.

SEC. 470. TITLE TO THING OFFERED.—The title to a thing duly offered in performance of an obligation passes to the creditor, if the debtor at the time signifies his intention to that effect.

Custody of.

SEC. 471. CUSTODY OF THING OFFERED.—The person offering a thing, other than money, by way of performance, must, if he means to treat it as belonging to the creditor, retain it as a depositary for hire, until the creditor accepts it, or until he has given reasonable notice to the creditor that he will retain it no longer, and, if with reasonable diligence he can find a suitable depositary therefor, until he has deposited it with such person.

CROSS REFERENCES

Post, p. 1229.

Depositary for hire, see section 725.

Ante, p. 1187.

Thing offered to be kept separate, see section 465.

Effect of offer on accessories of obligations.

SEC. 472. EFFECT OF OFFER ON ACCESSORIES OF OBLIGATION.—An offer of payment or other performance, duly made, though the title to the thing offered be not transferred to the creditor, stops the running of interest on the obligation, and has the same effect upon all its incidents as a performance thereof.

CROSS REFERENCE

Tender transfers title, see section 470.

Creditor's retention of thing which he refuses to accept.

SEC. 473. CREDITOR'S RETENTION OF THING WHICH HE REFUSES TO ACCEPT.—If anything is given to a creditor by way of performance, which he refuses to accept as such, he is not bound to return it without demand; but if he retains it, he is a gratuitous depositary thereof.

CROSS REFERENCE

Post, p. 1229.

Gratuitous depositary, see sections 720 et seq.

Prevention of performance or offer.

PREVENTION OF PERFORMANCE OR OFFER

What excuses performance, etc.

SEC. 474. WHAT EXCUSES PERFORMANCE, ETC.—The want of performance of an obligation, or of an offer of performance, in whole or in part, or any delay therein, is excused by the following causes, to the extent to which they operate:

1. When such performance or offer is prevented or delayed by the act of the creditor, or by the operation of law, even though there may have been a stipulation that this shall not be an excuse;

2. When it is prevented or delayed by an irresistible, super-human cause, or by the act of public enemies of the United States, unless the parties have expressly agreed to the contrary; or,

3. When the debtor is induced not to make it, by any act of the creditor intended or naturally tending to have that effect, done at or before the time at which such performance or offer may be made, and not rescinded before that time.

CROSS REFERENCE

Excuse of performance, see section 436.

Ante, p. 1184.

SEC. 475. EFFECT OF PREVENTION OF PERFORMANCE.—If the performance of an obligation be prevented by the creditor, the debtor is entitled to all the benefits which he would have obtained if it had been performed by both parties.

Effect of prevention of performance.

SEC. 476. SAME.—If performance of an obligation is prevented by any cause excusing performance, other than the act of the creditor, the debtor is entitled to a ratable proportion of the consideration to which he would have been entitled upon full performance, according to the benefit which the creditor receives from the actual performance.

SEC. 477. EFFECT OF REFUSAL TO ACCEPT PERFORMANCE BEFORE OFFER.—A refusal by a creditor to accept performance, made before an offer thereof, is equivalent to an offer and refusal, unless, before performance is actually due, he gives notice to the debtor of his willingness to accept it.

Refusal to accept, before offer.

CROSS REFERENCE

Refusal to perform entitles the other party to enforce the obligation, without performance on his part, see section 436.

Ante, p. 1184.

ACCORD AND SATISFACTION

Accord and satisfaction.

SEC. 478. ACCORD, WHAT.—An accord is an agreement to accept, in extinction of an obligation, something different from or less than that to which the person agreeing to accept is entitled.

"Accord."

CROSS REFERENCES

Order on third person, effect of, see section 485.

Post, p. 1190.

Release of obligations, see sections 486 et seq.

Post, p. 1190.

Substituting new obligation for existing one is novation, see sections 482 et seq.

Post, p. 1190.

SEC. 479. EFFECT OF ACCORD.—Though the parties to an accord are bound to execute it, yet it does not extinguish the obligation until it is fully executed.

Effect of.

SEC. 480. SATISFACTION, WHAT.—Acceptance, by the creditor, of the consideration of an accord extinguishes the obligation, and is called satisfaction.

"Satisfaction."

CROSS REFERENCE

Part performance, see section 481.

SEC. 481. PART PERFORMANCE.—Part performance of an obligation, either before or after a breach thereof, when expressly accepted by the creditor in writing, in satisfaction, or rendered in pursuance of an agreement in writing for that purpose, though without any new consideration, extinguishes the obligation.

Part performance.

CROSS REFERENCE

Ante, pp. 1185, 1186; *post*, p. 1293. Part performance, see section 450, 454, and 1281.

NOVATION

Novation. **SEC. 482. NOVATION, WHAT.**—Novation is the substitution of a new obligation for an existing one.

CROSS REFERENCES

Novation a contract, see section 484.

Post, p. 1191. Right to sue on contract made for one's benefit, see section 494.

Modes of. **SEC. 483. MODES OF NOVATION.**—Novation is made:

1. By the substitution of a new obligation between the same parties, with intent to extinguish the old obligation;

2. By the substitution of a new debtor in place of the old one, with intent to release the latter; or,

3. By the substitution of a new creditor in place of the old one, with intent to transfer the rights of the latter to the former.

Novation a contract. **SEC. 484. NOVATION A CONTRACT.**—Novation is made by contract, and is subject to all the rules concerning contracts in general.

Rescission of. **SEC. 485. RESCISSION OF NOVATION.**—When the obligation of a third person, or an order upon such person is accepted in satisfaction, the creditor may rescind such acceptance if the debtor prevents such person from complying with the order, or from fulfilling the obligation; or if, at the time the obligation or order is received, such person is insolvent, and this fact is unknown to the creditor, or if, before the creditor can with reasonable diligence present the order to the person upon whom it is given, he becomes insolvent.

Release.

RELEASE

Obligation extinguished by. **SEC. 486. OBLIGATION EXTINGUISHED BY RELEASE.**—An obligation is extinguished by a release therefrom given to the debtor by the creditor, upon a new consideration, or in writing, with or without new consideration.

CROSS REFERENCE

Post, p. 1196. Writing imports a consideration, see section 534.

General release, claims not affected by. **SEC. 487. CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE.**—A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Release of one of several joint debtors. **SEC. 488. RELEASE OF ONE OF SEVERAL JOINT DEBTORS.**—A release of one of two or more joint debtors does not extinguish the obligations of any of the others, unless they are mere guarantors; nor does it affect their right to contribution from him.

CROSS REFERENCES

Post, p. 1293. Guarantor's liability discharged by what dealings with debtor, see section 1278.

Post, p. 1295. Rights of sureties, see section 1292.

CHAPTER 28.—NATURE OF A CONTRACT

NATURE OF A
CONTRACT.

DEFINITION

SEC. 489. CONTRACT, WHAT.—A contract is an agreement to do or not to do a certain thing. “Contract.”

CROSS REFERENCES

Object of a contract, see section 520 et seq. Post, p. 1195.
Parties to a contract, see section 491 et seq.

SEC. 490. ESSENTIAL ELEMENTS OF CONTRACT.—It is essential to the existence of a contract that there should be: Elements of

1. Parties capable of contracting;
2. Their consent;
3. A lawful object; and,
4. A sufficient cause or consideration.

CROSS REFERENCES

Consent, see sections 495 et seq.
Consideration, see sections 525 et seq. Post, p. 1195.
Requisites of object, see section 521. Post, p. 1195.
Unlawful contracts, see section 572. Post, p. 1200.

PARTIES

SEC. 491. WHO MAY CONTRACT.—All persons are capable of contracting, except minors and persons of unsound mind. Capacity.

CROSS REFERENCES

Contracts of infants, see sections 19 et seq., and 598. Ante, p. 1126; post, p. 1204.
Contracts of married women, see sections 113, 114, and 122. Ante, pp. 1139, 1140.
Contracts of persons of unsound mind, see sections 24 et seq. Ante, p. 1126.

SEC. 492. MINORS, ETC. Minors and persons of unsound mind, have only such capacity as is defined by chapter 2 of this code. Minors, etc.

CROSS REFERENCE

Powers of minors, see sections 19 et seq. Ante, p. 1126.

SEC. 493. IDENTIFICATION OF PARTIES NECESSARY.—It is essential to the validity of a contract, not only that the parties should exist, but that it should be possible to identify them. Identification of parties.

SEC. 494. WHEN CONTRACT FOR BENEFIT OF THIRD PERSON MAY BE ENFORCED.—A contract, made expressly for the benefit of a third person, may be enforced by him at any time before the parties thereto rescind it. Enforcement of contract for benefit of third person.

CONSENT

SEC. 495. ESSENTIALS OF CONSENT.—The consent of the parties to a contract must be: Consent.
Essentials.

1. Free;
2. Mutual; and,
3. Communicated by each to the other.

CROSS REFERENCES

Consent, when not free, and effect, see sections 496 and 497. Post, p. 1192.
Consent, when not mutual, see section 510. Post, p. 1194.
Consent, how communicated, see sections 511 et seq. Post, p. 1194.

Consent, when voidable.

SEC. 496. CONSENT, WHEN VOIDABLE.—A consent which is not free is nevertheless not absolutely void, but may be rescinded by the parties, in the manner prescribed by sections 580 to 583.

CROSS REFERENCE

Post, pp. 1201, 1337.

Rescission of contracts, see sections 580 et seq., and 1645 et seq.

Apparent consent.

SEC. 497. APPARENT CONSENT, WHEN NOT FREE.—An apparent consent is not real or free when obtained through:

1. Duress;
2. Menace;
3. Fraud;
4. Undue influence; or,
5. Mistake.

CROSS REFERENCES

Duress, defined, see section 499.

Menace, defined, see section 500.

Fraud, defined, see section 501.

Post, p. 1193.

Undue influence, defined, see section 505.

Post, p. 1193.

Mistake, defined, see sections 506 and 507.

Post, p. 1201.

Rescission, where consent obtained by mistake, duress, menace, fraud, or undue influence, see section 581.

When deemed to have been obtained by fraud, etc.

SEC. 498. WHEN DEEMED TO HAVE BEEN OBTAINED BY FRAUD, AND SO FORTH.—Consent is deemed to have been obtained through one of the causes mentioned in section 497 only when it would not have been given had such cause not existed.

“Duress.”

SEC. 499. DURESS, WHAT.—Duress consists in:

1. Unlawful confinement of the person of the party, or of the husband or wife of such party, or of an ancestor, descendant, or adopted child of such party, husband, or wife;
2. Unlawful detention of the property of any such person; or
3. Confinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly harassing or oppressive.

CROSS REFERENCE

Post, p. 1201.

Rescission of contract for duress, see section 581.

“Menace.”

SEC. 500. MENACE, WHAT.—Menace consists in a threat:

1. Of such duress as is specified in subdivisions one and three of section 499;
2. Of unlawful and violent injury to the person or property of any such person as is specified in section 499; or,
3. Of injury to the character of any such person.

CROSS REFERENCE

Post, p. 1201.

Rescission of contract for menace, see section 581.

Fraud, actual or constructive.

SEC. 501. FRAUD, ACTUAL OR CONSTRUCTIVE.—Fraud is either actual or constructive.

CROSS REFERENCE

Post, p. 1201.

Rescission of contract for fraud, see section 581.

“Actual fraud.”

SEC. 502. ACTUAL FRAUD, WHAT.—Actual fraud, within the meaning of this subchapter, consists in any of the following acts, committed by a party to the contract, or with his connivance, with intent to deceive another party thereto, or to induce him to enter into the contract:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

2. The positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;

3. The suppression of that which is true, by one having knowledge or belief of the fact;

4. A promise made without any intention of performing it; or,

5. Any other act fitted to deceive.

CROSS REFERENCES

Deceit, see sections 590 and 591.

Fraudulent instruments and transfers, see sections 1659 et seq.

Rescission of contracts for fraud, see section 581.

Post, p. 1203.

Post, p. 1338.

Post, p. 1201.

SEC. 503. CONSTRUCTIVE FRAUD.—Constructive fraud consists:

“Constructive fraud.”

1. In any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him; or,

2. In any such act or omission as the law specially declares to be fraudulent, without respect to actual fraud.

CROSS REFERENCE

Rescission of contract for fraud, see section 581.

Post, p. 1201.

SEC. 504. ACTUAL FRAUD A QUESTION OF FACT.—Actual fraud is always a question of fact.

Actual fraud a question of fact.

SEC. 505. UNDUE INFLUENCE, WHAT.—Undue influence consists:

“Undue influence.”

1. In the use, by one in whom a confidence is reposed by another, or who holds a real or apparent authority over him, of such confidence or authority for the purpose of obtaining an unfair advantage over him;

2. In taking an unfair advantage of another's weakness of mind; or,

3. In taking a grossly oppressive and unfair advantage of another's necessities or distress.

CROSS REFERENCES

Rescission of contracts see sections 581 and 1645.

Undue influence vitiating will, see section 312.

Post, pp. 1201, 1337.

Ante, p. 1187.

SEC. 506. MISTAKE, WHAT.—Mistake may be either of fact or law.

“Mistake.”

SEC. 507. MISTAKE OF FACT.—Mistake of fact is a mistake, not caused by the neglect of a legal duty on the part of the person making the mistake, and consisting in:

Mistake of fact.

1. An unconscious ignorance or forgetfulness of a fact past or present, material to the contract; or,

2. Belief in the present existence of a thing material to the contract which does not exist, or in the past existence of such a thing, which has not existed.

CROSS REFERENCE

Rescission of contract for mistake, see section 581.

Post, p. 1201.

SEC. 508. MISTAKE OF LAW.—Mistake of law constitutes a mistake, within the meaning of this subchapter, only when it arises from:

Mistake of law.

1. A misapprehension of the law by all parties, all supposing that they knew and understood it, and all making substantially the same mistake as to the law; or,

2. A misapprehension of the law by one party, of which the others are aware at the time of contracting, but which they do not rectify.

CROSS REFERENCE

- Post*, p. 1201. Rescission of contract for mistake, see section 581.
- Mistake of foreign laws. SEC. 509. MISTAKE OF FOREIGN LAWS.—Mistake of foreign laws is a mistake of fact.
- Mutuality of consent. SEC. 510. MUTUALITY OF CONSENT.—Consent is not mutual, unless the parties all agree upon the same thing in the same sense. But in certain cases defined by the chapter on interpretation, they are to be deemed so to agree without regard to the fact.

CROSS REFERENCE

- Post*, p. 1197. Interpretation of contracts, see sections 546 et seq.
- Communication of consent. SEC. 511. COMMUNICATION OF CONSENT.—Consent can be communicated with effect, only by some act or omission of the party contracting, by which he intends to communicate it, or which necessarily tends to such communication.
- Mode of communicating acceptance. SEC. 512. MODE OF COMMUNICATING ACCEPTANCE OF PROPOSAL.—If a proposal prescribes any conditions concerning the communication of its acceptance, the proposer is not bound unless they are conformed to; but in other cases any reasonable and usual mode may be adopted.
- When communication deemed complete. SEC. 513. WHEN COMMUNICATION DEEMED COMPLETE.—Consent is deemed to be fully communicated between the parties as soon as the party accepting a proposal has put his acceptance in the course of transmission to the proposer, in conformity to section 512.
- Acceptance by performance. SEC. 514. ACCEPTANCE BY PERFORMANCE OF CONDITIONS.—Performance of the conditions of a proposal, or the acceptance of the consideration offered with a proposal, is an acceptance of the proposal.
- Acceptance must be absolute. SEC. 515. ACCEPTANCE MUST BE ABSOLUTE.—An acceptance must be absolute and unqualified, or must include in itself an acceptance of that character which the proposer can separate from the rest, and which will conclude the person accepting. A qualified acceptance is a new proposal.
- Revocation of proposal. SEC. 516. REVOCATION OF PROPOSAL.—A proposal may be revoked at any time before its acceptance is communicated to the proposer, but not afterwards.
- How made. SEC. 517. REVOCATION, HOW MADE.—A proposal is revoked:
 1. By communication of notice of revocation by the proposer to the other party, in the manner prescribed by sections 511 and 513, before his acceptance has been communicated to the former;
 2. By the lapse of the time prescribed in such proposal for its acceptance, or if no time is so prescribed, the lapse of a reasonable time without communication of the acceptance;
 3. By the failure of the acceptor to fulfill a condition precedent to acceptance; or,
 4. By the death or insanity of the proposer.
- Ratification of contract void for want of consent. SEC. 518. RATIFICATION OF CONTRACT VOID FOR WANT OF CONSENT.—A contract which is voidable solely for want of due consent, may be ratified by a subsequent consent.
- Assumption of obligation by acceptance of benefits. SEC. 519. ASSUMPTION OF OBLIGATION BY ACCEPTANCE OF BENEFITS.—A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations arising from it, so far as the facts are known, or ought to be known, to the person accepting.

CROSS REFERENCE

OBJECT

Object.

SEC. 520. OBJECT, WHAT.—The object of a contract is the thing which it is agreed, on the part of the party receiving the consideration, to do or not to do.

Defined.

CROSS REFERENCES

Unlawful conditions, see section 437.

Ansie, p. 1184.

Unlawful contracts, see sections 521 and 572 et seq.

Post, p. 1200.

SEC. 521. REQUISITES OF OBJECT.—The object of a contract must be lawful when the contract is made, and possible and ascertainable by the time the contract is to be performed.

Requisites.

CROSS REFERENCES

Essential elements of contract, see section 490.

Ansie, p. 1191.

Unlawful contracts, see sections 572 et seq.

Post, p. 1200.

SEC. 522. IMPOSSIBILITY, WHAT.—Everything is deemed possible except that which is impossible in the nature of things.

"Impossibility," defined.

SEC. 523. WHEN CONTRACT WHOLLY VOID.—Where a contract has but a single object, and such object is unlawful, whether in whole or in part, or wholly impossible of performance, or so vaguely expressed as to be wholly unascertainable, the entire contract is void.

When contract wholly void.

CROSS REFERENCE

Consideration illegal in part, see sections 524 and 528.

SEC. 524. WHEN CONTRACT PARTIALLY VOID.—Where a contract has several distinct objects, of which one at least is lawful, and one at least is unlawful, in whole or in part, the contract is void as to the latter and valid as to the rest.

When contract partially void.

CROSS REFERENCES

Contract illegal in part, see section 528.

Provision in, impossible of performance, effect of, see section 533.

Post, p. 1196.

CONSIDERATION

Consideration.

SEC. 525. GOOD CONSIDERATION, WHAT.—Any benefit conferred, or agreed to be conferred, upon the promisor, by any other person, to which the promisor is not lawfully entitled, or any prejudice suffered, or agreed to be suffered, by such person, other than such as he is at the time of consent lawfully bound to suffer, as an inducement to the promisor, is a good consideration for a promise.

Good consideration.

SEC. 526. HOW FAR LEGAL OR MORAL OBLIGATION IS A GOOD CONSIDERATION.—An existing legal obligation resting upon the promisor, or a moral obligation originating in some benefit conferred upon the promisor, or prejudice suffered by the promisee, is also a good consideration for a promise, to an extent corresponding with the extent of the obligation, but no further or otherwise.

Legal or moral obligation as good consideration.

SEC. 527. CONSIDERATION LAWFUL.—The consideration of a contract must be lawful within the meaning of section 572.

Unlawful consideration.

CROSS REFERENCE

Unlawful contracts, see sections 572 et seq.

Post, p. 1200.

SEC. 528. EFFECT OF ITS ILLEGALITY.—If any part of a single consideration for one or more objects, or of several considerations for a single object, is unlawful, the entire contract is void.

Effect of illegality.

CROSS REFERENCE

- Ante*, p. 1195. Consideration illegal in part, see sections 523 and 524.
- Consideration executed or executory. SEC. 529. CONSIDERATION EXECUTED OR EXECUTORY.—A consideration may be executed or executory, in whole or in part. In so far as it is executory it is subject to the provisions of sections 520 to 524.
- Executory. SEC. 530. EXECUTORY CONSIDERATION.—When a consideration is executory, it is not indispensable that the contract should specify its amount or the means of ascertaining it. It may be left to the decision of a third person, or regulated by any specified standard.
- How ascertained. SEC. 531. HOW ASCERTAINED.—When a contract does not determine the amount of the consideration, nor the method by which it is to be ascertained, or when it leaves the amount thereof to the discretion of an interested party, the consideration must be so much money as the object of the contract is reasonably worth.
- Effect of impossibility of ascertaining consideration. SEC. 532. EFFECT OF IMPOSSIBILITY OF ASCERTAINING CONSIDERATION.—Where a contract provides an exclusive method by which its consideration is to be ascertained, which method is on its face impossible of execution, the entire contract is void.
- SEC. 533. SAME.—Where a contract provides an exclusive method by which its consideration is to be ascertained, which method appears possible on its face, but in fact is, or becomes, impossible of execution, such provision only is void.

CROSS REFERENCE

- Ante*, p. 1195. Effect of partial invalidity of contract, see section 524.
- Written instrument presumptive evidence of consideration. SEC. 534. WRITTEN INSTRUMENT PRESUMPTIVE EVIDENCE OF CONSIDERATION.—A written instrument is presumptive evidence of a consideration.
- Post*, p. 1197. Distinction between sealed and unsealed instruments abolished, see section 545.
- Post*, p. 1311. Presumption of consideration for negotiable instrument, see section 1423.
- Burden of proof to invalidate. SEC. 535. BURDEN OF PROOF TO INVALIDATE SUFFICIENT CONSIDERATION.—The burden of showing a want of consideration sufficient to support an instrument lies with the party seeking to invalidate or avoid it.

CROSS REFERENCES

MANNER OF CREATING CONTRACTS.

CHAPTER 29.—MANNER OF CREATING CONTRACTS

- Contract, express or implied. SEC. 536. CONTRACTS, EXPRESS OR IMPLIED.—A contract is either express or implied.
- Express contract. SEC. 537. EXPRESS CONTRACTS, WHAT.—An express contract is one the terms of which are stated in words.
- Implied contract. SEC. 538. IMPLIED CONTRACT, WHAT.—An implied contract is one the existence and terms of which are manifested by conduct.

CROSS REFERENCE

- Post*, p. 1203. Obligations imposed by law, see sections 539 et seq.
- Oral contracts. SEC. 539. WHAT CONTRACTS MAY BE ORAL.—All contracts may be oral, except such as are specially required by statute to be in writing.

CROSS REFERENCE

- Post*, p. 1204. Contracts when to be in writing, see sections 540, 541, and 600.
- Contracts not in writing, through fraud. SEC. 540. CONTRACT NOT IN WRITING THROUGH FRAUD, MAY BE ENFORCED AGAINST FRAUDULENT PARTY.—Where a contract, which is

required by law to be in writing, is prevented from being put into writing by the fraud of a party thereto, any other party who is by such fraud led to believe that it is in writing, and acts upon such belief to his prejudice, may enforce it against the fraudulent party.

SEC. 541. **WHAT CONTRACTS MUST BE WRITTEN.**—The following contracts are invalid, unless the same, or some note or memorandum thereof, is in writing and subscribed to by the party to be charged, or by his agent:

Written contracts.

1. An agreement that by its terms is not to be performed within a year from the making thereof;

2. A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in section 1265;

Post, p. 1261.

3. An agreement made upon consideration of marriage other than a mutual promise to marry;

4. An agreement for the leasing of real property for a longer period than one year, and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged;

5. An agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission;

6. An agreement which by its terms is not to be performed during the lifetime of the promisor, or an agreement to bequeath any property, or make any provision for any person by will.

CROSS REFERENCES

Contracts to sell or sales of goods or choses in action, see section 600.

Post, p. 1204.

Fraudulent transfers, see section 1660.

Post, p. 1339.

Guaranty, see sections 1264 et seq.

Post, p. 1291.

Oral authorization, sufficiency of, see section 1046.

Post, p. 1265.

Power of attorney to execute mortgage, see section 1345.

Post, p. 1301.

SEC. 542. **EFFECT OF WRITTEN CONTRACTS.**—The execution of a contract in writing, whether the law requires it to be written or not, supersedes all the negotiations or stipulations concerning its matter which preceded or accompanied the execution of the instrument.

Effect of.

CROSS REFERENCE

Writing supersedes oral stipulations, see section 550.

Post, p. 1198.

SEC. 543. **CONTRACT IN WRITING, TAKES EFFECT WHEN.**—A contract in writing takes effect upon its delivery to the party in whose favor it is made, or to his agent.

Time of taking effect.

CROSS REFERENCE

Delivery of transfers in writing, see generally section 268.

Ante, p. 1162.

SEC. 544. **PROVISIONS ON DELIVERY OF GRANTS TO APPLY.**—The provisions of sections 264 and 267 to 272, concerning the delivery of grants, absolute and conditional, apply to all written contracts.

Provisions concerning delivery.
Ante, p. 1161.

CROSS REFERENCE

Mode of transfer, see sections 264 et seq.

Ante, p. 1161.

SEC. 545. **DISTINCTIONS BETWEEN SEALED AND UNSEALED INSTRUMENTS ABOLISHED.**—All distinctions between sealed and unsealed instruments are abolished.

Distinctions between sealed and unsealed instruments abolished.

CHAPTER 30.—INTERPRETATION OF CONTRACTS

SEC. 546. **UNIFORMITY OF INTERPRETATION.**—All contracts, whether public or private, are to be interpreted by the same rules, except as otherwise provided by this code.

INTERPRETATION OF CONTRACTS.
Uniformity of interpretation.

Intent of parties.

SEC. 547. **CONTRACTS, HOW TO BE INTERPRETED.**—A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful.

CROSS REFERENCE

Post, p. 1199.

Contract restricted to its evident object, see section 559.

How ascertained.

SEC. 548. **INTENTION OF PARTIES, HOW ASCERTAINED.**—For the purpose of ascertaining the intention of the parties to a contract, if otherwise doubtful, the rules given in this chapter are to be applied.

CROSS REFERENCE

Post, p. 1199.

Construction against party causing ambiguity, see section 565.

From language.

SEC. 549. **INTENTION TO BE ASCERTAINED FROM LANGUAGE.**—The language of a contract is to govern its interpretation, if the language is clear and explicit, and does not involve an absurdity.

Interpretation of written contracts.

SEC. 550. **INTERPRETATION OF WRITTEN CONTRACTS.**—When a contract is reduced to writing, the intention of the parties is to be ascertained from the writing alone, if possible; subject, however, to the other provisions of this chapter.

CROSS REFERENCE

Ante, p. 1197.

Writing supersedes oral negotiations, see section 542.

Writing, when disregarded.

SEC. 551. **WRITING, WHEN DISREGARDED.**—When, through fraud, mistake, or accident, a written contract fails to express the real intention of the parties, such intention is to be regarded, and the erroneous parts of the writing disregarded.

CROSS REFERENCES

Post, p. 1337.

Principles governing in revising contracts, see section 1643.

Post, p. 1337.

Revising contract for fraud or mistake, see section 1641.

Effect to be given to every part of contract.

SEC. 552. **EFFECT TO BE GIVEN TO EVERY PART OF CONTRACT.**—The whole of a contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other.

CROSS REFERENCE

Post, p. 1199.

Repugnancies and inconsistencies in, see sections 563 and 564.

Several contracts construed as one.

SEC. 553. **SEVERAL CONTRACTS, WHEN TAKEN TOGETHER.**—Several contracts relating to the same matters, between the same parties, and made as parts of substantially one transaction, are to be taken together.

Interpretation in favor of contract.

SEC. 554. **INTERPRETATION IN FAVOR OF CONTRACT.**—A contract must receive such an interpretation as will make it lawful, operative, definite, reasonable, and capable of being carried into effect, if it can be done without violating the intention of the parties.

Words to be understood in usual sense.

SEC. 555. **WORDS TO BE UNDERSTOOD IN THE USUAL SENSE.**—The words of a contract are to be understood in their ordinary and popular sense, rather than according to their strict legal meaning; unless used by the parties in a technical sense, or unless a special meaning is given to them by usage, in which case the latter must be followed.

Technical words.

SEC. 556. **TECHNICAL WORDS.**—Technical words are to be interpreted as usually understood by persons in the profession or business to which they relate, unless clearly used in a different sense.

CROSS REFERENCE

Ante, pp. 1124, 1173.

Technical words, how constructed, see sections 11 and 361.

SEC. 557. LAW OF PLACE.—A contract is to be interpreted according to the law and usage of the place where it is to be performed; or, if it does not indicate a place of performance, according to the law and usage of the place where it is made.

Law of place.

SEC. 558. CONTRACTS EXPLAINED BY CIRCUMSTANCES.—A contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates.

Contracts explained by circumstances.

SEC. 559. CONTRACT RESTRICTED TO ITS EVIDENT OBJECT.—However broad may be the terms of a contract, it extends only to those things concerning which it appears that the parties intended to contract.

Contract restricted to object.

SEC. 560. INTERPRETATION IN SENSE IN WHICH PROMISOR BELIEVED PROMISEE TO RELY.—If the terms of a promise are in any respect ambiguous or uncertain, it must be interpreted in the sense in which the promisor believed, at the time of making it, that the promisee understood it.

Interpretation in sense in which promisor believed promisee to rely.

CROSS REFERENCE

Interpretation against promisor, see section 565.

SEC. 561. PARTICULAR CLAUSES SUBORDINATE TO GENERAL INTENT.—Particular clauses¹ of a contract are subordinate to its general intent.

Particular clauses subordinate.

CROSS REFERENCE

Repugnancies and inconsistencies, see sections 563 and 564.

SEC. 562. CONTRACT, PARTLY WRITTEN AND PARTLY PRINTED.—Where a contract is partly written and partly printed, or where part of it is written or printed under the special directions of the parties, and with a special view to their intention, and the remainder is copied from a form originally prepared without special reference to the particular parties and the particular contract in question, the written parts control the printed parts, and the parts which are purely original control those which are copied from a form. And if the two are absolutely repugnant, the latter must be so far disregarded.

Writing to govern print.

SEC. 563. REPUGNANCES, HOW RECONCILED.—Repugnancy in a contract must be reconciled, if possible, by such an interpretation as will give some effect to the repugnant clauses, subordinate to the general intent and purpose of the whole contract.

Repugnances, how reconciled.

CROSS REFERENCE

Inconsistent words rejected, see section 564.

SEC. 564. INCONSISTENT WORDS REJECTED.—Words in a contract which are wholly inconsistent with its nature, or with the main intention of the parties, are to be rejected.

Inconsistent words rejected.

CROSS REFERENCE

Repugnances, how reconciled, see section 563.

SEC. 565. WORDS TO BE TAKEN MOST STRONGLY AGAINST WHOM.—In cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist. The promisor is presumed to be such party; except in a contract between a public officer or body, as such, and a private party, in which it is presumed that all uncertainty was caused by the private party.

Against whom words are to be taken most strongly.

¹ So in original.

CROSS REFERENCES

Ante, p. 1199. Interpretation in sense promisor believed promisee to rely, see section 560.
Ante, p. 1162. Interpretation of doubtful words, see section 275.

Reasonable stipulations, when implied.

SEC. 566. REASONABLE STIPULATIONS, WHEN IMPLIED.—Stipulations which are necessary to make a contract reasonable, or conformable to usage, are implied, in respect to matters concerning which the contract manifests no contrary intention.

Necessary incidents implied.

SEC. 567. NECESSARY INCIDENTS IMPLIED.—All things that in law or usage are considered as incidental to a contract, or as necessary to carry it into effect, are implied therefrom, unless some of them are expressly mentioned therein, when all other things of the same class are deemed to be excluded.

CROSS REFERENCE

Ante, p. 1163; *post*, p. 1346.

Incident follows principal, see sections 280 and 1728.

Time of performance.

SEC. 568. TIME OF PERFORMANCE OF CONTRACT.—If no time is specified for the performance of an act required to be performed, a reasonable time is allowed. If the act is in its nature capable of being done instantly—as, for example, if it consists in the payment of money only—it must be performed immediately upon the thing to be done being exactly ascertained.

CROSS REFERENCE

Ante, p. 1173.

Delay in, where time not of essence, see section 360.

Joint and several.

SEC. 569. WHEN JOINT AND SEVERAL.—Where all the parties who unite in a promise receive some benefit from the consideration, whether past or present, their promise is presumed to be joint and several.

SEC. 570. SAME.—A promise, made in the singular number, but executed by several persons, is presumed to be joint and several.

CROSS REFERENCE

Ante, p. 1182.

Contracts, joint and several, see sections 427 et seq.

Executed and executory contracts.

SEC. 571. EXECUTED AND EXECUTORY CONTRACTS, WHAT.—An executed contract is one, the object of which is fully performed. All others are executory.

UNLAWFUL CONTRACTS.

CHAPTER 31.—UNLAWFUL CONTRACTS

Defined.

SEC. 572. WHAT IS UNLAWFUL.—That is not lawful which is:

1. Contrary to an express provision of law;
2. Contrary to the policy of express law, though not expressly prohibited; or,
3. Otherwise contrary to good morals.

CROSS REFERENCES

Ante, p. 1155.

Conditions, when void, see sections 219 to 221.

Contract obtained through duress, menace, fraud, undue influence, or mistake, see section 497.

Ante, p. 1192.

Contracts in restraint of marriage, see section 578.

Post, p. 1201.

Contracts in restraint of trade, see section 576.

Post, p. 1201.

Duress, see section 499.

Ante, p. 1192.

Fraud, see sections 501 et seq.

Ante, p. 1192.

Menace, see section 500.

Ante, p. 1192.

Mistake, see sections 506 et seq.

Ante, p. 1193.

Undue influence, see section 505.

Ante, p. 1193.

SEC. 573. CERTAIN CONTRACTS UNLAWFUL.—All contracts which have for their object, directly or indirectly, to exempt any one from responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law.

Unlawful contracts.

CROSS REFERENCES

Carrier can not exempt himself from liability for negligent or wrongful acts, see section 963.

Post, p. 1256.

Fraud, see sections 501 et seq.

Ante, p. 1192.

SEC. 574. CONTRACT FIXING DAMAGES, VOID.—Every contract by which the amount of damage to be paid, or other compensation to be made, for a breach of an obligation, is determined in anticipation thereof, is to that extent void, except as expressly provided in section 575.

Contract fixing damages, void.

SEC. 575. EXCEPTION.—The parties to a contract may agree therein upon an amount which shall be presumed to be the amount of damage sustained by a breach thereof, when, from the nature of the case, it would be impracticable or extremely difficult to fix the actual damage.

Exception.

SEC. 576. CONTRACT IN RESTRAINT OF TRADE, VOID.—Every contract by which any one is restrained from exercising a lawful profession, trade, or business of any kind, otherwise than is provided by sections 577 and 578, is to that extent void.

Contract in restraint of trade, void.

SEC. 577. EXCEPTIONS IN FAVOR OF PARTNERSHIP ARRANGEMENTS.—Partners may, upon or in anticipation of a dissolution of the partnership, agree that none of them will carry on a similar business within the same city or town where the partnership business has been transacted, or within a specified part thereof.

Exception, in favor of partnership arrangements.

SEC. 578. CONTRACT IN RESTRAINT OF MARRIAGE, VOID.—Every contract in restraint of the marriage of any person, other than a minor, is void.

Contract in restraint of marriage, void.

CROSS REFERENCE

Conditions in restraint of marriage, see section 220.

Ante, p. 1156.

CHAPTER 32.—EXTINCTION OF CONTRACTS

EXTINCTION OF CONTRACTS.

IN GENERAL

In general.

SEC. 579. CONTRACT, HOW EXTINGUISHED.—A contract may be extinguished in like manner with any other obligation, and also in the manner prescribed by this chapter.

How extinguished.

CROSS REFERENCE

Cancellation of instruments, see sections 1648 et seq.

Post, p. 1337.

RESCISSION

Rescission.

SEC. 580. RESCISSION EXTINGUISHES CONTRACT.—A contract is extinguished by its rescission.

Contract extinguished by.

SEC. 581. WHEN PARTY MAY RESCIND.—A party to a contract may rescind the same in the following cases only:

When party may rescind.

1. If the consent of the party rescinding, or of any party jointly contracting with him, was given by mistake, or obtained through duress, menace, fraud, or undue influence, exercised by or with the connivance of the party as to whom he rescinds, or of any other party to the contract jointly interested with such party;

2. If, through the fault of the party as to whom he rescinds, the consideration for his obligation fails, in whole or in part;
3. If such consideration becomes entirely void from any cause;
4. If such consideration, before it is rendered to him, fails in a material respect, from any cause; or,
5. By consent of all the other parties.

CROSS REFERENCES

- Post*, p. 1337. Cancellation of instruments, see sections 1648 et seq.
Ante, p. 1192. Contract not free, when obtained by mistake, duress, menace, fraud, or undue influence, see section 497.
Post, p. 1233. False representation, rescission of insurance policy for, see section 1189.
Post, p. 1232. Falsity of warranty, rescission of insurance policy for, see section 1178.
Post, p. 1337. Rescission, see sections 1645 et seq.
 Stipulation against right to rescind, see section 582.
Post, p. 1235. Violation of material warranty, rescission of insurance policy for, see section 1214.

Stipulations against right to rescind.

SEC. 582. WHEN STIPULATIONS AGAINST RIGHT TO RESCIND DO NOT DEFEAT IT.—A stipulation that errors of description shall not avoid a contract, or shall be the subject of compensation, or both, does not take away the right of rescission for fraud, nor for mistake, where such mistake is in a matter essential to the inducement of the contract, and is not capable of exact and entire compensation.

Rescission, how effected.

SEC. 583. RESCISSION, HOW EFFECTED.—Rescission, when not effected by consent, can be accomplished only by the use, on the part of the party rescinding, of reasonable diligence to comply with the following rules:

1. He must rescind promptly, upon discovering the facts which entitle him to rescind, if he is free from duress, menace, undue influence, or disability, and is aware of his right to rescind; and,

2. He must restore to the other party everything of value which he has received from him under the contract; or must offer to restore the same, upon condition that such party shall do likewise, unless the latter is unable or positively refuses to do so.

CROSS REFERENCE

- Post*, p. 1337. Rescission of contracts, see sections 1645 to 1647.

Alteration and cancellation.

ALTERATION AND CANCELLATION

Alteration of verbal contract.

SEC. 584. ALTERATION OF VERBAL CONTRACT.—A contract not in writing may be altered in any respect by consent of the parties, in writing, without a new consideration, and is extinguished thereby to the extent of the new alteration.

Written contracts, how modified.

SEC. 585. WRITTEN CONTRACTS, HOW MODIFIED.—A contract in writing may be altered by a contract in writing, or by an executed oral agreement, and not otherwise.

CROSS REFERENCES

- Post*, p. 1337. Cancellation of contracts, see sections 1648 et seq.
Ante, p. 1198. Parol evidence to alter writings, see section 550.

Extinction by cancellation, etc.

SEC. 586. EXTINCTION BY CANCELLATION, ETC.—The destruction or cancellation of a written contract, or of the signature of the parties liable thereon, with intent to extinguish the obligation thereof, extinguishes it as to all the parties consenting to the act.

By unauthorized alteration.

SEC. 587. EXTINCTION BY UNAUTHORIZED ALTERATION.—The intentional destruction, cancellation, or material alteration of a written

contract, by a party entitled to any benefit under it, or with his consent, extinguishes all the executory obligations of the contract in his favor, against parties who do not consent to the act.

SEC. 588. ALTERATION OF DUPLICATE, NOT TO PREJUDICE.—Where a contract is executed in duplicate, an alteration or destruction of one copy, while the other exists, is not within the provisions of section 587.

Alteration of duplicate.

CHAPTER 33.—OBLIGATIONS IMPOSED BY LAW

OBLIGATIONS IMPOSED BY LAW.

SEC. 589. ABSTINENCE FROM INJURY.—Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his rights.

Abstinence from injury.

SEC. 590. FRAUDULENT DECEIT.—One who willfully deceives another with intent to induce him to alter his position to his injury, or risk, is liable for any damage which he thereby suffers.

Fraudulent deceit.

CROSS REFERENCE

Fraud, see sections 501 et seq.

Ante, p. 1192.

SEC. 591. DECEIT, WHAT.—A deceit, within the meaning of section 590, is either:

"Deceit," defined.

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

2. The assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true;

3. The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or

4. A promise made without any intention of performing it.

CROSS REFERENCE

Fraud, actual or constructive, see sections 501 et seq.

Ante, p. 1192.

SEC. 592. DECEIT UPON THE PUBLIC, ETC.—One who practices a deceit with intent to defraud the public, or a particular class of persons, is deemed to have intended to defraud every individual in that class, who is actually misled by the deceit.

Deceit upon the public, etc.

SEC. 593. RESTORATION OF THING WRONGFULLY ACQUIRED.—One who obtains a thing without the consent of its owner, or by a consent afterwards rescinded, or by an unlawful exaction which the owner could not at the time prudently refuse, must restore it to the person from whom it was thus obtained, unless he has acquired a title thereto superior to that of such other person, or unless the transaction was corrupt and unlawful on both sides.

Restoration of thing wrongfully acquired.

SEC. 594. WHEN DEMAND NECESSARY.—The restoration required by section 593 must be made without demand, except where a thing is obtained by mutual mistake, in which case the party obtaining the thing is not bound to return it until he has notice of the mistake.

When demand necessary.

SEC. 595. RESPONSIBILITY FOR WILLFUL ACTS, NEGLIGENCE, ETC.—Every one is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has willfully brought the injury upon himself. Want of ordinary care on the part of the injured person shall not bar a recovery, but the damages shall be diminished by the court or jury in proportion to the want of ordinary care attributable to such person. The extent of liability in the cases covered by this section is defined by the chapter on compensatory relief.

Responsibility for willful acts, negligence, etc.

CROSS REFERENCE

Post, p. 1330.

Compensatory relief, see sections 1597 et seq.

Other obligations.
Ante, pp. 1125-1178.

SEC. 596. OTHER OBLIGATIONS.—Other obligations are prescribed by chapters 2 to 26 of this code.

SALES OF GOODS.

CHAPTER 34.—SALES OF GOODS

NOTE.—This chapter was derived from the Uniform Sales Act.

Contracts to sell and sales.

SEC. 597. CONTRACTS TO SELL AND SALES.—1. A contract to sell goods is a contract whereby the seller agrees to transfer the property in goods to the buyer for a consideration called the price.

2. A sale of goods is an agreement whereby the seller transfers the property in goods to the buyer for a consideration called the price.

3. A contract to sell or a sale may be absolute or conditional.

4. There may be a contract to sell or a sale between one part owner and another.

Capacity; liabilities for necessaries.

SEC. 598. CAPACITY; LIABILITIES FOR NECESSARIES.—Capacity to buy and sell is regulated by the general law concerning capacity to contract, and to transfer and acquire property. Where necessaries are sold and delivered to an infant, or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he must pay a reasonable price therefor. Necessaries in this section mean goods suitable to the condition in life of such infant or other person, and to his actual requirements at the time of delivery.

Form of contract or sale.

SEC. 599. FORM OF CONTRACT OR SALE.—Subject to the provisions of this chapter and of any statute in that behalf, a contract to sell or a sale may be made in writing (either with or without seal), or by word of mouth, or partly in writing and partly by word of mouth, or may be inferred from the conduct of the parties.

Statute of frauds.

SEC. 600. STATUTE OF FRAUDS.—A contract to sell or a sale of any goods or choses in action of the value of \$50 or upwards shall not be enforceable by action unless the buyer shall accept part of the goods or choses in action so contracted to be sold or sold, and actually receive the same, or give something in earnest to bind the contract, or in part payment, or unless some note or memorandum in writing of the contract or sale be signed by the party to be charged or his agent in that behalf.

2. The provisions of this section apply to every such contract or sale, notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of such contract or sale be actually made, procured, or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering the same fit for delivery; but if the goods are to be manufactured by the seller especially for the buyer and are not suitable for sale to others in the ordinary course of the seller's business, the provisions of this section shall not apply.

"Acceptance" under.

3. There is an acceptance of goods within the meaning of this section when the buyer, either before or after delivery of the goods, expresses by words or conduct his assent to becoming the owner of those specific goods.

CROSS REFERENCE

Ante, p. 1197.

What contracts must be written, in general, see section 541.

Existing and future goods.

SEC. 601. EXISTING AND FUTURE GOODS.—1. The goods which form the subject of a contract to sell may be either existing goods, owned or possessed by the seller, or goods to be manufactured or acquired by

the seller after the making of the contract to sell, in this chapter called "future goods."

2. There may be a contract to sell goods, the acquisition of which by the seller depends upon a contingency which may or may not happen.

3. Where the parties purport to effect a present sale of future goods, the agreement operates as a contract to sell the goods.

SEC. 602. UNDIVIDED SHARES.—1. There may be a contract to sell or a sale of an undivided share of goods. If the parties intend to effect a present sale, the buyer, by force of the agreement, becomes an owner in common with the owner or owners of the remaining shares.

Undivided shares.

2. In the case of fungible goods, there may be a sale of an undivided share of a specific mass, though the seller purports to sell and the buyer to buy a definite number, weight or measure of the goods in the mass, and though the number, weight or measure of the goods in the mass, is undetermined. By such a sale the buyer becomes owner in common of such a share of the mass as the number, weight, or measure bought bears to the number, weight, or measure of the mass. If the mass contains less than the number, weight, or measure bought, the buyer becomes the owner of the whole mass and the seller is bound to make good the deficiency from similar goods unless a contrary intent appears.

Fungibles.

SEC. 603. DESTRUCTION OF GOODS SOLD.—1. Where the parties purport to sell specific goods, and the goods without the knowledge of the seller have wholly perished at the time when the agreement is made, the agreement is void.

Destruction of goods sold.

2. Where the parties purport to sell specific goods, and the goods without the knowledge of the seller have perished in part or have wholly or in a material part so deteriorated in quality as to be substantially changed in character, the buyer may at his option treat the sale—

(a) As avoided, or

(b) As transferring the property in all of the existing goods or in so much thereof as have not deteriorated, and as binding the buyer to pay the full agreed price if the sale was indivisible, or to pay the agreed price for the goods in which the property passes if the sale was divisible.

SEC. 604. DESTRUCTION OF GOODS CONTRACTED TO BE SOLD.—1. Where there is a contract to sell specific goods, and subsequently, but before the risk passes to the buyer, without any fault on the part of the seller or the buyer, the goods wholly perish, the contract is thereby avoided.

Destruction of contract to be sold.

2. Where there is a contract to sell specific goods, and subsequently, but before the risk passes to the buyer, without any fault of the seller or the buyer, part of the goods perish or the whole or a material part of the goods so deteriorate in quality as to be substantially changed in character, the buyer may at his option treat the contract—

(a) As avoided, or

(b) As binding the seller to transfer the property in all of the existing goods, or in so much thereof as have not deteriorated, and as binding the buyer to pay the full agreed price if the contract was indivisible, or to pay the agreed price for so much of the goods as the seller, by the buyer's option, is bound to transfer if the contract was divisible.

SEC. 605. DEFINITION AND ASCERTAINMENT OF PRICE.—1. The price may be fixed by the contract, or may be left to be fixed in such manner as may be agreed, or it may be determined by the course of dealing between the parties.

Ascertainment of price.

2. The price may be made payable in any personal property.

3. Where transferring or promising to transfer any interest in real estate constitutes the whole or part of the consideration for transferring or for promising to transfer the property in goods, this chapter shall not apply.

4. Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Sale at a valuation.

SEC. 606. SALE AT A VALUATION.—1. Where there is a contract to sell or a sale of goods at a price or on terms to be fixed by a third person, and such third person without fault of the seller or the buyer, can not or does not fix the price or terms, the contract or the sale is thereby avoided; but if the goods or any part thereof have been delivered to and appropriated by the buyer he must pay a reasonable price therefor.

2. Where such third person is prevented from fixing the price or terms by fault of the seller or the buyer, the party not in fault may have such remedies against the party in fault as are allowed by the appropriate parts of this chapter.

Effect of condition.

SEC. 607. EFFECT OF CONDITION.—1. Where the obligation of either party to a contract to sell or a sale is subject to any condition which is not performed, such party may refuse to proceed with the contract or sale or he may waive performance of the condition. If the other party has promised that the condition should happen or be performed, such first mentioned party may also treat the nonperformance of the condition as a breach of warranty.

2. Where the property in the goods has not passed, the buyer may treat the fulfillment by the seller of his obligation to furnish goods as described and as warranted expressly or by implication in the contract to sell as a condition of the obligation of the buyer to perform his promise to accept and pay for the goods.

Express warranty.

SEC. 608. DEFINITION OF EXPRESS WARRANTY.—Any affirmation of fact or any promise by the seller relating to the goods is an express warranty if the natural tendency of such affirmation or promise is to induce the buyer to purchase the goods, and if the buyer purchases the goods relying thereon. No affirmation of the value of the goods, nor any statement purporting to be a statement of the seller's opinion only shall be construed as a warranty.

Implied warranties.

SEC. 609. IMPLIED WARRANTIES OF TITLE.—In a contract to sell or a sale, unless contrary intention appears, there is

1. An implied warranty on the part of the seller that in case of a sale he has a right to sell the goods, and that in case of a contract to sell he will have a right to sell the goods at the time when the property is to pass;

2. An implied warranty that the buyer shall have and enjoy quiet possession of the goods as against any lawful claims existing at the time of the sale;

3. An implied warranty that the goods shall be free at the time of the sale from any charge or encumbrance in favor of any third person, not declared or known to the buyer before or at the time when the contract or sale is made.

4. This section shall not, however, be held to render liable a marshal, auctioneer, mortgagee or other person professing to sell by virtue of authority in fact or law goods in which a third person has a legal or equitable interest.

When sale by description.

SEC. 610. IMPLIED WARRANTY IN SALE BY DESCRIPTION.—Where there is a contract to sell or a sale of goods by description, there is an implied warranty that the goods shall correspond with the descrip-

tion and if the contract or sale be by sample, as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

SEC. 611. IMPLIED WARRANTIES OF QUALITY.—Subject to the provisions of this chapter and of any statute in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract to sell or a sale, except as follows:

Implied warranties of quality.

1. Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, and it appears that the buyer relies on the seller's skill or judgment (whether he be the grower or manufacturer or not), there is an implied warranty that the goods shall be reasonably fit for such purpose.

2. Where the goods are bought by description from a seller who deals in goods of that description (whether he be the grower or manufacturer or not), there is an implied warranty that the goods shall be of merchantable quality.

3. If the buyer has examined the goods, there is no implied warranty as regards defects which such examination ought to have revealed.

4. In the case of a contract to sell or a sale of a specified article under its patent or other trade name, there is no implied warranty as to its fitness for any particular purpose.

5. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

6. An express warranty or condition does not negative a warranty or condition implied under this chapter unless inconsistent therewith.

SEC. 612. IMPLIED WARRANTIES IN SALE BY SAMPLE.—In the case of a contract to sell or a sale by sample:

When sale by sample.

(a) There is an implied warranty that the bulk shall correspond with the sample in quality.

(b) There is an implied warranty that the buyer shall have a reasonable opportunity of comparing the bulk with the sample, except so far as otherwise provided in subdivision 3 of section 643.

Post, p. 1214.

(c) If the seller is a dealer in goods of that kind, there is an implied warranty that the goods shall be free from any defect rendering them unmerchantable which would not be apparent on reasonable examination of the sample.

SEC. 613. NO PROPERTY PASSES UNTIL GOODS ARE ASCERTAINED.—Where there is a contract to sell unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained, but property in an undivided share of ascertained goods may be transferred as provided in section 602.

No property passes until goods are ascertained.

Ante, p. 1205.

SEC. 614. PROPERTY IN SPECIFIC GOODS PASSES WHEN PARTIES SO INTEND.—1. Where there is a contract to sell specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

Passing of property in specific goods.

2. For the purpose of ascertaining the intention of the parties, regard shall be had to the terms of the contract, the conduct of the parties, usages of trade, and the circumstances of the case.

SEC. 615. RULES FOR ASCERTAINING INTENTION.—Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

Rules for ascertaining intention.

RULE 1. Where there is an unconditional contract to sell specific goods, in a deliverable state, the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment, or the time of delivery, or both, be postponed.

RULE 2. Where there is a contract to sell specific goods and the seller is bound to do something to the goods, for the purpose of putting them into a deliverable state, the property does not pass until such thing be done.

RULE 3. 1. When goods are delivered to the buyer "on sale or return," or on other terms indicating an intention to make a present sale, but to give the buyer an option to return the goods instead of paying the price, the property passes to the buyer on delivery, but he may re-vest the property in the seller by returning or tendering the goods within the time fixed in the contract, or, if no time has been fixed, within a reasonable time.

2. When goods are delivered to the buyer on approval or on trial or on satisfaction, or other similar terms, the property therein passes to the buyer—

(a) When he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(b) If he does not signify his approval or acceptance to the seller, but retains the goods without giving notice of rejection, then if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact.

RULE 4. 1. Where there is a contract to sell unascertained or future goods by description, and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied, and may be given either before or after the appropriation is made.

2. Where, in pursuance of a contract to sell, the seller delivers the goods to the buyer, or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to or holding for the buyer, he is presumed to have unconditionally appropriated the goods to the contract, except in the cases provided for in the next rule and in section 616. This presumption is applicable, although by the terms of the contract the buyer is to pay the price before receiving delivery of the goods and the goods are marked with the words "collect on delivery" or their equivalents.

RULE 5. If the contract to sell requires the seller to deliver the goods to the buyer, or at a particular place, or to pay the freight or cost of transportation to the buyer, or to a particular place, the property does not pass until the goods have been delivered to the buyer or reached the place agreed upon.

Reservation of right
of possession, etc.,
when goods shipped.

SEC. 616. RESERVATION OF RIGHT OF POSSESSION OR PROPERTY WHEN GOODS ARE SHIPPED.—1. Where there is a contract to sell specific goods, or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of possession or property in the goods until certain conditions have been fulfilled. The right of possession or property may be thus reserved notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer.

2. Where goods are shipped, and by the bill of lading the goods are deliverable to the seller or his agent, or to the order of the seller or of his agent, the seller thereby reserves the property in the goods. But if, except for the form of the bill of lading the property would have passed to the buyer on shipment of the goods, the seller's property in the goods shall be deemed to be only for the purpose of securing performance by the buyer of his obligations under the contract.

3. Where goods are shipped, and by the bill of lading the goods are deliverable to the order of the buyer or of his agent, but possession of the bill of lading is retained by the seller or his agent, the seller thereby reserves a right to the possession of the goods as against the buyer.

4. Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading together to the buyer to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honor the bill of exchange, and if he wrongfully retains the bill of lading he acquires no added right thereby. If, however, the bill of lading provides that the goods are deliverable to the buyer or to the order of the buyer, or is indorsed in blank, or to the buyer by the consignee named therein, one who purchases in good faith, for value, the bill of lading, or goods from the buyer will obtain the property in the goods, although the bill of exchange has not been honored, provided that such purchaser has received delivery of the bill of lading indorsed by the consignee named therein, or of the goods, without notice of the facts making the transfer wrongful.

SEC. 617. SALE BY AUCTION.—In the case of sale by auction—

Sale by auction.

1. Where goods are put up for sale by auction in lots each lot is the subject of a separate contract of sale.

2. A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in other customary manner. Until such announcement is made, any bidder may retract his bid; and the auctioneer may withdraw the goods from sale unless the auction has been announced to be without reserve.

3. A right to bid may be reserved expressly by or on behalf of the seller.

4. Where notice has not been given that a sale by auction is subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ or induce any person to bid at such sale on his behalf, or for the auctioneer to employ or induce any person to bid at such sale on behalf of the seller or knowingly to take any bid from the seller or any person employed by him. Any sale contravening this rule may be treated as fraudulent by the buyer.

SEC. 618. RISK OF LOSS.—Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not, except that—

Risk of loss.

(a) Where delivery of goods has been made to the buyer, or to a bailee for the buyer, in pursuance of the contract and the property in the goods has been retained by the seller merely to secure performance by the buyer of his obligations under the contract, the goods are at the buyer's risk from the time of such delivery.

(b) Where delivery has been delayed through the fault of either buyer or seller the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault.

SEC. 619. SALE BY PERSON NOT THE OWNER.—1. Subject to the provisions of this chapter, where goods are sold by a person who is not the owner thereof, and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

Sale by person not the owner.

2. Nothing in this chapter, however, shall affect—

(a) The provisions of any factors' acts, recording acts, or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof.

No effect on factors, recording, etc., acts.

Sales under order of court.

(b) The validity of any contract to sell or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction.

When title voidable.

SEC. 620. SALE BY ONE HAVING A VOIDABLE TITLE.—Where the seller of goods has a voidable title thereto, but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith, for value, and without notice of the seller's defect of title.

When in possession of goods already sold.

SEC. 621. SALE BY SELLER IN POSSESSION OF GOODS ALREADY SOLD.—Where a person having sold goods continues in possession of the goods, or of negotiable documents of title to the goods, the delivery or transfer by that person, or by an agent acting for him, of the goods or documents of title under any sale, pledge, or other disposition thereof, to any person receiving and paying value for the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

Creditors' rights against sold goods.

SEC. 622. CREDITORS' RIGHTS AGAINST SOLD GOODS IN SELLER'S POSSESSION.—Where a person having sold goods continues in possession of the goods, or of negotiable documents of title to the goods and such retention of possession is fraudulent in fact or is deemed fraudulent under any rule of law, a creditor or creditors of the seller may treat the sale as void.

Negotiable documents of title.

SEC. 623. DEFINITION OF NEGOTIABLE DOCUMENTS OF TITLE.—A document of title in which it is stated that the goods referred to therein will be delivered to the bearer, or to the order of any person named in such document is a negotiable document of title.

Negotiation by delivery.

SEC. 624. NEGOTIATION OF NEGOTIABLE DOCUMENTS BY DELIVERY.—A negotiable document of title may be negotiated by delivery—

(a) Where, by the terms of the document, the carrier, warehouseman, or other bailee issuing the same undertakes to deliver the goods to the bearer, or

(b) Where, by the terms of the document, the carrier, warehouseman, or other bailee issuing the same undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the document has indorsed it in blank or to bearer.

Where, by the terms of a negotiable document of title, the goods are deliverable to bearer or where a negotiable document of title has been indorsed in blank or to bearer, any holder may indorse the same to himself or to any other specified person, and in such case the document shall thereafter be negotiated only by the indorsement of such indorsee.

By indorsement.

SEC. 625. NEGOTIATION OF NEGOTIABLE DOCUMENTS BY INDORSEMENT.—A negotiable document of title may be negotiated by the indorsement of the person to whose order the goods are by the terms of the document deliverable. Such indorsement may be in blank, to bearer or to a specified person. If indorsed to a specified person, it may be again negotiated by the indorsement of such person in blank, to bearer or to another specified person. Subsequent negotiation may be made in like manner.

Negotiable documents marked "not negotiable."

SEC. 626. NEGOTIABLE DOCUMENTS OF TITLE MARKED "NOT NEGOTIABLE."—If a document of title which contains an undertaking by a carrier, warehouseman, or other bailee to deliver the goods to the bearer, to a specified person or order, or to the order of a specified person, or which contains words of like import, has placed upon it the words "not negotiable," "nonnegotiable," or the like, such a document may nevertheless be negotiated by the holder and is a negotiable document of title within the meaning of this chapter.

But nothing in this chapter contained shall be construed as limiting or defining the effect upon the obligations of the carrier, warehouseman, or other bailee issuing a document of title of placing thereon the words "not negotiable," "nonnegotiable," or the like.

SEC. 627. TRANSFER OF NONNEGOTIABLE DOCUMENTS.—A document of title which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee. A nonnegotiable document can not be negotiated, and the indorsement of such a document gives the transferee no additional right.

Transfer of nonnegotiable documents.

SEC. 628. WHO MAY NEGOTIATE A DOCUMENT.—A negotiable document of title may be negotiated—

Who may negotiate a document.

(a) By the owner thereof, or

(b) By any person to whom the possession or custody of the document has been entrusted by the owner, if, by the terms of the document the bailee issuing the document undertakes to deliver the goods to the order of the person to whom the possession or custody of the document has been entrusted, or if at the time of such entrusting the document is in such form that it may be negotiated by delivery.

SEC. 629. RIGHTS OF PERSON TO WHOM DOCUMENT HAS BEEN NEGOTIATED.—A person to whom a negotiable document of title has been duly negotiated acquires thereby—

Rights of person to whom negotiated.

(a) Such title to the goods as the person negotiating the document to him had or had ability to convey to a purchaser in good faith for value and also such title to the goods as the person to whose order the goods were to be delivered by the terms of the document had or had ability to convey to a purchaser in good faith for value, and

(b) The direct obligation of the bailee issuing the document to hold possession of the goods for him according to the terms of the document as fully as if such bailee had contracted directly with him.

SEC. 630. RIGHTS OF PERSON TO WHOM DOCUMENT HAS BEEN TRANSFERRED.—A person to whom a document of title has been transferred, but not negotiated, acquires thereby, as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor. If the document is nonnegotiable, such person also acquires the right to notify the bailee who issued the document of the transfer thereof, and thereby to acquire the direct obligation of such bailee to hold possession of the goods for him according to the terms of the document. Prior to the notification of such bailee by the transferor or transferee of a nonnegotiable document of title, the title of the transferee to the goods and the right to acquire the obligation of such bailee may be defeated by the levy of an attachment of execution upon the goods by a creditor of the transferor, or by a notification to such bailee by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

To whom transferred.

SEC. 631. TRANSFER OF NEGOTIABLE DOCUMENT WITHOUT INDORSEMENT.—Where a negotiable document of title is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the document unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made.

Transfer without indorsement.

SEC. 632. WARRANTIES ON SALE OF DOCUMENTS.—A person who for value negotiates or transfers a document of title by indorsement or

Warranties.

delivery, including one who assigns for value a claim secured by a document of title unless a contrary intention appears, warrants:

- (a) That the document is genuine;
- (b) That he has a legal right to negotiate or transfer it;
- (c) That he has knowledge of no fact which would impair the validity or worth of the document; and

(d) That he has a right to transfer the title to the goods and that the goods are merchantable or fit for a particular purpose, whenever such warranties would have been implied if the contract of the parties had been to transfer without a document of title the goods represented thereby.

Indorser not a guarantor.

SEC. 633. **INDORSER NOT A GUARANTOR.**—The indorsement of a document of title shall not make the indorser liable for any failure on the part of the bailee who issued the document or previous indorsers thereof to fulfill their respective obligations.

Fraud, mistake, and duress.

SEC. 634. **WHEN NEGOTIATION NOT IMPAIRED BY FRAUD, MISTAKE OR DURESS.**—The validity of the negotiation of a negotiable document of title is not impaired by the fact that the negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the document was induced by fraud, mistake or duress to entrust the possession or custody thereof to such person, if the person to whom the document was negotiated or a person to whom the document was subsequently negotiated paid value therefor, without notice of the breach of duty, or fraud, mistake or duress.

Attachment or levy upon goods when negotiable document issued.

SEC. 635. **ATTACHMENT OR LEVY UPON GOODS FOR WHICH A NEGOTIABLE DOCUMENT HAS BEEN ISSUED.**—If goods are delivered to a bailee by the owner or by a person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner and a negotiable document of title is issued for them they can not thereafter, while in the possession of such bailee, be attached by garnishment or otherwise be levied upon under an execution unless the document be first surrendered to the bailee or its negotiation enjoined. The bailee shall in no case be compelled to deliver up the actual possession of the goods until the document is surrendered to him or impounded by the court.

Creditors' remedies.

SEC. 636. **CREDITORS' REMEDIES TO REACH NEGOTIABLE DOCUMENTS.**—A creditor whose debtor is the owner of a negotiable document of title shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such document or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which can not be readily attached or levied upon by ordinary legal process.

Duty of delivery and acceptance.

SEC. 637. **SELLER MUST DELIVER AND BUYER ACCEPT GOODS.**—It is the duty of the seller to deliver the goods, and of the buyer to accept and pay for them, in accordance with the terms of the contract to sell or sale.

Delivery and payment concurrent conditions.

SEC. 638. **DELIVERY AND PAYMENT ARE CONCURRENT CONDITIONS.**—Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods.

Place, time, and manner of.

SEC. 639. **PLACE, TIME, AND MANNER OF DELIVERY.**—1. Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, express or implied, or usage of trade to the contrary, the place of delivery is the seller's place of business if he have one,

and if not his residence; but in case of a contract to sell or a sale of specific goods, which to the knowledge of the parties when the contract or the sale was made were in some other place, then that place is the place of delivery.

2. Where by a contract to sell or a sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

3. Where the goods at the time of sale are in the possession of a third person, the seller has not fulfilled his obligation to deliver to the buyer unless and until such third person acknowledges to the buyer that he holds the goods on the buyer's behalf; but as against all others than the seller the buyer shall be regarded as having received delivery from the time when such third person first has notice of the sale. Nothing in this section, however, shall affect the operation of the issue or transfer of any document of title to goods.

4. Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

5. Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller.

SEC. 640. DELIVERY OF WRONG QUANTITY.—1. Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts or retains the goods so delivered, knowing that the seller is not going to perform the contract in full, he must pay for them at contract rate. If, however, the buyer has used or disposed of the goods delivered before he knows that the seller is not going to perform his contract in full, the buyer shall not be liable for more than the fair value to him of the goods so received.

When wrong quantity.

2. Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate.

3. Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or he may reject the whole.

4. The provisions of this section are subject to any usage of trade, special agreement, or course of dealing between the parties.

SEC. 641. DELIVERY IN INSTALLMENTS.—1. Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by installments.

Delivery in installments.

2. Where there is a contract to sell goods to be delivered by stated installments, which are to be separately paid for, and the seller makes defective deliveries in respect of one or more installments, or the buyer neglects or refuses to take delivery of or pay for one or more installments, it depends in each case on the terms of the contract and the circumstances of the case whether the breach of contract is so material as to justify the injured party in refusing to proceed further and suing for damages for breach of the entire contract, or whether the breach is severable, giving rise to a claim for compensation, but not to a right to treat the whole contract as broken.

To carrier.

SEC. 642. DELIVERY TO A CARRIER ON BEHALF OF THE BUYER.—1. Where, in pursuance of a contract to sell or a sale, the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer is deemed to be a delivery of

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the goods to the buyer, except in the cases provided for in section 615, rule five, or unless a contrary intent appears.

2. Unless otherwise authorized by the buyer, the seller must make such contract with the carrier on behalf of the buyer as may be reasonable, having regard to the nature of the goods and the other circumstances of the case. If the seller omit so to do, and the goods are lost or damaged in course of transit, the buyer may decline to treat the delivery to the carrier as a delivery to himself, or may hold the seller responsible in damages.

3. Unless otherwise agreed, where goods are sent by the seller to the buyer under circumstances in which the seller knows or ought to know that it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their transit, and, if the seller fails to do so, the goods shall be deemed to be at his risk during such transit.

Right to examine goods.

SEC. 643. RIGHT TO EXAMINE THE GOODS.—1. Where goods are delivered to the buyer, which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity to examine them for the purpose of ascertaining whether they are in conformity with the contract.

2. Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

3. Where goods are delivered to a carrier by the seller, in accordance with an order from or agreement with the buyer, upon the terms that the goods shall not be delivered by the carrier to the buyer until he has paid the price, whether such terms are indicated by marking the goods with the words "collect on delivery," or otherwise, the buyer is not entitled to examine the goods before payment of the price in the absence of agreement permitting such examination.

What constitutes acceptance.

SEC. 644. WHAT CONSTITUTES ACCEPTANCE.—The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

Acceptance not bar to action for damages.

SEC. 645. ACCEPTANCE DOES NOT BAR ACTION FOR DAMAGES.—In the absence of express or implied agreement of the parties, acceptance of the goods by the buyer shall not discharge the seller from liability in damages or other legal remedy for breach of any promise or warranty in the contract to sell or the sale. But, if, after acceptance of the goods, the buyer fails to give notice to the seller of the breach of any promise or warranty within a reasonable time after the buyer knows, or ought to know, of such breach, the seller shall not be liable therefor.

Return of goods wrongly delivered.

SEC. 646. BUYER IS NOT BOUND TO RETURN GOODS WRONGLY DELIVERED.—Unless otherwise agreed, where goods are delivered to the buyer, and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he notifies the seller that he refuses to accept them.

Liability for failure to accept delivery.

SEC. 647. BUYER'S LIABILITY FOR FAILING TO ACCEPT DELIVERY.—When the seller is ready and willing to deliver the goods, and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods. If the neglect or refusal of the buyer to take delivery

amounts to a repudiation or breach of the entire contract, the seller shall have the rights against the goods and on the contract hereinafter provided in favor of the seller when the buyer is in default.

SEC. 648. DEFINITION OF UNPAID SELLER.—1. The seller of goods is deemed to be an unpaid seller within the meaning of this chapter.

(a) When the whole of the price has not been paid or tendered.

(b) When a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has been broken by reason of the dishonor of the instrument, the insolvency of the buyer, or otherwise.

2. In this part of this chapter the term "seller" includes an agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price, or any other person who is in the position of a seller.

SEC. 649. REMEDIES OF AN UNPAID SELLER.—1. Subject to the provisions of this chapter, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of the goods, as such has

(a) A lien on the goods or right to retain them for the price while he is in possession of them;

(b) In case of the insolvency of the buyer, a right of stopping the goods in transitu after he has parted with the possession of them;

(c) A right of resale as limited by this chapter;

(d) A right to rescind the sale as limited by this chapter.

2. Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and coextensive with his rights of lien and stoppage in transitu where the property has passed to the buyer.

SEC. 650. WHEN RIGHT OF LIEN MAY BE EXERCISED.—1. Subject to the provisions of this chapter, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely:

(a) Where the goods have been sold without any stipulation as to credit;

(b) Where the goods have been sold on credit, but the term of credit has expired;

(c) Where the buyer becomes insolvent.

2. The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

SEC. 651. LIEN AFTER PART DELIVERY.—Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder, unless such part delivery has been made under such circumstances as to show an intent to waive the lien or right of retention.

SEC. 652. WHEN LIEN IS LOST.—1. The unpaid seller of goods loses his lien thereon:

(a) When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the property in the goods or the right to the possession thereof;

(b) When the buyer or his agent lawfully obtains possession of the goods;

(c) By waiver thereof.

2. The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained judgment or decree for the price of the goods.

"Unpaid seller" defined.

Remedies of.

When right of lien may be exercised.

Lien after part delivery.

Loss of lien.

Stoppage in transitu.

SEC. 653. SELLER MAY STOP GOODS ON BUYER'S INSOLVENCY.—Subject to the provisions of this chapter, when the buyer of goods is or becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transitu, that is to say, he may resume possession of the goods at any time while they are in transit, and he will then become entitled to the same rights in regard to the goods as he would have had if he had never parted with the possession.

Goods in transit.

SEC. 654. WHEN GOODS ARE IN TRANSIT.—1. Goods are in transit within the meaning of section 653:

(a) From the time when they are delivered to a carrier by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer, or his agent in that behalf, takes delivery of them from such carrier or other bailee;

(b) If the goods are rejected by the buyer, and the carrier or other bailee continues in possession of them, even if the seller has refused to receive them back.

2. Goods are no longer in transit within the meaning of section 653:

(a) If the buyer, or his agent in that behalf, obtains delivery of the goods before their arrival at the appointed destination;

(b) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent; and it is immaterial that a further destination for the goods may have been indicated by the buyer;

(c) If the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf.

3. If the goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent of the buyer.

4. If part delivery of the goods has been made to the buyer, or his agent in that behalf, the remainder of the goods may be stopped in transitu, unless such part delivery has been made under such circumstances as to show an agreement with the buyer to give up possession of the whole of the goods.

Manners of stoppage.

SEC. 655. WAYS OF EXERCISING THE RIGHT TO STOP.—1. The unpaid seller may exercise his right of stoppage in transitu either by obtaining actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, must be given at such time and under such circumstances that the principal, by the exercise of reasonable diligence, may prevent a delivery to the buyer.

2. When notice of stoppage in transitu is given by the seller to the carrier, or other bailee in possession of the goods, he must redeliver the goods to, or according to the directions of, the seller.

The expenses of such delivery must be borne by the seller. If, however, a negotiable document of title representing the goods has been issued by the carrier or other bailee, he shall not be obliged to deliver or justified in delivering the goods to the seller unless such document is first surrendered for cancellation.

Right of resale.

SEC. 656. WHEN AND HOW RESALE MAY BE MADE.—1. Where the goods are of a perishable nature, or where the seller expressly reserves the right of resale in case the buyer should make default, or where the buyer has been in default in the payment of the price

an unreasonable time, an unpaid seller having a right of lien or having stopped the goods in transitu may resell the goods. He shall not thereafter be liable to the original buyer upon the contract to sell or the sale or for any profit made by such resale, but may recover from the buyer damages for any loss occasioned by the breach of the contract or the sale.

2. Where a resale is made, as authorized in this section, the buyer acquires a good title as against the original buyer.

3. It is not essential to the validity of a resale that notice of an intention to resell the goods be given by the seller to the original buyer. But where the right to resell is not based on the perishable nature of the goods or upon an express provision of the contract or the sale, the giving or failure to give such notice shall be relevant in any issue involving the question whether the buyer had been in default an unreasonable time before the resale was made.

4. It is not essential to the validity of a resale that notice of the time and place of such resale should be given by the seller to the original buyer.

5. The seller is bound to exercise reasonable care and judgment in making a resale, and subject to this requirement may make a resale either by public or private sale.

SEC. 657. WHEN AND HOW THE SELLER MAY RESCIND THE SALE.—

Rescission.

1. An unpaid seller having a right of lien or having stopped the goods in transitu, may rescind the transfer of title and resume the property in the goods, where he expressly reserved the right to do so in case the buyer should make default, or where the buyer has been in default in the payment of the price an unreasonable time. The seller shall not thereafter be liable to the buyer upon the contract to sell or the sale, but may recover from the buyer damages for any loss occasioned by the breach of the contract or the sale.

2. The transfer of title shall not be held to have been rescinded by an unpaid seller until he has manifested by notice to the buyer or by some other overt act an intention to rescind. It is not necessary that such overt act should be communicated to the buyer but the giving or failure to give notice to the buyer of the intention to rescind shall be relevant in any issue involving the question whether the buyer had been in default an unreasonable time before the right of rescission was asserted.

SEC. 658. EFFECT OF SALE OF GOODS SUBJECT TO LIEN OR STOPPAGE IN TRANSITU.—Subject to the provisions of this chapter, the unpaid seller's right of lien or stoppage in transitu is not affected by any sale, or other disposition of the goods which the buyer may have made, unless the seller has assented thereto. If, however, a negotiable document of title has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the right of any purchaser for value in good faith to whom such document has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier, or other bailee who issued such document, of the seller's claim to a lien or right of stoppage in transitu.

Effect of sale of goods subject to lien or stoppage in transitu.

SEC. 659. ACTION FOR THE PRICE.—1. Where, under a contract to sell or a sale, the property in the goods has passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract or the sale, the seller may maintain an action against him for the price of the goods.

Action for price.

2. Where, under a contract to sell or a sale, the price is payable on a day certain, irrespective of delivery or of transfer of title, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price, although the property in the goods has not passed, and the goods have not been appropriated to

the contract. But it shall be a defense to such an action that the seller at any time before judgment in such action has manifested an inability to perform the contract or the sale on his part or an intention not to perform it.

3. Although the property in the goods has not passed, if they can not readily be resold for a reasonable price, and if the provisions of subdivision four of section 660 are not applicable, the seller may offer to deliver the goods to the buyer, and if the buyer refuses to receive them, may notify the buyer that the goods are thereafter held by the seller as bailee for the buyer. Thereafter the seller may treat the goods as the buyer's and may maintain an action for the price.

For nonacceptance.

SEC. 660. ACTION FOR DAMAGES FOR NONACCEPTANCE OF THE GOODS.—

1. Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for nonacceptance.

2. The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the buyer's breach of contract.

3. Where there is an available market for the goods in question, the measure of damages is, in the absence of special circumstances, showing proximate damage of a greater amount, the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept.

4. If, while labor or expense of material amount are necessary on the part of the seller to enable him to fulfill his obligations under the contract to sell or the sale, the buyer repudiates the contract or the sale, or notifies the seller to proceed no further therewith, the buyer shall be liable to the seller for no greater damages than the seller would have suffered if he did nothing toward carrying out the contract or the sale after receiving notice of the buyer's repudiation or countermand. The profit the seller would have made if the contract or the sale had been fully performed shall be considered in estimating such damages.

When seller may rescind.

SEC. 661. WHEN SELLER MAY RESCIND CONTRACT OR SALE.—Where the goods have not been delivered to the buyer, and the buyer has repudiated the contract to sell or sale, or has manifested his inability to perform his obligations thereunder, or has committed a material breach thereof, the seller may totally rescind the contract or the sale by giving notice of his election so to do to the buyer.

Action for conversion, etc.

SEC. 662. ACTION FOR CONVERTING OR DETAINING GOODS.—Where the property in the goods has passed to the buyer and the seller wrongfully neglects or refuses to deliver the goods, the buyer may maintain any action allowed by law to the owner of goods of similar kind when wrongfully converted or withheld.

For failure to deliver.

SEC. 663. ACTION FOR FAILING TO DELIVER GOODS.—1. Where the property in the goods has not passed to the buyer, and the seller wrongfully neglects or refuses to deliver the goods, the buyer may maintain an action against the seller for damages for nondelivery.

2. The measure of damages is the loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

3. Where there is an available market for the goods in question, the measure of damages, in the absence of special circumstances showing proximate damages of a greater amount, is the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver.

SEC. 664. SPECIFIC PERFORMANCE.—Where the seller has broken a contract to deliver specific or ascertained goods, a court having the powers of a court of equity may, if it thinks fit, on the application of the buyer, by its judgment or decree, direct that the contract shall be performed specifically, without giving the seller the option of retaining the goods on payment of damages. The judgment or decree may be unconditional, or upon such terms and conditions as to damages, payment of the price and otherwise, as to the court may seem just.

Specific performance.

CROSS REFERENCE

Specific performance of obligations generally, see section 1634 et seq.

Post, p. 1335.

SEC. 655.¹ REMEDIES FOR BREACH OF WARRANTY.—1. Where there is a breach of warranty by the seller, the buyer may, at his election:

Remedies for breach of warranty.

(a) Accept or keep the goods and set up against the seller the breach of warranty by way of recoupment in diminution or extinction of the price;

(b) Accept or keep the goods and maintain an action against the seller for damages for the breach of warranty;

(c) Refuse to accept the goods, if the property therein has not passed, and maintain an action against the seller for damages for the breach of warranty;

(d) Rescind the contract to sell or the sale and refuse to receive the goods, or if the goods have already been received, return them or offer to return them to the seller and recover the price or any part thereof which has been paid.

2. When the buyer has claimed and been granted a remedy in any one of these ways, no other remedy can thereafter be granted.

3. Where the goods have been delivered to the buyer, he can not rescind the sale if he knew of the breach of warranty when he accepted the goods, or if he fails to notify the seller within a reasonable time of the election to rescind, or if he fails to return or to offer to return the goods to the seller in substantially as good condition as they were in at the time the property was transferred to the buyer. But if deterioration or injury of the goods is due to the breach of warranty, such deterioration or injury shall not prevent the buyer from returning or offering to return the goods to the seller and rescinding the sale.

4. Where the buyer is entitled to rescind the sale and elects to do so, the buyer shall cease to be liable for the price upon returning or offering to return the goods. If the price or any part thereof has already been paid, the seller shall be liable to repay so much thereof as has been paid, concurrently with the return of the goods, or immediately after an offer to return the goods in exchange for repayment of the price.

5. Where the buyer is entitled to rescind the sale and elects to do so, if the seller refuses to accept an offer of the buyer to return the goods, the buyer shall thereafter be deemed to hold the goods as bailee for the seller, but subject to a lien to secure the repayment of any portion of the price which has been paid, and with the remedies for the enforcement of such lien allowed to an unpaid seller by section 649.

Ante, p. 1215.

6. The measure of damages for breach of warranty is the loss directly and naturally resulting, in the ordinary course of events, from the breach of warranty.

7. In the case of breach of warranty of quality, such loss, in the absence of special circumstances showing proximate damage of a greater amount, is the difference between the value of the goods at

¹ So in original.

the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

Interest and special damages.

SEC. 666. INTEREST AND SPECIAL DAMAGES.—Nothing in this chapter shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed.

Variation of implied obligations.

SEC. 667. VARIATION OF IMPLIED OBLIGATIONS.—Where any right, duty, or liability would arise under a contract to sell or a sale by implication of law, it may be negatived, or varied by express agreement or by the course of dealing between the parties, or by customs, if the custom be such as to bind both parties to the contract or the sale.

Enforcement of rights.

SEC. 668. RIGHTS MAY BE ENFORCED BY ACTION.—Where any right, duty, or liability is declared by this chapter, it may, unless otherwise by this chapter provided, be enforced by action.

Rule for cases not provided for.

SEC. 669. RULE FOR CASES NOT PROVIDED FOR BY THIS CHAPTER.—In any case not provided for in this chapter, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, or other invalidating cause, shall continue to apply to contracts to sell and sales of goods.

Provisions not applicable to mortgages.

SEC. 670. PROVISIONS NOT APPLICABLE TO MORTGAGES.—The provisions of this chapter relating to contracts to sell and to sales do not apply, unless so stated, to any transaction in the form of a contract to sell or a sale which is intended to operate by way of mortgage, pledge, charge, or other security.

Definitions.

SEC. 671. DEFINITIONS.—1. In this chapter, unless the context or subject matter otherwise requires:

“Action” includes counterclaim, set-off, and suit in equity.

“Buyer” means a person who buys or agrees to buy goods or any legal successor in interest of such person.

“Defendant” includes a plaintiff against whom a right of set-off or counterclaim is asserted.

“Delivery” means voluntary transfer of possession from one person to another.

“Divisible contract to sell or sale” means a contract to sell or a sale in which by its terms the price for a portion or portions of the goods less than the whole is fixed or ascertainable by computation.

“Document of title to goods” includes any bill of lading, dock warrant, warehouse receipt or order for the delivery of goods, or any other document used in the ordinary course of business in the sale or transfer of goods, as proof of the possession or control of the goods, or authorizing or purporting to authorize the possessor of the document to transfer or receive, either by indorsement or by delivery, goods represented by such document.

“Fault” means wrongful act or default.

“Fungible goods” means goods of which any unit is from its nature or by mercantile usage treated as the equivalent of any other unit.

“Future goods” means goods to be manufactured or acquired by the seller after the making of the contract of sale.

“Goods” includes all chattels personal other than things in action and money. The term includes emblements, industrial growing crops, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

“Order” in sections of this chapter relating to documents of title means an order by indorsement on the document.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

“Plaintiff” includes defendant asserting a right of set-off or counterclaim.

“Property” means the general property in goods, and not merely a special property.

“Purchases” includes taking as a mortgagee or as a pledgee.

“Purchaser” includes mortgagee and pledgee.

“Quality of goods” includes their state or condition.

“Sale” includes a bargain and sale as well as a sale and delivery.

“Seller” means a person who sells or agrees to sell goods, or any legal successor in the interest of such person.

“Specific goods” means goods identified and agreed upon at the time a contract to sell or a sale is made.

2. A thing is done “in good faith” within the meaning of this chapter when it is in fact done honestly, whether it be done negligently or not.

3. A person is insolvent within the meaning of this chapter who either has ceased to pay his debts in the ordinary course of business or can not pay his debts as they become due, whether he has committed an act of bankruptcy or not, and whether he is insolvent within the meaning of the federal bankruptcy law or not.

4. Goods are in a “deliverable state” within the meaning of this chapter when they are in such a state that the buyer would, under the contract, be bound to take delivery of them.

SEC. 672. CHAPTER DOES NOT APPLY TO EXISTING SALES OR CONTRACTS TO SELL.—None of the provisions of this chapter shall apply to any sale, or to any contract to sell, made prior to the taking effect of this chapter.

Provisions not retroactive.

SEC. 673. NO REPEAL OF WAREHOUSE LAWS.—Nothing in this chapter shall be construed to repeal or limit any of the provisions of sections 731 to 784.

No repeal of warehouse laws.
Post, p. 1230.

CHAPTER 35.—CONDITIONAL SALES

CONDITIONAL SALES.

NOTE.—This chapter was derived from the uniform conditional sales act.

SEC. 674. DEFINITIONS.—In this chapter “conditional sale” means (1) any contract for the sale of goods under which possession is delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (2) any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value of the goods, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming the owner of such goods upon full compliance with the terms of the contract.

Definitions.

“Buyer” means the person who buys or hires the goods covered by the conditional sale, or any legal successor in interest of such person.

“Goods” means all chattels personal other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming a part of land which are agreed to be severed before sale or under the conditional sale.

“Performance of the condition” means the occurrence of the event upon which the property in the goods is to vest in the buyer, whether such event is the performance of an act by the buyer or the happening of a contingency.

"Person" includes an individual, partnership, corporation, and any other association.

"Purchase" includes mortgage and pledge.

"Purchaser" includes mortgagee and pledgee.

"Seller" means the person who sells or leases the goods covered by the conditional sale, or any legal successor in interest of such person.

Primary rights of seller.

SEC. 675. PRIMARY RIGHTS OF SELLER.—The buyer shall be liable to the seller for the purchase price, or for installments thereof, as the same shall become due, and for breach of all promises made by him in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

Of buyer.

SEC. 676. PRIMARY RIGHTS OF BUYER.—The buyer shall have the right when not in default to retain possession of the goods, and he shall also have the right to acquire the property in the goods on the performance of the conditions of the contract. The seller shall be liable to the buyer for the breach of all promises and warranties, express or implied, made in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

Validity of conditional sales.

SEC. 677. CONDITIONAL SALES VALID EXCEPT AS OTHERWISE PROVIDED.—Every provision in a conditional sale reserving property in the seller after possession of the goods is delivered to the buyer, shall be valid as to all persons, except as hereinafter otherwise provided.

When void.

SEC. 678. CONDITIONAL SALES VOID AS TO CERTAIN PERSONS.—Every provision in a conditional sale reserving property in the seller shall be void as to any purchaser from or creditor of the buyer, who, without notice of such provision, purchases the goods or acquires by attachment or levy a lien upon them, before the contract or a copy thereof shall be filed as hereinafter provided. This section shall not apply to conditional sales of goods for resale.

Filing of.

SEC. 679. PLACE OF FILING.—The conditional sale contract or a copy thereof shall be filed in the office of the registrar of property of the Canal Zone.

Conditional sale of goods for resale.

SEC. 680. CONDITIONAL SALE OF GOODS FOR RESALE.—When goods are delivered under a conditional sale contract and the seller expressly or impliedly consents that the buyer may resell them prior to performance of the condition, the same shall be valid whether filed or not except that the reservation of property shall be void against purchasers from the buyer in good faith for value and without actual knowledge of the condition of such contract.

Filing.

SEC. 681. FILING.—The registrar of property shall mark upon contract or copy filed with him the day and hour of filing and shall file the contract or copy in his office for public inspection. He shall keep a separate book in which he shall enter the names of the seller and buyer, the date of the contract, the day and hour of filing, a brief description of the goods, the price named in the contract, and the date of cancellation thereof. Such book shall be indexed under the names of both seller and buyer. For filing and entering such contract or copy, or any assignment of such a contract, the registrar shall be entitled to a fee of 50 cents.

Refiling.

SEC. 682. REFILING.—The filing of conditional sale contracts provided for in sections 678 and 679 shall be valid for a period of three years only. The validity of the filing may in each case be extended for successive additional periods of one year from the date of refiling by filing a copy of the original contract within thirty days next preceding the expiration of each period, with a statement attached signed by the seller, showing that the contract is in force and the amount remaining to be paid thereon. Such copy, with

statement attached, shall be filed and entered in the same manner as a contract or copy filed and entered for the first time, and the registrar of property shall be entitled to a like fee as upon the original filing.

SEC. 683. CANCELLATION OF CONTRACT.—After the performance of the condition, upon written demand delivered personally or by registered mail by the buyer or any other person having an interest in the goods, the seller shall execute, acknowledge, and deliver to the demandant a statement that the condition in the contract has been performed. If for ten days after such demand the seller fails to mail or deliver such a statement of satisfaction, he shall forfeit to the demandant \$5 and be liable for all damages suffered. Upon presentation of such statement of satisfaction the registrar of property shall file the same and note the cancellation of the contract and the date thereof on the margin of the page where the contract has been entered. For filing and entering the statement of satisfaction the filing officer shall be entitled to a fee of 25 cents.

Cancellation of contract.

SEC. 684. PROHIBITION OF REMOVAL OR SALE WITHOUT NOTICE.—Unless the contract otherwise provides, the buyer may, without the consent of the seller, remove the goods from the Canal Zone and sell, mortgage, or otherwise dispose of his interest in them; but prior to the performance of the condition, no such buyer shall remove the goods from the Canal Zone, except for temporary uses for a period of not more than thirty days, unless the buyer not less than thirty days before such removal shall give the seller personally or by registered mail written notice of the place to which the goods are to be removed and the approximate time of such intended removal; nor prior to the performance of the conditions shall the buyer sell, mortgage, or otherwise dispose of his interest in the goods, unless he, or the person to whom he is about to sell, mortgage, or otherwise dispose of the same, shall notify the seller in writing personally or by registered mail of the name and address of the person to whom his interest in the goods is about to be sold, mortgaged, or otherwise transferred, not less than ten days before such sale, mortgage, or other disposal. If any buyer does so remove the goods, or does so sell, mortgage, or otherwise dispose of his interest in them without such notice or in violation of the contract, the seller may retake possession of the goods and deal with them as in case of default in payment of part or all of the purchase price.

Prohibition of removal.

Sale without notice.

SEC. 685. FRAUDULENT INJURY, CONCEALMENT, REMOVAL OR SALE.—When, prior to the performance of the condition, the buyer maliciously or with intent to defraud, shall injure, destroy, or conceal the goods, or remove them from the Canal Zone, without having given the notice required by section 684, or shall sell, mortgage, or otherwise dispose of such goods under claim of full ownership, he shall be guilty of a crime and upon conviction thereof shall be imprisoned in jail for not more than one year or be fined not more than \$500 or both.

Fraudulent injury, etc.

Penalty.

SEC. 686. RETAKING POSSESSION.—When the buyer shall be in default in the payment of any sum due under the contract, or in the performance of any other condition which the contract requires him to perform in order to obtain the property in the goods, or in the performance of any promise, the breach of which is by the contract expressly made a ground for the retaking of the goods, the seller may retake possession thereof. Unless the goods can be retaken without breach of the peace, they shall be retaken by legal process; but nothing herein shall be construed to authorize a violation of the criminal law.

Repossession.

Notice of intention.

SEC. 687. NOTICE OF INTENTION TO RETAKE.—Not more than forty nor less than twenty days prior to the retaking, the seller, if he so desires, may serve upon the buyer personally or by registered mail a notice of intention to retake the goods on account of the buyer's default. The notice shall state the default and the period at the end of which the goods will be retaken, and shall briefly and clearly state what the buyer's rights under this chapter will be in case they are retaken. If the notice is so served and the buyer does not perform the obligations in which he has made default before the day set for retaking, the seller may retake the goods and hold them subject to the provisions of sections 689 to 693 regarding resale, but without any right of redemption.

Redemption.

SEC. 688. REDEMPTION.—If the seller does not give the notice of intention to retake described in section 687, he shall retain the goods for ten days after the retaking within the Canal Zone, during which period the buyer, upon payment or tender of the amount due under the contract at the time of retaking and interest, or upon performance or tender of performance of such other condition as may be named in the contract as precedent to the passage of the property in the goods, or upon performance or tender of performance of any other promise for the breach of which the goods were retaken, and upon payment of the expenses of retaking, keeping, and storage, may redeem the goods and become entitled to take possession of them and to continue in the performance of the contract as if no default had occurred. Upon written demand delivered personally or by registered mail by the buyer, the seller shall furnish to the buyer a written statement of the sum due under the contract and the expense of retaking, keeping, and storage. For failure to furnish such statement within a reasonable time after demand, the seller shall forfeit to the buyer \$10 and also be liable to him for all damages suffered because of such failure. If the goods are perishable so that retention for ten days as herein prescribed would result in their destruction or substantial injury, the provisions of this section shall not apply, and the seller may resell the goods immediately upon their retaking.

Compulsory resale.

SEC. 689. COMPULSORY RESELL BY SELLER.—If the buyer does not redeem the goods within ten days after the seller has retaken possession, and the buyer has paid at least 50 per centum of the purchase price at the time of the retaking the seller shall sell them at public auction in the Canal Zone, such sale to be held not more than thirty days after the retaking. The seller shall give to the buyer not less than ten days' written notice of the sale, either personally or by registered mail, directed to the buyer at his last known place of business or residence. The seller shall also give notice of the sale by at least three notices posted in different public places within the Zone, at least five days before the sale. If at the time of the retaking \$500 or more has been paid on the purchase price, the seller shall also give notice of the sale at least five days before the sale by publication in a newspaper having a general circulation within the Canal Zone. The seller may bid for the goods at the resale.

Resale at option of parties.

SEC. 690. RESELL AT OPTION OF PARTIES.—If the buyer has not paid at least 50 per centum of the purchase price at the time of the retaking, the seller shall not be under a duty to resell the goods as prescribed in section 689, unless the buyer serves upon the seller, within ten days after the retaking, a written notice demanding a resale, delivered personally or by registered mail. If such notice is served, the resale shall take place within thirty days after the service, in the manner, at the place, and upon the notice prescribed

in section 689. The seller may voluntarily resell the goods for account of the buyer on compliance with the same requirements.

SEC. 691. PROCEEDS OF RESALE.—The proceeds of the resale shall be applied (1) to the payment of the expenses thereof, (2) to the payment of the expenses of retaking, keeping, and storing the goods, (3) to the satisfaction of the balance due under the contract. Any sum remaining after the satisfaction of such claims shall be paid to the buyer.

Proceeds of resale.

SEC. 692. DEFICIENCY ON RESALE.—If the proceeds of the resale are not sufficient to defray the expenses thereof, and also the expenses of retaking, keeping, and storing the goods and the balance due upon the purchase price, the seller may recover the deficiency from the buyer, or from any one who has succeeded to the obligations of the buyer.

Deficiencies.

SEC. 693. RIGHTS OF PARTIES WHERE THERE IS NO RESALE.—Where there is no resale the seller may retain the goods as his own property without obligation to account to the buyer except as provided in section 695, and the buyer shall be discharged of all obligation.

Rights of parties when no resale.

SEC. 694. ELECTION OF REMEDIES.—After the retaking of possession as provided in section 686 the buyer shall be liable for the price only after a resale and only to the extent provided in section 692. Neither the bringing of an action by the seller for the recovery of the whole or any part of the price, nor the recovery of judgment in such action, nor the collection of a portion of the price, shall be deemed inconsistent with a later retaking of the goods as provided in section 686. But such right of retaking shall not be exercised by the seller after he has collected the entire price or after he has claimed a lien upon the goods, or attached them, or levied upon them as the goods of the buyer.

Election of remedies. *Ante*, p. 1223.

SEC. 695. RECOVERY OF PART PAYMENTS.—If the seller fails to comply with the provisions of sections 688, 689, 690, 691, and 693, after retaking the goods, the buyer may recover from the seller his actual damages, if any, and in no event less than one-fourth of the sum of all payments which have been made under the contract, with interest.

Recovery of part payments. *Ante*, p. 1224.

SEC. 696. WAIVER OF STATUTORY PROTECTION.—No act or agreement of the buyer before or at the time of the making of the contract, nor any agreement or statement by the buyer in such contract, shall constitute a valid waiver of the provisions of sections 688, 689, 690, 691, and 695; except that the contract may stipulate that on such default of the buyer as is provided for in section 686, the seller may rescind the conditional sale, either as to all the goods or as to any part thereof for which a specific price was fixed in the contract. If the contract thus provides for rescission, the seller at his option may retake such goods without complying with or being bound by the provisions of sections 687 to 695, inclusive, as to the goods retaken, upon crediting the buyer with the full purchase price of those goods. So much of this credit as is necessary to cancel any indebtedness of the buyer to the seller shall be so applied, and the seller shall repay to the buyer on demand any surplus not so required.

Waiver of statutory protection.

Ante, p. 1224.

SEC. 697. LOSS AND INCREASE.—After the delivery of the goods to the buyer and prior to the retaking of them by the seller, the risk of injury and loss shall rest upon the buyer. The increase of the goods shall be subject to the same conditions as the original goods.

Loss and increase.

SEC. 698. RULES FOR CASES NOT PROVIDED FOR.—In any case not provided for in this chapter the rules of law and equity, including the law merchant, and in particular those relating to principal and agent and to the effect of fraud, misrepresentation, duress or coercion,

Cases not provided for.

mistake, or other invalidating cause, shall continue to apply to conditional sales.

DEPOSIT IN
GENERAL.

Nature and creation
of.

Kinds of.

SEC. 699. DEPOSIT, KINDS OF.—A deposit may be voluntary or involuntary; and for safe-keeping or for exchange.

CHAPTER 36.—DEPOSIT IN GENERAL

NATURE AND CREATION OF DEPOSIT

CROSS REFERENCES

| | |
|------------------------|---|
| <i>Post</i> , p. 1252. | Common carriers, see sections 885 et seq. |
| | Deposit for exchange, see section 704. |
| <i>Post</i> , p. 1229. | Deposit for hire, see sections 724 et seq. |
| <i>Post</i> , p. 1228. | Deposit for keeping, see sections 712 et seq. |
| <i>Post</i> , p. 1229. | Gratuitous deposit, and incidents, see sections 720 et seq. |
| <i>Post</i> , p. 1245. | Hiring, see sections 824 et seq. |
| <i>Post</i> , p. 1240. | Innkeepers, see sections 785 and 786. |
| <i>Post</i> , p. 1243. | Loan for exchange, see section 810. |
| <i>Post</i> , p. 1242. | Loan for use, see sections 797 et seq. |
| <i>Post</i> , p. 1244. | Loan of money, see section 815. |
| <i>Post</i> , p. 1303. | Pledge, see sections 1367 et seq. |

Voluntary deposit.

SEC. 700. VOLUNTARY DEPOSIT, HOW MADE.—A voluntary deposit is made by one giving to another, with his consent, the possession of personal property to keep for the benefit of the former, or of a third party. The person giving is called the depositor, and the person receiving the depositary.

CROSS REFERENCES

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|------------------------|---|
| <i>Post</i> , p. 1241. | Finder of lost articles, see sections 787 et seq. |
| <i>Post</i> , p. 1227. | Obligations of depositary, see sections 705 et seq. |

Involuntary deposit.

SEC. 701. INVOLUNTARY DEPOSIT, HOW MADE.—An involuntary deposit is made:

1. By the accidental leaving or placing of personal property in the possession of any person, without negligence on the part of its owner; or,

2. In cases of fire, shipwreck, inundation, insurrection, riot, or like extraordinary emergencies, by the owner of personal property committing it, out of necessity, to the care of any person.

CROSS REFERENCES

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|------------------------|--|
| <i>Post</i> , p. 1229. | Degree of care requisite, see section 722. |
| <i>Post</i> , p. 1229. | Duties of depositary, when cease, see section 723. |
| | Involuntary deposit in cases of emergency must be accepted, see section 702. |
| <i>Post</i> , p. 1229. | Involuntary deposit is gratuitous, see section 721. |

Duty of involuntary
depositary.

SEC. 702. DUTY OF INVOLUNTARY DEPOSITARY.—The person with whom a thing is deposited in the manner described in section 701 is bound to take charge of it, if able to do so.

Deposit for keeping.

SEC. 703. DEPOSIT FOR KEEPING, WHAT.—A deposit for keeping is one in which the depositary is bound to return the identical thing deposited.

CROSS REFERENCE

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| <i>Post</i> , p. 1228. | Deposit for keeping, see sections 712 et seq. |
|------------------------|---|

For exchange.

SEC. 704. DEPOSIT FOR EXCHANGE, WHAT.—A deposit for exchange is one in which the depositary is only bound to return a thing corresponding in kind to that which is deposited.

CROSS REFERENCES

Deposit for exchange transfers title, see section 796.
 Loan for exchange, see sections 810 et seq.

Post, p. 1242.
Post, p. 1243.

OBLIGATIONS OF THE DEPOSITARY

Obligations of de-
 pository.

SEC. 705. DEPOSITARY MUST DELIVER ON DEMAND.—A depositary must deliver the thing to the person for whose benefit it was deposited, on demand, whether the deposit was made for a specified time or not, unless he has a lien upon the thing deposited, or has been forbidden or prevented from doing so by the real owner thereof, or by the act of the law, and has given the notice required by section 708.

Delivery on demand.

CROSS REFERENCES

Care required of depositary, see section 725.
 Delivery, see sections 706 and 710.
 For a general lien on personalty dependent upon possession, see section 1393.
 Lien of innkeepers, see sections 785 et seq.
 Notice of adverse proceedings, see section 708.

Post, p. 1229.
Post, p. 1306.
Post, p. 1240.

SEC. 706. NO OBLIGATION TO DELIVER WITHOUT DEMAND.—A depositary is not bound to deliver a thing deposited without demand, even where the deposit is made for a specified time.

No obligation to deliver without demand.

SEC. 707. PLACE OF DELIVERY.—A depositary must deliver the thing deposited at his residence or place of business, as may be most convenient for him.

Place of delivery.

CROSS REFERENCE

Delivery on sales, see sections 637 et seq.

Ante, p. 1212.

SEC. 708. NOTICE TO OWNER OF ADVERSE CLAIM.—A depositary must give prompt notice to the person for whose benefit the deposit was made, of any proceedings taken adversely to his interest in the thing deposited, which may tend to excuse the depositary from delivering the thing to him.

Notice to owner of adverse claim.

SEC. 709. NOTICE TO OWNER OF THING WRONGFULLY DETAINED.—A depositary who believes that a thing deposited with him is wrongfully detained from its true owner, may give him notice of the deposit; and if within a reasonable time afterwards he does not claim it, and sufficiently establish his right thereto, and indemnify the depositary against the claim of the depositor, the depositary is exonerated from liability to the person to whom he gave the notice, upon returning the thing to the depositor, or assuming, in good faith, a new obligation changing his position in respect to the thing, to his prejudice.

Of thing wrongfully detained.

SEC. 710. DELIVERY OF THING OWNED JOINTLY, ETC.—If a thing deposited is owned jointly or in common by persons who can not agree upon the manner of its delivery, the depositary may deliver to each his proper share thereof, if it can be done without injury to the thing.

Delivery of thing owned jointly, etc.

SEC. 711. JOINT DEPOSITS BY MORE THAN ONE PERSON.—When a deposit is made in the name of two or more persons, deliverable or payable to either or to their survivor or survivors, such deposit or any part thereof, or increase thereof, may be delivered or paid to either of said persons or to the survivor or survivors in due course of business.

Joint deposits.

CROSS REFERENCE

Performance to one of joint creditors, see section 448.

Ante, p. 1185.

DEPOSIT FOR
KEEPING.

CHAPTER 37.—DEPOSIT FOR KEEPING

General provisions.

GENERAL PROVISIONS

Indemnification.

SEC. 712. DEPOSITOR MUST INDEMNIFY DEPOSITARY.—A depositor must indemnify the depositary:

1. For all damage caused to him by the defects or vices of the thing deposited; and

2. For all expenses necessarily incurred by him about the thing, other than such as are involved in the nature of the undertaking.

CROSS REFERENCE

Post, p. 1243.

Lenders liability for defects in articles borrowed, see section 806.

Obligation of bailee of animals.

SEC. 713. OBLIGATION OF DEPOSITARY OF ANIMALS.—A depositary of living animals must provide them with suitable food and shelter, and treat them kindly.

CROSS REFERENCE

Post, p. 1306.

Lien of keepers of livestock, see section 1393.

Use of thing deposited.

SEC. 714. OBLIGATIONS AS TO USE OF THING DEPOSITED.—A depositary may not use the thing deposited, or permit it to be used, for any purpose, without the consent of the depositor. He may not, if it is purposely fastened by the depositor, open it without the consent of the latter, except in case of necessity.

CROSS REFERENCES

Post, p. 1245.

Hiring; definition of term, see sections 824 et seq.
Liability for wrongful use, see section 715.

Liability for wrongful use.

SEC. 715. LIABILITY FOR DAMAGE ARISING FROM WRONGFUL USE.—A depositary is liable for any damage happening to the thing deposited, during his wrongful use thereof, unless such damage must inevitably have happened though the property had not been thus used.

Sale of perishables.

SEC. 716. SALE OF THING IN DANGER OF PERISHING.—If a thing deposited is in actual danger of perishing before instructions can be obtained from the depositor, the depositary may sell it for the best price obtainable and retain the proceeds as a deposit, giving immediate notice of his proceedings to the depositor.

CROSS REFERENCE

Post, p. 1230.

Sale of perishables, see section 730.

Injury to or loss of thing deposited.

SEC. 717. INJURY TO OR LOSS OF THING DEPOSITED.—If a thing is lost or injured during its deposit, and the depositary refuses to inform the depositor of the circumstances under which the loss or injury occurred, so far as he has information concerning them, or willfully misrepresents the circumstances to him, the depositary is presumed to have willfully, or by gross negligence, permitted the loss or injury to occur.

Service rendered by depositary.

SEC. 718. SERVICE RENDERED BY DEPOSITARY.—So far as any service is rendered by a depositary, or required from him, his duties and liabilities are prescribed by chapters 41 to 43 of this code on employment and service.

Post, pp. 1247–1252.

Liability of bailee.

SEC. 719. LIABILITY OF DEPOSITARY.—The liability of a depositary for negligence can not exceed the amount which he is informed by the depositor, or has reason to suppose, the thing deposited to be worth.

GRATUITOUS DEPOSIT

Gratuitous deposit.

SEC. 720. GRATUITOUS DEPOSIT, WHAT.—Gratuitous deposit as¹ a deposit for which the depositary receives no consideration beyond the mere possession of the thing deposited.

Definition.

CROSS REFERENCE

Degree of care necessary, see section 722.

SEC. 721. NATURE OF INVOLUNTARY DEPOSIT.—An involuntary deposit is gratuitous, the depositary being entitled to no reward.

Nature of involuntary deposit.

CROSS REFERENCE

Involuntary deposit, defined, see section 701.

Ante, p. 1226.

SEC. 722. DEGREE OF CARE REQUIRED OF GRATUITOUS DEPOSITARY.—A gratuitous depositary must use, at least, slight care for the preservation of the thing deposited.

Degree of care, gratuitous depositary.

SEC. 723. HIS DUTIES CEASE, WHEN.—The duties of a gratuitous depositary cease:

When duties cease.

1. Upon his restoring the thing deposited to its owner; or,

2. Upon his giving reasonable notice to the owner to remove it, and the owner failing to do so within a reasonable time. But an involuntary depositary, under subdivision two of section 701, can not give such notice until the emergency which gave rise to the deposit is past.

Ante, p. 1226.

STORAGE

Storage.

SEC. 724. DEPOSIT FOR HIRE.—A deposit not gratuitous is called storage. The depositary in such case is called a depositary for hire.

Deposit for hire.

CROSS REFERENCES

Hiring, in general, see section 824.

Post, p. 1245.

Warehousemen, see sections 731 et seq.

Post, p. 1230.

SEC. 725. DEGREE OF CARE REQUIRED OF DEPOSITARY FOR HIRE.—A depositary for hire must use at least ordinary care for the preservation of the thing deposited.

Degree of care, depositary for hire.

CROSS REFERENCES

Care required of a hirer, see section 827.

Post, p. 1245.

Common carriers, see sections 891, 897, and 975.

Post, pp. 1253, 1257.

Liability of warehousemen, see sections 901 and 902.

Post, p. 1254.

SEC. 726. RATE OF COMPENSATION FOR FRACTION OF WEEK, ETC.—In the absence of a different agreement or usage, a depositary for hire is entitled to one week's hire for the sustenance and shelter of living animals during any fraction of a week, and to half a month's hire for the storage of any other property during any fraction of a half-month.

Compensation for fraction of week, etc.

SEC. 727. TERMINATION OF DEPOSIT.—In the absence of an agreement as to the length of time during which a deposit is to continue, it may be terminated by the depositor at any time, and by the depositary upon reasonable notice.

Termination of deposit.

SEC. 728. SAME.—Notwithstanding an agreement respecting the length of time during which a deposit is to continue, it may be terminated by the depositor on paying all that would become due to the depositary in case of the deposit so continuing.

¹ So in original.

Lien for storage charges, etc.

SEC. 729. LIEN FOR STORAGE CHARGES, ADVANCES, INSURANCE, AND EXPENSES.—A depositary for hire has a lien for storage charges and for advances and insurance incurred at the request of the depositor, and for money necessarily expended in and about the care, preservation, and keeping of the property stored, and he also has a lien for money advanced at the request of the depositor, to discharge a prior lien, and for the expenses of a sale where default has been made in satisfying a valid lien. The rights of the depositary for hire to such lien are regulated by chapters 62 et seq. of this code, on liens: *Provided, however,* That such lien may be enforced in the manner provided by sections 759, 761, and 762 of this code, relating to warehousemen.

Post, p. 1296.

Proviso.
Enforcement.
Post, p. 1235.

Storage property to be sold.

SEC. 730. STORAGE PROPERTY TO BE SOLD.—If from any cause other than want of ordinary care and diligence on his part, a depositary for hire is unable to deliver perishable property, baggage, or luggage received by him for storage, or to collect his charges for storage due thereon, he may cause such property to be sold to satisfy his lien for storage in accordance with the provisions of sections 759 to 762 of this code relating to warehousemen.

Post, p. 1235.

CROSS REFERENCES

Post, p. 1305.

Sale by pledgee, see sections 1331 et seq.

Post, p. 1299.

Sale extinguishes lien, see section 1330.

Ante, p. 1228.

Sale of perishables, see section 716.

Post, p. 1307.

Sale of personalty to enforce, see section 1395.

Warehousemen, see sections 731 et seq.

Warehousemen.

WAREHOUSEMEN

CROSS REFERENCE

Ante, p. 1221.

Nothing in Sales Act to be construed to repeal or limit this subchapter, see section 673.

Persons who may issue receipts.

SEC. 731. PERSONS WHO MAY ISSUE RECEIPTS.—Warehouse receipts may be issued by any warehouseman.

Form of.

SEC. 732. FORM OF RECEIPTS.—Warehouse receipts need not be in any particular form, but every such receipt must embody within its written or printed terms:

(a) The location of the warehouse where the goods are stored;

(b) The date of issue of the receipt;

(c) The consecutive number of the receipt;

(d) A statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or his order;

(e) The rate of storage charges;

(f) A description of the goods or of the packages containing them;

(g) The signature of the warehouseman, which may be made by his authorized agent;

(h) If the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; and

(i) A statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien. If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient.

A warehouseman shall be liable to any person injured thereby, for all damage caused by the omission from a negotiable receipt of any of the foregoing terms.

A warehouseman may insert in a receipt, issued by him, any other terms and conditions, provided that such terms and conditions shall not:

- (a) Be contrary to the provisions of this subchapter.
- (b) In anywise impair his obligation to exercise that degree of care in the safe-keeping of the goods intrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

SEC. 733. **NEGOTIABLE AND NONNEGOTIABLE RECEIPTS.**—A receipt in which it is stated that the goods received will be delivered to the depositor, or to any other specified person, is a nonnegotiable receipt. Negotiable and non-negotiable receipts.

A receipt in which it is stated that the goods received will be delivered to the bearer or to the order of any person named in such receipt is a negotiable receipt. No provision shall be inserted in a negotiable receipt that it is nonnegotiable. Such provision, if inserted, shall be void.

SEC. 734. **DUPLICATE RECEIPTS MUST BE SO MARKED.**—When more than one negotiable receipt is issued for the same goods, the word "duplicate" shall be plainly placed upon the face of every such receipt, except the one first issued. A warehouseman shall be liable for all damage caused by his failure so to do to any one who purchased the subsequent receipt for value supposing it to be an original, even though the purchase be after the delivery of the goods by the warehouseman to the holder of the original receipt. Duplicate receipts must be marked.

SEC. 735. **FAILURE TO MARK "NOT NEGOTIABLE."**—A nonnegotiable receipt shall have plainly placed upon its face by the warehouseman issuing it "nonnegotiable" or "not negotiable." In case of the warehouseman's failure so to do, a holder of the receipt who purchased it for value supposing it to be negotiable may, at his option, treat such receipt as imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable. This section shall not apply, however, to letters, memoranda, or written acknowledgments of an informal character. Failure to mark "not negotiable."

SEC. 736. **OBLIGATION OF WAREHOUSEMAN TO DELIVER.**—A warehouseman, in the absence of some lawful excuse provided by this subchapter, is bound to deliver the goods upon a demand made either by the holder of a receipt for the goods or by the depositor, if such demand is accompanied with: Obligation to deliver.

- (a) An offer to satisfy the warehouseman's lien;
- (b) An offer to surrender the receipt if negotiable, with such indorsement as would be necessary for the negotiation of the receipt; and
- (c) A readiness and willingness to sign, when the goods are delivered, and acknowledgment that they have been delivered, if such signature is requested by the warehouseman.

In case the warehouseman refuses or fails to deliver the goods in compliance with a demand by the holder or depositor so accompanied, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for such refusal.

SEC. 737. **JUSTIFICATION OF WAREHOUSEMAN IN DELIVERING.**—A warehouseman is justified in delivering the goods, subject to the provisions of sections 738 to 740, to one who is: When delivery justified.

- (a) The person lawfully entitled to the possession of the goods, or his agent;
 - (b) A person who is either himself entitled to delivery by the terms of a nonnegotiable receipt issued for the goods, or who has
- Post, p. 1232.

written authority from the person so entitled either indorsed upon the receipt or written upon another paper; or

(c) A person in possession of a negotiable receipt by the terms of which the goods are delivered to him or order or to bearer, or which has been indorsed to him or in blank by the person to whom delivery was promised by the terms of the receipt or by his mediate or immediate indorsee.

Liability for mis-delivery.

SEC. 738. WAREHOUSEMAN'S LIABILITY FOR MISDELIVERY.—Where a warehouseman delivers the goods to one who is not in fact lawfully entitled to the possession of them, the warehouseman shall be liable as for conversion to all having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of section 737 and though he delivered the goods as authorized by said subdivisions he shall be so liable, if prior to such delivery he had either—

(a) Been requested, by or on behalf of the person lawfully entitled to a right of property or possession in the goods, not to make such delivery; or

(b) Had information that the delivery about to be made was to one not lawfully entitled to the possession of the goods.

Cancellation of negotiable receipts.

Post, p. 1236.

SEC. 739. NEGOTIABLE RECEIPTS MUST BE CANCELED OR MARKED WHEN GOODS OR PART THEREOF ARE DELIVERED.—Except as provided in section 762, where a warehouseman delivers goods for which he had issued a negotiable receipt, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the receipt, he shall be liable to anyone who purchases for value in good faith such receipt, for failure to deliver the goods to him, whether such purchaser acquired title to the receipt before or after the delivery of the goods by the warehouseman.

Except as provided in said section 762, where a warehouseman delivers part of the goods for which he had issued a negotiable receipt and fails either to take up and cancel such receipt, or to place plainly upon it a statement of what goods or packages have been delivered he shall be liable, to anyone who purchases for value in good faith such receipt, for failure to deliver all the goods specified in the receipt, whether such purchaser acquired title to the receipt before or after the delivery of any portion of the goods by the warehouseman.

Altered receipts.

SEC. 740. ALTERED RECEIPTS.—The alteration of a receipt shall not excuse the warehouseman who issued it from any liability if such alteration was

(a) Immaterial;

(b) Authorized; or

(c) Made without fraudulent intent.

Liability thereon.

If the alteration was authorized, the warehouseman shall be liable according to the terms of the receipt as altered. If the alteration was unauthorized, but made without fraudulent intent, the warehouseman shall be liable according to the terms of the receipt, as they were before alteration. Material and fraudulent alteration of a receipt shall not excuse the warehouseman who issued it from liability to deliver, according to the terms of the receipt as originally issued, the goods for which it was issued, but shall excuse him from any other liability to the person who made the alteration and to any person who took with notice of the alteration. Any purchaser of the receipt for value without notice of the alteration shall acquire the same rights against the warehouseman which such purchaser would have acquired if the receipt had not been altered at the time of the purchase.

SEC. 741. LOST OR DESTROYED RECEIPTS.—Where a negotiable receipt has been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient sureties to be approved by the court to protect the warehouseman from any liability or expense, which he or any person injured by such delivery may incur by reason of the original receipt remaining outstanding. The court may also in its discretion order the payment of the warehouseman's reasonable costs and counsel fees. The delivery of the goods under an order of the court as provided in this section shall not relieve the warehouseman from liability to a person to whom the negotiable receipt has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

Lost and destroyed receipts.

SEC. 742. EFFECT OF DUPLICATE RECEIPTS.—A receipt upon the face of which the word "duplicate" is plainly placed is a representation and warranty by the warehouseman that such receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon him no other liability.

Effect of duplicate receipts.

SEC. 743. WAREHOUSEMAN CAN NOT SET UP TITLE IN HIMSELF.—No title or right to the possession of the goods, on the part of the warehouseman, unless such title or right is derived directly or indirectly from a transfer made by the depositor at the time of or subsequent to the deposit for storage, or from the warehouseman's lien, shall excuse the warehouseman from liability for refusing to deliver the goods according to the terms of the receipt.

Warehouseman can not set up title in himself.

SEC. 744. INTERPLEADER OF ADVERSE CLAIMANTS.—If more than one person claim the title or possession of the goods, the warehouseman may, either as a defense to an action brought against him for non-delivery of the goods, or as an original suit, whichever is appropriate, require all known claimants to interplead.

Interpleader when adverse claimants.

SEC. 745. WAREHOUSEMAN HAS REASONABLE TIME TO DETERMINE VALIDITY OF CLAIMS.—If some one other than the depositor or person claiming under him has a claim to the title or possession of the goods, and the warehouseman has information of such claim, the warehouseman shall be excused from liability for refusing to deliver the goods, either to the depositor or person claiming under him or to the adverse claimant, until the warehouseman has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

Time to determine validity of claims.

SEC. 746. ADVERSE TITLE IS NO DEFENSE EXCEPT AS ABOVE PROVIDED.—Except as provided in sections 744 and 745 and in sections 737 and 762, no right or title of a third person shall be a defense to an action brought by the depositor or person claiming under him against the warehouseman for failure to deliver the goods according to the terms of the receipt.

Adverse title as defense.

Ante, p. 1231; post, p. 1236.

SEC. 747. LIABILITY FOR NONEXISTENCE OR MISDESCRIPTION OF GOODS.—A warehouseman shall be liable to the holder of a receipt, issued by him or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of warehouse receipts, for damages caused by the nonexistence of the goods or by the failure of the goods to correspond with the description thereof in the receipt at the time of its issue. If, however, the goods are described in a receipt merely by a statement of marks or labels upon them, or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind, or that the packages containing the goods are said to contain goods of a certain kind, or by words of like purport, such statements, if true, shall not make liable the warehouseman issuing the receipt, although the goods are

Liability for nonexistence or misdescription of goods.

not of the kind which the marks or labels upon them indicate, or of the kind they were said to be by the depositor.

For care of goods.

SEC. 748. LIABILITY FOR CARE OF GOODS.—A warehouseman shall be liable for any loss or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful owner of similar goods would exercise, but he shall not be liable, in the absence of an agreement to the contrary, for any loss or injury to the goods which could not have been avoided by the exercise of such care.

Goods must be kept separate.

SEC. 749. GOODS MUST BE KEPT SEPARATE.—Except as provided in section 750, a warehouseman shall keep the goods so far separate from goods of other depositors, and from other goods of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the goods deposited.

Commingled goods.

SEC. 750. COMMINGLED GOODS AND WAREHOUSEMAN'S LIABILITY THEREFOR.—If authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade. In such case the various depositors of the mingled goods shall own the entire mass in common, and each depositor shall be entitled to such portion thereof as the amount deposited by him bears to the whole.

Liability.

The warehouseman shall be severally liable to each depositor for the care and redelivery of his share of such mass to the same extent and under the same circumstances as if the goods had been kept separate.

Attachment or levy upon goods for which a negotiable receipt has been issued.

SEC. 751. ATTACHMENT OR LEVY UPON GOODS FOR WHICH A NEGOTIABLE RECEIPT HAS BEEN ISSUED.—If goods are delivered to a warehouseman by the owner or by a person whose act in conveying the title to them to a purchaser¹ in good faith for value would bind the owner, and a negotiable receipt is issued for them, they can not thereafter, while in the possession of the warehouseman, be attached by garnishment or otherwise, or be levied upon under an execution, unless the receipt be first surrendered to the warehouseman, or its negotiation enjoined. The warehouseman shall in no case be compelled to deliver up the actual possession of the goods until the receipt is surrendered to him or impounded by the court.

Creditors remedies, negotiable receipts.

SEC. 752.—CREDITORS REMEDIES TO REACH NEGOTIABLE RECEIPTS.—A creditor whose debtor is the owner of a negotiable receipt shall be entitled to such aid from courts of appropriate jurisdiction, by injunction and otherwise, in attaching such receipt or in satisfying the claim by means thereof as is allowed at law or in equity, in regard to property which can not readily be attached or levied upon by ordinary legal process.

Claims included in warehouseman's lien.
Post, p. 1235.

SEC. 753. WHAT CLAIMS ARE INCLUDED IN THE WAREHOUSEMAN'S LIEN.—Subject to the provisions of section 756, a warehouseman shall have a lien on goods deposited or on the proceeds thereof in his hands, for all lawful charges for storage and preservation of the goods; also for all lawful claims for money advanced, interest, insurance, transportation, labor, weighing, cooping and other charges and expenses in relation to such goods; also for all reasonable charges and expenses for notice, and advertisements of sale, and for sale of the goods where default has been made in satisfying the warehouseman's lien.

Against what property lien may be enforced.

SEC. 754. AGAINST WHAT PROPERTY THE LIEN MAY BE ENFORCED.—Subject to the provisions of section 756, a warehouseman's lien may be enforced:

¹ So in original.

(a) Against all goods, whenever deposited, belonging to the person who is liable as debtor for the claims in regard to which the lien is asserted; and

(b) Against all goods belonging to others which have been deposited at any time by the person who is liable as debtor for the claims in regard to which the lien is asserted, if such person had been so intrusted with the possession of the goods that a pledge of the same by him at the time of the deposit to one who took the goods in good faith for value would have been valid.

SEC. 755. HOW THE LIEN MAY BE LOST.—A warehouseman loses his lien upon goods:

Loss of lien.

(a) By surrendering possession thereof; or

(b) By refusing to deliver the goods when a demand is made with which he is bound to comply under the provisions of this subchapter.

SEC. 756. NEGOTIABLE RECEIPT MUST STATE CHARGES FOR WHICH LIEN IS CLAIMED.—If a negotiable receipt is issued for goods, the warehouseman shall have no lien thereon, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. In such case there shall be a lien for the charges enumerated so far as they are within the terms of section 753, although the amount of the charges so enumerated is not stated in the receipt.

Negotiable receipt must state charges for which lien is claimed.

Anie, p. 1234.

SEC. 757. WAREHOUSEMAN NEED NOT DELIVER UNTIL LIEN IS SATISFIED.—A warehouseman having a lien valid against the person demanding the goods may refuse to deliver the goods to him until the lien is satisfied.

Delivery not required until lien satisfied.

SEC. 758. WAREHOUSEMAN'S LIEN DOES NOT PRECLUDE OTHER REMEDIES.—Whether a warehouseman has or has not a lien upon the goods, he is entitled to all remedies allowed by law to a creditor against his debtor for the collection from the depositor of all charges and advances which the depositor has expressly or impliedly contracted with the warehouseman to pay.

Lien does not preclude other remedies.

SEC. 759. SATISFACTION OF LIEN BY SALE.—A warehouseman's lien for a claim which has become due may be satisfied as follows: The warehouseman shall give a written notice to the person on whose account the goods are held, and to any other person known by the warehouseman to claim an interest in the goods. Such notice shall be given by delivery in person or by registered letter addressed to the last known place of business or abode of the person to be notified. The notice shall contain:

Satisfaction of lien by sale.

Notice to interested parties.

Contents.

(a) An itemized statement of the warehouseman's claim, showing the sum due at the time of the notice and the date or dates when it became due;

(b) A brief description of the goods against which the lien exists;

(c) A demand that the amount of the claim as stated in the notice, and of such further claim as shall accrue, shall be paid on or before a day mentioned, not less than ten days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination, according to the due course of post, if the notice is sent by mail; and

(d) A statement that unless the claim is paid within the time specified the goods will be advertised for sale and sold by auction at a specified time and place.

At auction.

In accordance with the terms of a notice so given, a sale of the goods by auction may be had to satisfy any valid claim of the warehouseman for which he has a lien on the goods. The sale shall be had in the place where the lien was acquired, or, if such a place is manifestly unsuitable for the purpose, at the nearest suitable place.

Notice of auction.

After the time for the payment of the claim specified in the notice to the depositor has elapsed, a notice of the sale, describing the goods to be sold, and stating the name of the owner or person on whose account the goods are held, and the time and place of the sale, shall be posted for two consecutive weeks on the bulletin board of each post office of the Canal Zone. The sale shall not be held less than fifteen days from the time when such notices were posted. From the proceeds of such sale the warehouseman shall satisfy his lien, including the reasonable charges of notice and sale. The balance, if any, of such proceeds shall be held by the warehouseman, and delivered on demand to the person to whom he would have been bound to deliver or justified in delivering the goods: *Provided, however,* That in case any such balance shall not be claimed by the rightful owner within one month from the day of said sale, the same shall be paid to the collector of the Panama Canal; and if the same be not claimed by the owner thereof or his legal representatives within one year thereafter, the same shall be covered into the Treasury of the United States as miscellaneous receipts. At any time before the goods are so sold any person claiming a right of property or possession therein may pay the warehouseman the amount necessary to satisfy his lien and to pay the reasonable expenses and liabilities incurred in serving and posting notices and preparing for the sale up to the time of such payment. The warehouseman shall deliver the goods to the person making such payment if he is a person entitled, under the provisions of this subchapter, to the possession of the goods on payment of the charges thereon. Otherwise the warehouseman shall retain possession of the goods according to the terms of the original contract of deposit.

Proviso.
Disposition of un-
claimed balance.

Perishable and haz-
ardous goods.

SEC. 760. PERISHABLE AND HAZARDOUS GOODS.—If goods are of a perishable nature, or by keeping will deteriorate greatly in value, or by their odor, leakage, inflammability, or explosive nature will be liable to injure other property, the warehouseman may give such notice to the owner, or to the person in whose name the goods are stored, as is reasonable and possible under the circumstances, to satisfy the lien upon such goods and to remove them from the warehouse, and in the event of the failure of such person to satisfy the lien and to remove the goods within the time so specified, the warehouseman may sell the goods at public or private sale without posting notices. If the warehouseman after a reasonable effort is unable to sell such goods, he may dispose of them in any lawful manner, and shall incur no liability by reason thereof. The proceeds of any sale made under the terms of this section shall be disposed of in the same way as the proceeds of sales made under the terms of section 759.

Other methods of en-
forcing liens.

SEC. 761. OTHER METHODS OF ENFORCING LIENS.—The remedy for enforcing a lien herein provided does not preclude any other remedies allowed by law for the enforcement of a lien against personal property nor bar the right to recover so much of the warehouseman's claim as shall not be paid by the proceeds of the sale of the property.

Effect of sale.

SEC. 762. EFFECT OF SALE.—After goods have been lawfully sold to satisfy a warehouseman's lien, or have been lawfully sold or disposed of because of their perishable or hazardous nature, the warehouseman shall not thereafter be liable for failure to deliver the goods to the depositor, or owner of the goods, or to a holder of the receipt given for the goods when they were deposited, even if such receipt be negotiable.

Negotiation of re-
ceipts by delivery.

SEC. 763. NEGOTIATION OF NEGOTIABLE RECEIPTS BY DELIVERY AND BY INDORSEMENT.—A negotiable receipt may be negotiated by delivery:

(a) Where, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the bearer; or

(b) Where, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the receipt has indorsed it in blank or to bearer.

Where, by the terms of a negotiable receipt, the goods are deliverable to bearer or where a negotiable receipt has been indorsed in blank or to bearer, any holder may indorse the same to himself or to any other specified person, and in such case the receipt shall thereafter be negotiated only by the indorsement of such indorsee.

A negotiable receipt may be negotiated by the indorsement of the person to whose order the goods are, by the terms of the receipt, deliverable. Such indorsement may be in blank, to bearer or to a specified person. If indorsed to a specified person, it may be again negotiated by the indorsement of such person in blank, to bearer or to another specified person. Subsequent negotiation may be made in like manner.

By indorsement.

SEC. 764. TRANSFER OF RECEIPTS.—A receipt which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee. A nonnegotiable receipt can not be negotiated, and the indorsement of such a receipt gives the transferee no additional right.

Transfer of.

SEC. 765. WHO MAY NEGOTIATE A RECEIPT.—A negotiable receipt may be negotiated:

Who may negotiate.

By any person in possession of the same, however such possession may have been acquired, if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of such person or if at the time of negotiation the receipt is in such form that it may be negotiated by delivery.

SEC. 766. RIGHTS OF PERSON TO WHOM A RECEIPT HAS BEEN NEGOTIATED.—A person to whom a negotiable receipt has been duly negotiated acquires thereby:

Rights of person to whom negotiated.

(a) Such title to the goods as the person negotiating the receipt to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of the receipt had or had ability to convey to a purchaser in good faith for value; and

(b) The direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him.

To whom transferred.

SEC. 767. RIGHTS OF PERSON TO WHOM A RECEIPT HAS BEEN TRANSFERRED.—A person to whom a receipt has been transferred but not negotiated acquires thereby, as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor. If the receipt is nonnegotiable, such person also acquires the right to notify the warehouseman of the transfer to him of such receipt, and thereby to acquire the direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt. Prior to the notification of the warehouseman by the transferor or transferee of a nonnegotiable receipt, the title of the transferee to the goods and the right to acquire the obligation of the warehouseman may be defeated by the levy of an attachment or execution upon the goods by a creditor of the transferor, or by a notification to the warehouseman by the transferor, or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

Transfer without indorsement.

SEC. 768. TRANSFER OF NEGOTIABLE RECEIPT WITHOUT INDORSEMENT.—Where a negotiable receipt is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the receipt, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made.

Warranties of transferor, etc.

SEC. 769. WARRANTIES ON SALE OF RECEIPT.—A person who for value negotiates or transfers a receipt by indorsement or delivery, including one who assigns for value a claim secured by a receipt, unless a contrary intention appears, warrants:

(a) That the receipt is genuine;

(b) That he has a legal right to negotiate or transfer it;

(c) That he has knowledge of no fact which would impair the validity or worth of the receipt; and

(d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby.

Indorser not a guarantor.

SEC. 770. INDORSER NOT A GUARANTOR.—The indorsement of a receipt shall not make the indorser liable for any failure on the part of the warehouseman or previous indorsers of the receipt to fulfill their respective obligations.

No warranty implied from accepting payment of a debt.

SEC. 771. NO WARRANTY IMPLIED FROM ACCEPTING PAYMENT OF A DEBT.—A mortgagee, pledgee, or holder for security of a receipt who in good faith demands or receives payment of the debt for which such receipt is security, whether from a party to a draft drawn for such debt or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such receipt or the quantity or quality of the goods therein described.

Effect of fraud, etc., on negotiation.

SEC. 772. WHEN NEGOTIATION NOT IMPAIRED BY FRAUD, MISTAKE, OR DURESS.—The validity of the negotiation of a receipt is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was deprived of the possession of the same by loss, theft, fraud, accident, mistake, duress, or conversion, if the person to whom the receipt was negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor, in good faith, without notice of the breach of duty, or loss, theft, fraud, accident, mistake, duress, or conversion.

Subsequent negotiations.

SEC. 773. SUBSEQUENT NEGOTIATION.—Where a person having sold, mortgaged, or pledged goods which are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged, or pledged the negotiable receipt representing such goods, continues in possession of the negotiable receipt, the subsequent negotiation thereof by that person under any sale, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, mortgage, or pledge, shall have the same effect as if the first purchaser of the goods or receipt had expressly authorized the subsequent negotiation.

Negotiation defeats vendor's lien.

SEC. 774. NEGOTIATION DEFEATS VENDOR'S LIEN.—Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such receipt has been negotiated, whether such negotiation be prior or subsequent to the notification to the warehouseman who issued such receipt of the seller's claim to a lien or right of stoppage in transitu. Nor shall the warehouseman be obliged to deliver or be justified in delivering the goods to

an unpaid seller unless the receipt is first surrendered for cancellation.

SEC. 775. **ISSUE OF RECEIPT FOR GOODS NOT RECEIVED.**—A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a receipt knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under his actual control at the time of issuing such receipt, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail not exceeding one year, or by a fine not exceeding \$1,000, or by both.

Issue of receipt for goods not received.

Penalties.

SEC. 776. **ISSUE OF RECEIPT CONTAINING FALSE STATEMENT.**—A warehouseman, or any officer, agent, or servant of a warehouseman, who fraudulently issues or aids in fraudulently issuing a receipt for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail not exceeding one year, or by a fine not exceeding \$1,000, or by both.

Issue of receipt containing false statement.

Duplicate receipts.

SEC. 777. **ISSUE OF DUPLICATE RECEIPTS NOT SO MARKED.**—A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "Duplicate," except in the case of a lost or destroyed receipt after proceedings as provided for in section 741, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail not exceeding one year, or by a fine not exceeding \$1,000, or by both.

Ante, p. 1233.

SEC. 778. **ISSUE FOR WAREHOUSEMAN'S GOODS OF RECEIPTS WHICH DO NOT STATE THAT FACT.**—Where there are deposited with or held by a warehouseman goods of which he is owner, either solely or jointly or in common with others, such warehouseman, or any of his officers, agents, or servants who, knowing this ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail not exceeding one year, or by a fine not exceeding \$1,000, or by both.

When warehouseman has a title therein.

SEC. 779. **DELIVERY OF GOODS WITHOUT OBTAINING NEGOTIABLE RECEIPT.**—A warehouseman, or any officer, agent, or servant of a warehouseman who delivers goods out of the possession of such warehouseman, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except in the cases provided for in sections 741 and 762, be found guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail not exceeding one year, or by a fine not exceeding \$1,000, or by both.

Delivery without obtaining negotiable receipt.

Ante, pp. 1233, 1236.

SEC. 780. **NEGOTIATION OF RECEIPT FOR MORTGAGED GOODS.**—Any person who deposits goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment in jail not exceeding one year, or by a fine not exceeding \$1,000, or by both.

Negotiation of receipt for mortgaged goods.

SEC. 781. **WHEN RULES OF COMMON LAW STILL APPLICABLE.**—In any case not provided for in this subchapter, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrep-

Rules of common law applicable.

sentation, duress, or coercion, mistake, or other invalidating cause, shall govern.

Definitions.

SEC. 783. DEFINITIONS.—(1) In this subchapter, unless the context or subject matter otherwise requires:

“Action” includes counterclaim, set-off, and suit in equity.

“Delivery” means voluntary transfer of possession from one person to another.

“Fungible goods” means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit.

“Goods” means chattels or merchandise in storage, or which has been or is about to be stored.

“Holder” of a receipt means a person who has both actual possession of such receipt and a right of property therein.

“Order” means an order by indorsement on the receipt.

“Owner” does not include mortgagee or pledgee.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee or as pledgee.

“Purchaser” includes mortgagee and pledgee.

“Receipt” means a warehouse receipt.

“Value” is any consideration sufficient to support a simple contract. An antecedent or preexisting obligation, whether for money or not, constitutes value where a receipt is taken either in satisfaction thereof or as security therefor.

“Warehouseman” means a person lawfully engaged in the business of storing goods for profit.

(2) A thing is done “in good faith” within the meaning of this subchapter, when it is in fact done honestly, whether it be done negligently or not.

Provisions not retroactive.

SEC. 784. APPLICATION TO EXISTING RECEIPTS.—The provisions of this subchapter do not apply to receipts made and delivered prior to the taking effect of this subchapter.

Innkeepers.

INNKEEPERS

Lien on baggage of guests.

SEC. 785. HOTELS HAVE LIEN ON BAGGAGE OF GUESTS; MAY SELL BAGGAGE; RESIDUE; BAGGAGE NOT BELONGING TO GUEST.—Hotel, inn, boarding-house, and lodging-house keepers shall have a lien upon the baggage and other property belonging to or legally under the control of their guests, or boarders, or lodgers which may be in such hotel, inn, or boarding or lodging house for the proper charges due from such guests, or boarders, or lodgers, for their accommodation, board and lodging, and room rent, and such extras as are furnished at their request, and for all money paid for or advanced to such guests, or boarders or lodgers, and for the costs of enforcing such lien, with the right to the possession of such baggage and other property until such charges and moneys are paid.

Sale under.

And unless such charges and moneys shall be paid when the same become due, said hotel, inn, boarding-house, or lodging-house keeper may sell said baggage and property under the conditions prescribed in sections 759 to 762 of this code relating to warehousemen.

Ante, p. 1235.

Sale of unclaimed baggage; notice.

SEC. 786. UNCLAIMED BAGGAGE MAY BE SOLD AT AUCTION; NOTICE.—Whenever any trunk, carpetbag, valise, box, bundle, or other baggage has heretofore come, or shall hereafter come into the possession of the keeper of any hotel, inn, boarding or lodging house, and has remained or shall remain unclaimed for a period of three months, such keeper shall proceed to sell the same under the conditions prescribed in sections 759 to 762 of this code relating to warehousemen.

Ante, p. 1235.

FINDING

Finding.

SEC. 787. OBLIGATION OF FINDER.—One who finds a thing lost is not bound to take charge of it, but if he does so he is thenceforward a depositary for the owner, with the rights and obligations of a depositary for hire.

Finder as bailee.

CROSS REFERENCE

Depositary for hire, see sections 725 et seq.

Artc., p. 1229.

SEC. 788. FINDER OF GOODS OR MONEY, OR SAVING ANIMALS, DUTY OF.—If the finder of a thing, other than a domestic animal, takes possession thereof, or if a person saves any such animal from drowning or starvation, he must, within a reasonable time, inform the owner thereof, if known, and make restitution to him upon demand, without compensation, except a reasonable charge for saving and caring therefor.

Notice to owner.

If the owner is not known to such finder or saver, he must, within five days, file an affidavit with the magistrate of the subdivision in which the finding or saving took place, particularly describing the property and the time, place, and circumstances under which it was found or saved.

When owner unknown.

SEC. 789. CLAIMANT TO PROVE OWNERSHIP.—The finder of a thing may, in good faith, before giving it up, require reasonable proof of ownership from any person claiming it.

Claimant to prove ownership.

SEC. 790. REWARD, AND SO FORTH, TO FINDER.—The finder of a thing is entitled to compensation for all expenses necessarily incurred by him in its preservation, and for any other service necessarily performed by him about it, and to a reasonable reward for keeping it.

Rewards, etc.

SEC. 791. FINDER MAY PUT THING FOUND ON STORAGE.—The finder of a thing may exonerate himself from liability at any time by placing it on storage with any responsible person of good character, at a reasonable expense.

Storage.

SEC. 792. WHEN FINDER MAY SELL THE THING FOUND.—The finder of a thing may sell it, if it is a thing which is commonly the subject of sale, when the owner can not, with reasonable diligence, be found, or, being found, refuses upon demand to pay the lawful charges of the finder, in the following cases:

Sale.

1. When the thing is in danger of perishing or of losing the greater part of its value; or
2. When the lawful charges of the finder amount to two-thirds of its value.

SEC. 793. HOW SALE IS TO BE MADE.—A sale under the provisions of section 792 must be made in the same manner as the sale of a thing pledged.

How made.

CROSS REFERENCE

Sale of pledge, see sections 1381 et seq.

Post., p. 1306.

SEC. 794. PROPERTY VESTS IN FINDER, WHEN; LIABILITY OF FINDER TO OWNER.—If no owner appears within six months after such finding or saving and offers reasonable proof of his ownership, and compensates, or in good faith offers to compensate, the finder or saver for the expense necessarily incurred by him, then such property vests in such finder or saver.

Vesting of title in finder.

SEC. 795. THING ABANDONED.—The provisions of this subchapter have no application to things which have been intentionally abandoned by their owners.

Thing abandoned.

DEPOSIT FOR EXCHANGE.

CHAPTER 38.—DEPOSIT FOR EXCHANGE

Relations of the parties.

SEC. 796. RELATIONS OF THE PARTIES.—A deposit for exchange transfers to the depositary the title to the thing deposited, and creates between him and the depositor the relation of debtor and creditor merely.

CROSS REFERENCES

Ante, p. 1226.
Post, p. 1243.

Deposit for exchange, defined, see section 704.
Loan for exchange, see sections 810 et seq.

LOAN.

CHAPTER 39.—LOAN

For use.

LOAN FOR USE

Definition.

SEC. 797. LOAN, WHAT.—A loan for use is a contract by which one gives to another the temporary possession and use of personal property, and the latter agrees to return the same thing to him at a future time, without reward for its use.

Title to property lent.

SEC. 798. TITLE TO PROPERTY LENT.—A loan for use does not transfer the title to the thing; and all its increase during the period of the loan belongs to the lender.

CROSS REFERENCE

Post, p. 1243.

Title to thing lent on loan for exchange, see section 812.

Care required of borrower.

SEC. 799. CARE REQUIRED OF BORROWER.—A borrower for use must use great care for the preservation in safety and in good condition of the thing lent.

Living animals.

SEC. 800. SAME.—One who borrows a living animal for use, must treat it with great kindness and provide everything necessary and suitable for it.

CROSS REFERENCE

Ante, p. 1228.

Depositary of living animals for keeping, see section 713.

Degree of skill.

SEC. 801. DEGREE OF SKILL.—A borrower for use is bound to have and to exercise such skill in the care of the thing lent as he causes the lender to believe him to possess.

Repair of injuries.

SEC. 802. BORROWER, WHEN TO REPAIR INJURIES.—A borrower for use must repair all deteriorations or injuries to the thing lent which are occasioned by his negligence, however slight.

Use of thing lent.

SEC. 803. USE OF THING LENT.—The borrower of a thing for use may use it for such purposes only as the lender might reasonably anticipate at the time of lending.

CROSS REFERENCE

Relending forbidden, see section 804.

Relending.

SEC. 804. RELENDING FORBIDDEN.—The borrower of a thing for use must not part with it to a third person, without the consent of the lender.

Expenses of.

SEC. 805. BORROWER, WHEN TO BEAR EXPENSES.—The borrower of a thing for use must bear all its expenses during the loan, except such as are necessarily incurred by him to preserve it from unexpected and unusual injury. For such expenses he is entitled to compensation from the lender, who may, however, exonerate himself by surrendering the thing to the borrower.

CROSS REFERENCE

Post, p. 1243.

Liability for expenses, see section 812.

SEC. 806. LENDER LIABLE FOR DEFECTS.—The lender of a thing for use must indemnify the borrower for damage caused by defects or vices in it, which he knew at the time of lending, and concealed from the borrower.

Liability for defects.

CROSS REFERENCES

Indemnity to depositary, see section 712.

Ante, p. 1228.

Loan for exchange, see sections 810 and 814.

SEC. 807. LENDER MAY REQUIRE RETURN OF THING LENT.—The lender of a thing for use may at any time require its return, even though he lent it for a specified time or purpose. But if, on the faith of such an agreement, the borrower has made such arrangements that a return of the thing before the period agreed upon would cause him loss, exceeding the benefit derived by him from the loan, the lender must indemnify him for such loss, if he compels such return, the borrower not having in any manner violated his duty.

Lender may require return.

SEC. 808.—WHEN RETURNABLE WITHOUT DEMAND.—If a thing is lent for use for a specified time or purpose, it must be returned to the lender without demand, as soon as the time has expired, or the purpose has been accomplished. In other cases it need not be returned until demanded.

When returnable without demand.

SEC. 809. PLACE OF RETURN.—The borrower of a thing for use must return it to the lender, at the place contemplated by the parties at the time of lending; or if no particular place was so contemplated by them, then at the place where it was at the time.

Place of return.

LOAN FOR EXCHANGE

Loan for exchange.

SEC. 810. LOAN FOR EXCHANGE, WHAT.—A loan for exchange is a contract by which one delivers personal property to another, and the latter agrees to return to the lender a similar thing at a future time, without reward for its use.

Definition.

CROSS REFERENCE

Loan of money as a loan for exchange, see section 815.

Post, p. 1244.

SEC. 811. SAME.—A loan, which the borrower is allowed by the lender to treat as a loan for use, or for exchange, at his option, is subject to all the provisions of this subchapter.

Title to property lent.

SEC. 812. TITLE TO PROPERTY LENT.—By a loan for exchange the title to the thing lent is transferred to the borrower, and he must bear all its expenses, and is entitled to all its increase.

CROSS REFERENCES

Liability for expenses, see section 805.

Ante, p. 1242.

Title to property lent, see section 798.

Ante, p. 1242.

SEC. 813. CONTRACT CAN NOT BE MODIFIED BY LENDER.—A lender for exchange can not require the borrower to fulfill his obligations at a time, or in a manner, different from that which was originally agreed upon.

Modification of contract.

SEC. 814. CERTAIN SECTIONS APPLICABLE.—Sections 806, 808, and 809 apply to a loan for exchange.

Defects, return, etc.

Loan of money.

LOAN OF MONEY

Definition.

SEC. 815. **LOAN OF MONEY, DEFINED.**—A loan of money is a contract by which one delivers a sum of money to another, and the latter agrees to return at a future time a sum equivalent to that which he borrowed. A loan for mere use is governed by the subchapter on loan for use.

CROSS REFERENCE

Interest, see sections 817 et seq.

Repayment in current money.

SEC. 816. **LOAN TO BE REPAID IN CURRENT MONEY.**—A borrower of money, unless there is an express contract to the contrary, must pay the amount due in such money as is current at the time when the loan becomes due, whether such money is worth more or less than the actual money lent.

Presumption of interest.

SEC. 817. **LOAN PRESUMED TO BE ON INTEREST.**—Whenever a loan of money is made, it is presumed to be made upon interest, unless it is otherwise expressly stipulated at the time in writing.

CROSS REFERENCE

Ante, p. 1188.

Tender of performance stops interest, see section 472.

"Interest."

SEC. 818. **INTEREST, WHAT.**—Interest is the compensation allowed by law or fixed by the parties for the use, or forbearance, or detention of money.

CROSS REFERENCES

Post, p. 1331.

Interest as damages, see sections 1600 et seq.

Post, p. 1331.

Interest in actions ex delicto, see section 1601.

Ante, p. 1177.

Legacies, interests on, see section 394.

Post, pp. 1260, 1262.

Liability of trustee for interest, see sections 1005 and 1019.

Post, p. 1276.

Special partner may receive interest, see section 1136.

Annual rate.

SEC. 819. **ANNUAL RATE.**—When a rate of interest is prescribed by law or contract, without specifying the period of time by which such rate is to be calculated, it is to be deemed an annual rate.

CROSS REFERENCES

Post, p. 1331.

Interest as damages, see section 1600 et seq.

Post, p. 1331.

Rate of interest after breach of contract, see section 1602.

Legal interest.

SEC. 820. **LEGAL INTEREST.**—No rate of interest shall be allowed in excess of 6 per centum per annum upon any contract for the use or detention of money, unless the same is in writing and the interest agreed upon must not exceed 12 per centum per annum. (E. O. Nov. 11, 1913, § 1.)

Executive Order No. 1860.

Usurious contracts, recovery on.

SEC. 821. **USURIOUS CONTRACTS; PRINCIPAL ONLY, RECOVERABLE.**—All contracts whatsoever which may in any way, directly or indirectly, violate section 820 by stipulating for a greater rate of interest than 12 per centum per annum, shall be void and of no effect for the amount or value of the interest only; but the principal sum of money or value of the contract may be received and recovered. (E. O. Nov. 11, 1913, § 2.)

Executive Order No. 1860.

Recovery of usurious interest.

SEC. 822. **RECOVERY OF USURIOUS INTEREST PAID.**—When the interest received or collected for the use or detention of money exceeds the rate of 12 per centum per annum, it shall be deemed to be usurious, and the person or persons paying the same, or their legal representatives, may recover from the person, firm, or corporation receiving such interest, the amount of the interest so received or collected, in

any court of competent jurisdiction, within two years from the date of the payment of such interest. (E. O. Nov. 11, 1913, § 3.)

SEC. 823. EVIDENCE OF USURY.—No evidence of usury shall be received on the trial of any case unless the same shall be pleaded and verified by the affidavit of the party wishing to avail himself of such defense.

Executive Order No. 1860.
Evidence of usury.

CHAPTER 40.—HIRING

HIRING.

SEC. 824. HIRING, WHAT.—Hiring is a contract by which one gives to another the temporary possession and use of property, other than money, for reward, and the latter agrees to return the same to the former at a future time.

Definition.

CROSS REFERENCE

Hiring personalty, see sections 835 et seq.

Post, p. 1246.

SEC. 825. PRODUCTS OF THING.—The products of a thing hired, during the hiring, belong to the hirer.

Products of thing hired.

SEC. 826. QUIET POSSESSION.—An agreement to let upon hire binds the letter to secure to the hirer the quiet possession of the thing hired during the term of the hiring, against all persons lawfully claiming the same.

Quiet possession.

CROSS REFERENCES

Duty of letter of personalty likewise, section 835.

Post, p. 1246.

Termination of hiring for want of quiet enjoyment, see section 831.

Post, p. 1246.

SEC. 827. DEGREE OF CARE, AND SO FORTH, ON PART OF HIRER.—The hirer of a thing must use ordinary care for its preservation in safety and in good condition.

Degree of care, etc.

CROSS REFERENCE

Care required of depository for hire, see section 725.

Ante, p. 1229.

SEC. 828. MUST REPAIR INJURIES, AND SO FORTH.—The hirer of a thing must repair all deteriorations or injuries thereto occasioned by his want of ordinary care.

Repair of injuries, etc.

CROSS REFERENCES

Duty of letter to repair, see section 835.

Post, p. 1246.

Hirer may make repairs and recover from letter when, see section 837.

Post, p. 1246.

Termination of hiring where hirer does not make repairs, see section 830.

SEC. 829. THING LET FOR A PARTICULAR PURPOSE.—When a thing is let for a particular purpose the hirer must not use it for any other purpose; and if he does, he is liable to the letter for all damages resulting from such use, or the letter may treat the contract as thereby rescinded.

Letting for particular purpose.

CROSS REFERENCE

Right to terminate hiring, see section 830.

SEC. 830. WHEN LETTER MAY TERMINATE THE HIRING.—The letter of a thing may terminate the hiring and reclaim the thing before the end of the term agreed upon:

Letter may terminate hiring.

1. When the hirer uses or permits a use of the thing hired in a manner contrary to the agreement of the parties; or,

2. When the hirer does not, within a reasonable time after request, make such repairs as he is bound to make.

CROSS REFERENCE

Termination of hiring, see section 829.

Hirer may terminate hiring.

SEC. 831. **HIRER MAY TERMINATE THE HIRING, WHEN.**—The hirer of a thing may terminate the hiring before the end of the term agreed upon:

1. When the letter does not, within a reasonable time after request, fulfill his obligations, if any, as to placing and securing the hirer in the quiet possession of the thing hired, or putting it into good condition, or repairing; or,

2. When the greater part of the thing hired, or that part which was and which the letter had at the time of the hiring reason to believe was the material inducement to the hirer to enter into the contract, perishes from any other cause than the want of ordinary care of the hirer.

CROSS REFERENCES

Repair of premises, see section 835.

Ante, p. 1245.

Right of hirer to quiet enjoyment, see section 826.

Hiring terminates.

SEC. 832. **WHEN HIRING TERMINATES.**—The hiring of a thing terminates:

1. At the end of the term agreed upon;

2. By the mutual consent of the parties;

3. By the hirer acquiring a title to the thing hired superior to that of the letter; or,

4. By the destruction of the thing hired.

Termination by death, etc.

SEC. 833. **WHEN TERMINATED BY DEATH, ETC., OF PARTY.**—If the hiring of a thing is terminable at the pleasure of one of the parties, it is terminated by notice to the other of his death or incapacity to contract. In other cases it is not terminated thereby.

Apportionment of hire.

SEC. 834. **APPORTIONMENT OF HIRE.**—When the hiring of a thing is terminated before the time originally agreed upon, the hirer must pay the due proportion of the hire for such use as he has actually made of the thing, unless such use is merely nominal and of no benefit to him.

CROSS REFERENCE

Ante, p. 1229.

For the compensation to which a depositary for hire is entitled upon a termination of the deposit, see sections 726 to 728.

Obligations of letter of personalty.

SEC. 835. **OBLIGATIONS OF LETTER OF PERSONAL PROPERTY.**—One who lets personal property must deliver it to the hirer, secure his quiet enjoyment thereof against all lawful claimants, put it into a condition fit for the purpose for which he lets it, and repair all deteriorations thereof not occasioned by the fault of the hirer and not the natural result of its use.

CROSS REFERENCES

Ante, p. 1245.

Quiet enjoyment, see sections 826 and 831.

Ante, p. 1245.

Repair of premises, see sections 828 and 831.

Ordinary expenses.

SEC. 836. **ORDINARY EXPENSES.**—A hirer of personal property must bear all such expenses concerning it as might naturally be foreseen to attend it during its use by him. All other expenses must be borne by the letter.

Extraordinary expenses.

SEC. 837. **EXTRAORDINARY EXPENSES.**—If a letter failed to fulfill his obligations, as prescribed by section 835, the hirer, after giving him notice to do so, if such notice can conveniently be given, may expend any reasonable amount necessary to make good the letter's default, and may recover such amount from him.

Return of thing hired.

SEC. 838. **RETURN OF THING HIRED.**—At the expiration of the term for which personal property is hired, the hirer must return it to the letter at the place contemplated by the parties at the time of

hiring; or, if no particular place was so contemplated by them, at the place at which it was at that time.

CHAPTER 41.—SERVICE WITH EMPLOYMENT

APPLICATION AND SCOPE OF CHAPTERS 41 TO 43 OF THIS CODE

SEC. 839. NO APPLICATION TO CANAL OR RAILROAD EMPLOYEES.—This chapter and chapters 42 and 43 of this code shall have no application to the United States Government, or the Panama Railroad Company, or to their employees as concerns such employment.

SERVICE WITH EMPLOYMENT.

Application, etc., of Chapters 41-43.

Canal and railroad employees excepted.

CROSS REFERENCE

In respect to injuries to employees of the Panama Canal or the Panama Railroad Company, see Act Sept. 7, 1916, c. 458, 39 Stat. 742, as amended; Act Apr. 22, 1908, c. 149, 35 Stat. 65, as amended; and Act Mar. 2, 1893, c. 186, 27 Stat. 531, as amended.

Vol. 39, p. 742.

Vol. 35, p. 65.

Vol. 27, p. 531.

SEC. 840. SCOPE OF CHAPTER.—The scope of this chapter is not confined to servants, but includes factors, brokers, carriers, agents, and all similar classes of persons.

Scope.

DEFINITION OF EMPLOYMENT

SEC. 841. EMPLOYMENT, WHAT.—The contract of employment is a contract by which one, who is called the employer, engages another, who is called the employee, to do something for the benefit of the employer or of a third person.

Employment.

Defined.

OBLIGATIONS OF EMPLOYER

SEC. 842. WHEN EMPLOYER MUST INDEMNIFY EMPLOYEE.—An employer must indemnify his employee, except as prescribed in section 843, for all that he necessarily expends or loses in direct consequence of the discharge of his duties as such, or of his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying such directions, believed them to be unlawful.

Obligations of employer.

When employer must indemnify employee.

SEC. 843. WHEN EMPLOYER NOT BOUND TO INDEMNIFY EMPLOYEE.—An employer is not bound to indemnify his employee for losses suffered by the latter in consequence of the ordinary risks of the business in which he is employed nor in consequence of the negligence of another person employed by the same employer in the same general business, unless the negligence causing the injury was committed in the performance of a duty the employer owes by law to the employee, or unless the employer has neglected to use ordinary care in the selection of the culpable employee; provided, nevertheless, that the employer shall be liable for such injury when the same results from the wrongful act, neglect, or default of any agent or officer of such employer, superior to the employee injured, or of a person employed by such employer having the right to control or direct the services of such employee injured, and also when such injury results from the wrongful act, neglect, or default of a coemployee engaged in another department of labor from that of the employee injured, or employed upon a machine or other appliance other than that upon which the employee injured is employed.

When not bound to indemnify employee.

Knowledge by an employee injured of the defective or unsafe character or condition of any machinery, ways, appliances or structures of such employer shall not be a bar to recovery for any injury or death caused thereby, unless it shall also appear that such employee

Knowledge of defective machinery, etc.

fully understood, comprehended and appreciated the dangers incident to the use of such defective machinery, ways, appliances or structures, and thereafter consented to use the same, or continued in the use thereof.

Contracts waiving benefits void.

Any contract or agreement, express or implied, made by any such employee to waive the benefits of this section, or any part thereof, shall be null and void, and this section shall not be construed to deprive any such employee or his personal representative of any right or remedy to which he is now entitled under the laws of the Canal Zone.

Contributory negligence.

The rules and principles of law as to contributory negligence which apply to other cases shall apply to cases arising under this section, except in so far as the same are herein modified or changed.

Employer to indemnify for own negligence.

SEC. 844. EMPLOYER TO INDEMNIFY FOR HIS OWN NEGLIGENCE.—An employer must in all cases indemnify his employee for losses caused by the former's want of ordinary care.

Obligations of employee.

OBLIGATIONS OF EMPLOYEE

Duties of gratuitous employee.

SEC. 845. DUTIES OF GRATUITOUS EMPLOYEE.—One who, without consideration, undertakes to do a service for another, is not bound to perform the same, but if he actually enters upon its performance, he must use at least slight care and diligence therein.

Upon own special request.

SEC. 846. SAME.—One who, by his own special request, induces another to intrust him with the performance of a service, must perform the same fully. In other cases, one who undertakes a gratuitous service may relinquish it at any time.

With written power of attorney.

SEC. 847. SAME.—A gratuitous employee, who accepts a written power of attorney, must act under it so long as it remains in force, or until he gives notice to his employer that he will not do so.

Employee for reward.

SEC. 848. DUTIES OF EMPLOYEE FOR REWARD.—One who, for a good consideration, agrees to serve another, must perform the service, and must use ordinary care and diligence therein, so long as he is thus employed.

Employee for his own benefit.

SEC. 849. DUTIES OF EMPLOYEE FOR HIS OWN BENEFIT.—One who is employed at his own request to do that which is more for his own advantage than for that of his employer, must use great care and diligence therein to protect the interest of the latter.

Obedience.

SEC. 850. EMPLOYEE MUST OBEY EMPLOYER.—An employee must substantially comply with all the directions of his employer concerning the service on which he is engaged, except where such obedience is impossible or unlawful, or would impose new and unreasonable burdens upon the employee.

Conformity to usage.

SEC. 851. EMPLOYEE TO CONFORM TO USAGE.—An employee must perform his service in conformity to the usage of the place of performance, unless otherwise directed by his employer, or, unless it is impracticable, or manifestly injurious to his employer to do so.

Degree of skill required.

SEC. 852. DEGREE OF SKILL REQUIRED.—An employee is bound to exercise a reasonable degree of skill, unless his employer has notice, before employing him, of his want of skill.

Must use what skill he has.

SEC. 853. MUST USE WHAT SKILL HE HAS.—An employee is always bound to use such skill as he possesses, so far as the same is required, for the service specified.

What belongs to employer.

SEC. 854. WHAT BELONGS TO EMPLOYER.—Everything which an employee acquires by virtue of his employment, except the compensation, if any, which is due to him from his employer, belongs to the latter, whether acquired lawfully or unlawfully, or during or after the expiration of the term of his employment.

SEC. 855. DUTY TO ACCOUNT.—An employee must, on demand, render to his employer just accounts of all his transactions in the course of his service, as often as may be reasonable, and must, without demand, give prompt notice to his employer of everything which he receives for his account. Duty to account.

SEC. 856. EMPLOYEE NOT BOUND TO DELIVER WITHOUT DEMAND.—An employee who receives anything on account of his employer, in any capacity other than that of a mere servant, is not bound to deliver it to him until demanded, and is not at liberty to send it to him from a distance, without demand, in any mode involving greater risk than its retention by the employee himself. Delivery without demand.

SEC. 857. PREFERENCE TO BE GIVEN TO EMPLOYERS.—An employee who has any business to transact on his own account, similar to that intrusted to him by his employer, must always give the latter the preference. Preference to be given to employers.

SEC. 858. RESPONSIBILITY FOR NEGLIGENCE.—An employee who is guilty of a culpable degree of negligence is liable to his employer for the damage thereby caused to the latter; and the employer is liable to him, if the service is not gratuitous, for the value of such services only as are properly rendered. Responsibility for negligence.

SEC. 859.—SURVIVING EMPLOYEE.—Where service is to be rendered by two or more persons jointly, and one of them dies, the survivor must act alone, if the service to be rendered is such as he can rightly perform without the aid of the deceased person, but not otherwise. Surviving employee.

SEC. 860. CONFIDENTIAL EMPLOYMENT.—The obligations peculiar to confidential employments are defined in chapters 49 and 50 of this code on trusts. Confidential employment.
Post, pp. 1258, 1261.

TERMINATION OF EMPLOYMENT

SEC. 861. EMPLOYMENT, HOW TERMINATED.—Every employment in which the power of the employee is not coupled with an interest in its subject is terminated by notice to him of: Termination of employment.
How.

1. The death of the employer; or
2. His legal incapacity to contract.

SEC. 862. SAME.—Every employment is terminated:

1. By the expiration of its appointed term;
2. By the extinction of its subject;
3. By the death of the employee; or
4. By his legal incapacity to act as such.

SEC. 863. CONTINUANCE OF SERVICE IN CERTAIN CASES.—An employee, unless the term of his service has expired, or unless he has a right to discontinue it at any time without notice, must continue his service after notice of the death or incapacity of his employer, so far as is necessary to protect from serious injury the interests of the employer's successor in interest, until a reasonable time after notice of the facts has been communicated to such successor. The successor must compensate the employee for such service according to the terms of the contract of employment. Continuance of service in certain cases.

SEC. 864. TERMS OF EMPLOYMENT.—An employment, having no specified terms, may be terminated at the will of either party, on notice to the other. Employment for a specified term shall mean an employment for a period greater than one month. Employment at will.
For specified term.

SEC. 865. TERMINATION BY EMPLOYER.—An employment, for a specified term, may be terminated at any time by the employer, in case of any willful breach of duty by the employee in the course of his employment, or in case of his habitual neglect of his duty or continued incapacity to perform it. Termination by employer.

By employee.

SEC. 866. **TERMINATION BY EMPLOYEE.**—An employment, for a specified term, may be terminated by the employee at any time, in case of any willful or permanent breach of the obligations of his employer to him as an employee.

Compensation on dismissal.

SEC. 867. **COMPENSATION DUE ON DISMISSAL.**—An employee who is not employed for a specified term, dismissed by his employer, is entitled to compensation for services rendered up to the time of such dismissal.

Compensation on quitting.

SEC. 868. **COMPENSATION DUE ON QUITTING.**—An employee who is not employed for a specified term and who quits the service of his employer, is entitled to compensation for services rendered up to the time of such quitting.

PARTICULAR EMPLOYMENTS.

CHAPTER 42.—PARTICULAR EMPLOYMENTS

CROSS REFERENCE

Ante, p. 1247.

This chapter not applicable to canal or railroad employees, see section 839.

Master and servant.

MASTER AND SERVANT

"Servant," defined.

SEC. 869. **SERVANT, WHAT.**—A servant is one who is employed to render personal service to his employer, otherwise than in the pursuit of an independent calling, and who in such service remains entirely under the control and direction of the latter, who is called his master.

CROSS REFERENCES

Ante, p. 1247.

Employer and employee, generally, see sections 841 et seq.

Ante, p. 1248.

Obligations of employee, see sections 845 et seq.

Ante, p. 1247.

Obligations of employer, see sections 842 et seq.

Term of hiring.

SEC. 870. **TERM OF HIRING.**—A servant is presumed to have been hired for such length of time as the parties adopt for the estimation of wages. A hiring at a yearly rate is presumed to be for one year; a hiring at a daily rate, for one day; a hiring by piecework, for no specified term.

SEC. 871. **SAME.**—In the absence of any agreement or custom as to the term of service, the time of payment, or rate or value of wages, a servant is presumed to be hired by the month, at a monthly rate of reasonable wages, to be paid when the service is performed.

Renewal of hiring.

SEC. 872. **RENEWAL OF HIRING.**—Where, after the expiration of an agreement respecting the wages and the term of service, the parties continue the relation of master and servant, they are presumed to have renewed the agreement for the same wages and term of service.

Servant's duty to pay over.

SEC. 873. **SERVANT TO PAY OVER WITHOUT DEMAND.**—A servant must deliver to his master, as soon as with reasonable diligence he can find him, everything that he receives for his account, without demand; but he is not bound, without orders from his master, to send anything to him through another person.

Right to discharge.

SEC. 874. **WHEN SERVANT MAY BE DISCHARGED.**—A master may discharge any servant, other than an apprentice, whether engaged for a fixed term or not:

1. If he is guilty of misconduct in the course of his service, or of gross immorality, though unconnected with the same; or,
2. If, being employed about the person of the master, or in a confidential position, the master discovers that he has been guilty of misconduct, before or after the commencement of his service, of such a nature that, if the master had known or contemplated it, he would not have so employed him.

AGENTS

Agents.

SEC. 875. AGENT TO CONFORM TO HIS AUTHORITY.—An agent must not exceed the limits of his actual authority, as defined by chapter 51 of this code on agency.

Agent to conform to his authority.

Post, p. 1264.

CROSS REFERENCES

Actual authority, see section 1053.

Post, p. 1266.

Agency, see sections 1035 et seq.

Post, p. 1264.

Ostensible authority, see section 1054.

Post, p. 1266.

SEC. 876. MUST KEEP HIS PRINCIPAL INFORMED.—An agent must use ordinary diligence to keep his principal informed of his acts in the course of the agency.

Must keep principal informed.

SEC. 877. COLLECTING AGENT.—An agent employed to collect a negotiable instrument must collect it promptly, and take all measures necessary to charge the parties thereto, in case of its dishonor; and, if it is a bill of exchange, must present it for acceptance with reasonable diligence.

Collecting agent.

SEC. 878. RESPONSIBILITY OF SUBAGENT.—A mere agent of an agent is not responsible as such to the principal of the latter.

Responsibility of sub-agent.

FACTORS

Factors.

CROSS REFERENCE

Lien of factor, see section 1396.

Post, p. 1307.

SEC. 879.—FACTOR, WHAT.—A factor is an agent who, in the pursuit of an independent calling, is employed by another to sell property for him, and is vested by the latter with the possession or control of the property, or authorized to receive payment therefor from the purchaser.

"Factor" defined.

CROSS REFERENCES

Factor, what, see section 1082.

Post, p. 1266.

Factor's authority, see sections 1083 and 1084.

Post, p. 1266.

Factor's power to pledge principal's goods, see sections 1083 and 1372.

Post, pp. 1266, 1304.

SEC. 880. OBEDIENCE REQUIRED FROM FACTOR.—A factor must obey the instructions of his principal to the same extent as any other employee, notwithstanding any advances he may have made to his principal upon the property consigned to him, except that if the principal forbids him to sell at the market price, he may, nevertheless, sell for his reimbursement, after giving to his principal reasonable notice of his intention to do so, and of the time and place of sale, and proceeding in all respects as a pledgee.

Obedience required.

SEC. 881. SALES ON CREDIT.—A factor may sell property consigned to him on such credit as is usual; but, having once agreed with the purchaser upon the term of credit, may not extend it.

Sales on credit.

CROSS REFERENCE

Authority to sell on credit, see section 1083.

Post, p. 1266.

SEC. 882.—LIABILITY OF FACTOR UNDER GUARANTY COMMISSION.—A factor who charges his principal with a guaranty commission upon a sale, thereby assumes absolutely to pay the price when it falls due, as if it were a debt of his own, and not as a mere guarantor for the purchaser; but he does not thereby assume any additional responsibility for the safety of his remittance of the proceeds.

Liability of, under guaranty commission.

SEC. 883. FACTOR CAN NOT RELIEVE HIMSELF FROM LIABILITY.—A factor who receives property for sale, under a general agreement or usage to guarantee the sales or the remittance of the proceeds,

Factor can not relieve himself from liability.

can not relieve himself from responsibility therefor without the consent of his principal.

SERVICE WITH-
OUT EMPLOY-
MENT.
Voluntary inter-
ference with property.

CHAPTER 43.—SERVICE WITHOUT EMPLOYMENT

SEC. 884. VOLUNTARY INTERFERENCE WITH PROPERTY.—One who officiously, and without the consent of the real or apparent owner of a thing, takes it into his possession for the purpose of rendering a service about it, must complete such service, and use ordinary care, diligence, and reasonable skill about the same. He is not entitled to any compensation for his service or expenses, except that he may deduct actual and necessary expenses incurred by him about such service from any profits which his service has caused the thing to acquire for its owner, and must account to the owner for the residue.

CROSS REFERENCE

Gratuitous carriers, see section 888.

CARRIAGE IN
GENERAL.

CHAPTER 44.—CARRIAGE IN GENERAL

"Contract of car-
riage" defined.

SEC. 885. CONTRACT OF CARRIAGE.—The contract of carriage is a contract for the conveyance of property, persons, or messages, from one place to another.

CROSS REFERENCES

Post, p. 1255.
Post, p. 1253.
Post, p. 1253.
Post, p. 1255.
Post, p. 1253.

Carriage of messages, see section 955.
Carriage of persons, see sections 890 et seq.
Carriage of property, see sections 896 et seq.
Common carriers, defined, see section 956.
Gratuitous carriers of passengers, care required of, see sections 888 and 890.

Kinds of carriers.

SEC. 886. DIFFERENT KINDS OF CARRIERS.—Carriage is either:
1. Inland; or
2. Marine.

Application of cer-
tain chapters to ma-
rine carriers.
Post, pp. 1253-1255.

SEC. 887. APPLICATION OF CHAPTERS 44 TO 48 OF THIS CODE TO MARINE CARRIERS.—This chapter and chapters 45 to 48 of this code, with the exception of section 903, shall have no application to marine carriers. Marine carriers, within the meaning of this section, shall include carriers upon the ocean, upon arms of the sea, and those transiting the canal from ocean to ocean.

CROSS REFERENCE

Post, p. 1257.

Inland carriers of property, rights and duties of, see sections 975 et seq.

Obligations of gratui-
tous carriers.

SEC. 888. OBLIGATIONS OF GRATUITOUS CARRIERS.—Carriers without reward are subject to the same rules as employees without reward, except so far as is otherwise provided by this chapter and chapters 45 to 48 of this code.

CROSS REFERENCES

Post, p. 1253.

Gratuitous carriers, see sections 889, 890, and 897.
Service without employment, see section 884.

When carriage has
begun.

SEC. 889. OBLIGATIONS OF GRATUITOUS CARRIER WHO HAS BEGUN TO CARRY.—A carrier without reward, who has begun to perform his undertaking, must complete it in like manner as if he had received a reward, unless he restores the person or thing carried to as favorable a position as before he commenced the carriage.

CROSS REFERENCES

Post, p. 1253.

Compare with section 890.
Gratuitous carriers, see sections 888, 890, and 897.

CHAPTER 45.—CARRIAGE OF PERSONS

CARRIAGE OF PERSONS.

GRATUITOUS CARRIAGE OF PERSONS

Gratuitous carriage.

SEC. 890. DEGREE OF CARE REQUIRED.—A carrier of persons without reward must use ordinary care and diligence for their safe carriage.

Degree of care required.

CROSS REFERENCES

Carriers of persons, generally, see sections 966¹ et seq.
Duty of gratuitous employee, generally, see section 889.
Gratuitous carriers, see sections 888, 889, 897.

Post, p. 1256.

Aniz, p. 1252.

Aniz, p. 1252.

CARRIAGE FOR REWARD

Carriage for reward.

SEC. 891. GENERAL DUTIES OF CARRIER.—A carrier of persons for reward must use the utmost care and diligence for their safe carriage, must provide everything necessary for that purpose, and must exercise to that end a reasonable degree of skill.

General duties.

CROSS REFERENCE

Limiting liability by contract, see sections 962 to 964.

Post, p. 1256.

SEC. 892. VEHICLES.—A carrier of persons for reward is bound to provide vehicles safe and fit for the purposes to which they are put, and is not excused for default in this respect by any degree of care.

Vehicles, liability for safety, etc., of.

SEC. 893. NOT TO OVERLOAD HIS VEHICLE.—A carrier of persons for reward must not overcrowd or overload his vehicle.

Overloading.

SEC. 894. TREATMENT OF PASSENGERS.—A carrier of persons for reward must give to passengers all such accommodations as are usual and reasonable, and must treat them with civility, and give them a reasonable degree of attention.

Treatment of passengers.

SEC. 895. RATE OF SPEED AND DELAYS.—A carrier of persons for reward must travel at a reasonable rate of speed, and without any unreasonable delay, or deviation from his proper route.

Rate of speed and delays.

CROSS REFERENCE

Delay in delivery, damages for, see sections 977 and 1611.

Post, pp. 1257, 1332.

CHAPTER 46.—CARRIAGE OF PROPERTY

CARRIAGE OF PROPERTY.

GENERAL DEFINITIONS

General definitions.

SEC. 896. FREIGHT, CONSIGNOR, AND SO FORTH, WHAT.—Property carried is called freight; the reward, if any, to be paid for its carriage is called freightage; the person who delivers the freight to the carrier is called the consignor; and the person to whom it is to be delivered is called the consignee.

Freight, consignor, etc., defined.

CROSS REFERENCE

Freightage, questions relating to, see sections 946 et seq.

Post, p. 1264.

OBLIGATIONS OF CARRIER

Obligations of carrier.

SEC. 897. CARE AND DILIGENCE REQUIRED OF CARRIERS.—A carrier of property for reward must use at least ordinary care and diligence in the performance of all his duties. A carrier without reward must use at least slight care and diligence.

Care and diligence.

CROSS REFERENCES

Alteration of liability by agreement, see sections 962 et seq.
Gratuitous carriers, see sections 888, 889, and 890.
Limiting liability by contract, see sections 962 et seq.

Post, p. 1256.

¹ So in original.

Carriers to obey directions.

SEC. 898. CARRIER TO OBEY DIRECTIONS.—A carrier must comply with the directions of the consignor or consignee to the same extent that an employee is bound to comply with those of his employer.

Conflict of orders.

SEC. 899. CONFLICT OF ORDERS.—When the directions of a consignor and consignee are conflicting, the carrier must comply with those of the consignor in respect to all matters except the delivery of the freight, as to which he must comply with the directions of the consignee, unless the consignor has specially forbidden the carrier to receive orders from the consignee inconsistent with his own.

Delivery of freight.

SEC. 900. DELIVERY OF FREIGHT.—A carrier of property must deliver it to the consignee, at the place to which it is addressed, in the manner usual at that place.

CROSS REFERENCE

Post, p. 1332.

Damages for carrier's breach of obligation to deliver, see section 1610.

Notice when freight not delivered.

SEC. 901. NOTICE WHEN FREIGHT NOT DELIVERED.—If, for any reason, a carrier does not deliver freight to the consignee or his agent personally, he must give notice to the consignee of its arrival, and keep the same in safety, upon his responsibility as a warehouseman, until the consignee has had a reasonable time to remove it. If the place of residence or business of the consignee be unknown to the carrier, he may give the notice by letter dropped in the nearest post office.

CROSS REFERENCE

Post, p. 1332.

Damages for breach of obligation to deliver, see sections 1610 and 1611.

When consignee does not accept.

SEC. 902. WHEN CONSIGNEE DOES NOT ACCEPT.—If a consignee does not accept and remove freight within 72 hours after the carrier has fulfilled his obligation to deliver, or duly offered to fulfill the same, the rights and duties of the carrier shall thereafter be the same as those of a warehouseman as provided in sections 731 to 784 of this code.

Ante, pp. 1230-1240.

Bills of lading.

BILLS OF LADING

Federal bill of lading Act applicable.
U. S. C., p. 1680.

SEC. 903. APPLICATION OF FEDERAL BILL OF LADING ACT TO SHIPMENTS WHOLLY WITHIN ZONE.—The Federal bill of lading Act (U. S. Code, title 49, §§81 to 124) is hereby made applicable to shipments wholly within the Canal Zone.

Freightage.

FREIGHTAGE

When to be paid.

SEC. 946. WHEN FREIGHTAGE IS TO BE PAID.—A carrier may require his freightage to be paid upon his receiving the freight; but if he does not demand it then, he can not until he is ready to deliver the freight to the consignee.

CROSS REFERENCE

Ante, p. 1253.

Freightage, defined, see section 896.

Consignor's liability for freightage.

SEC. 947. CONSIGNOR, WHEN LIABLE FOR FREIGHTAGE.—The consignor of freight is presumed to be liable for the freightage, but if the contract between him and the carrier provides that the consignee shall pay it, and the carrier allows the consignee to take the freight, he can not afterwards recover the freightage from the consignor.

When consignee liable.

SEC. 948. CONSIGNEE, WHEN LIABLE.—The consignee of freight is liable for the freightage, if he accepts the freight with notice of the intention of the consignor that he should pay it.

SEC. 949. NATURAL INCREASE OF FREIGHT.—No freightage can be charged upon the natural increase of freight. Natural increase of freight.

SEC. 950. APPORTIONMENT BY CONTRACT.—If freightage is apportioned by a bill of lading or other contract made between a consignor and carrier, the carrier is entitled to payment, according to the apportionment, for so much as he delivers. Apportionment by contract.

SEC. 951. SAME.—If a part of the freight is accepted by a consignee, without specific objection that the rest is not delivered, the freightage must be apportioned and paid as to that part, though not apportioned in the original contract.

SEC. 952. APPORTIONMENT ACCORDING TO DISTANCE.—If a consignee voluntarily receives freight at a place short of the one appointed for delivery, the carrier is entitled to a just proportion of the freightage, according to distance. If the carrier, being ready and willing, offers to complete the transit, he is entitled to the full freightage. If he does not thus offer completion, and the consignee receives the freight only from necessity, the carrier is not entitled to any freightage. Apportionment according to distance.

SEC. 953. FREIGHT CARRIED FURTHER THAN AGREED, AND SO FORTH.—If freight is carried further, or more expeditiously, than was agreed upon by the parties, the carrier is not entitled to additional compensation, and can not refuse to deliver it, on the demand of the consignee, at the place and time of its arrival. Freight carried farther than agreed, etc.

SEC. 954. CARRIER'S LIEN FOR FREIGHTAGE, SERVICES, AND ADVANCES.—A carrier has a lien for freightage and for services rendered at request of shipper or consignee in and about the transportation, care, and preservation of the property, and he also has a lien for money advanced at request of shipper or consignee to discharge a prior lien. His rights to such lien are regulated by chapters 62 to 65 of this code on liens: *Provided, however,* That such lien may be enforced in the manner provided by sections 759 to 762 of this code relating to warehousemen. Carrier's lien.

Post, pp. 1296-1306.
Proviso.
Enforcement of lien.
Ante, p. 1235.

CROSS REFERENCE

Liens, generally, see sections 1309 et seq.

Post, p. 1296.

CHAPTER 47.—CARRIAGE OF MESSAGES

CARRIAGE OF MESSAGES.

SEC. 955. DEGREE OF CARE AND DILIGENCE REQUIRED.—A carrier of messages for reward must use great care and diligence in the transmission and delivery of messages. Degree of care.

CHAPTER 48.—COMMON CARRIERS

COMMON CARRIERS.

COMMON CARRIERS IN GENERAL

In general.

SEC. 956. COMMON CARRIER, WHAT.—Everyone who offers to the public to carry persons, property, or messages is a common carrier of whatever he thus offers to carry. "Common carriers" defined.

CROSS REFERENCES

Carriage, in general, see sections 885 et seq.
Marine carriers, defined, see section 887.
Rights and liabilities of carriers; see
Carriers of persons, sections 966¹ et seq.
Carriers of property, sections 975 et seq.

Ante, p. 1252.
Ante, p. 1252.
Post, p. 1257.

SEC. 957. OBLIGATION TO ACCEPT FREIGHT.—A common carrier must, if able to do so, accept and carry whatever is offered to him, at a Obligation to accept freight.

¹ So in original.

reasonable time and place, of a kind that he undertakes or is accustomed to carry.

CROSS REFERENCES

Post, p. 1332. Damage for failure to accept freight, see section 1609.
Want of room, see section 970.¹

Compensation. SEC. 961. COMPENSATION.—A common carrier is entitled to a reasonable compensation and no more, which he may require to be paid in advance. If payment thereof is refused, he may refuse to carry.

CROSS REFERENCE

Ante, p. 1255. Lien for freightage, services, and advances, see section 954.

Obligations altered only by agreement. SEC. 962. OBLIGATIONS OF CARRIER ALTERED ONLY BY AGREEMENT.—The obligations of a common carrier can not be limited by general notice on his part, but may be limited by special contract.

CROSS REFERENCES

Post, p. 1257. Compare with sections 964 and 978.
Limiting liability by special contract, see section 963.

Certain agreements void. SEC. 963. CERTAIN AGREEMENTS VOID.—A common carrier can not be exonerated, by any agreement made in anticipation thereof, from liability for the gross negligence, fraud, or willful wrong of himself or his servants.

CROSS REFERENCE

Ante, p. 1201. Contract exempting one from liability for negligent or unlawful acts, illegal, see section 573.

Effect of written contract. SEC. 964. EFFECT OF WRITTEN CONTRACT.—A passenger, consignor, or consignee, by accepting a ticket, bill of lading, or written contract for carriage, with a knowledge of its terms, assents to the rate of hire, the time, place, and manner of delivery therein stated; and also to the limitation stated therein upon the amount of the carrier's liability in case property carried in packages, trunks, or boxes, is lost or injured, when the value of such property is not named; and also to the limitation stated therein to the carrier's liability for loss or injury to live animals carried. But his assent to any other modification of the carrier's obligations contained in such instrument can be manifested only by his signature to the same.

Loss of valuable letters. SEC. 965. LOSS OF VALUABLE LETTERS.—A common carrier is not responsible for loss or miscarriage of a letter, or package having the form of a letter, containing money or notes, bills of exchange, or other papers of value, unless he be informed at the time of its receipt of the value of its contents.

CROSS REFERENCES

Post, p. 1257. Consignor of valuables to declare their nature, see section 978.
Contract limiting loss where value not stated, see section 964.

Common carriers of persons.

COMMON CARRIERS OF PERSONS

Liability for luggage. SEC. 967. LIABILITY FOR LUGGAGE.—The liability of a carrier for luggage received by him with a passenger is the same as that of a common carrier of property.

CROSS REFERENCE

Liability of carriers, generally, see sections 975 et seq.

Regulations for conduct of business.

SEC. 971. REGULATIONS FOR CONDUCT OF BUSINESS.—A common carrier of persons may make rules for the conduct of his business, and

¹ So in original.

may require passengers to conform to them, if they are lawful, public, uniform in their application, and reasonable.

CROSS REFERENCE

Ejection of passenger not conforming to regulations, see section 973.

SEC. 972. FARE, WHEN PAYABLE.—A common carrier may demand the fare of passengers, either at starting or at any subsequent time.

When fare payable.

SEC. 973. EJECTION OF PASSENGERS.—A passenger who refuses to pay his fare or to conform to any lawful regulation of the carrier, may be ejected from the vehicle by the carrier. But this must be done with as little violence as possible, and at any usual stopping place or near some dwelling house.

Ejection of passengers.

CROSS REFERENCE

Power to make rules for regulation of business, see section 971.

Ante, p. 1256.

SEC. 974. FARE NOT PAYABLE AFTER EJECTION.—After having ejected a passenger, a carrier has no right to require the payment of any part of his fare.

Fare not payable after ejection.

COMMON CARRIERS OF PROPERTY

SEC. 975. LIABILITY OF INLAND CARRIERS FOR LOSS.—Unless the consignor accompanies the freight and retains exclusive control thereof, an inland common carrier of property is liable, from the time that he accepts until he relieves himself from liability pursuant to sections 900 to 902, for the loss or injury thereof from any cause whatever, except:

Common carriers of property.

Liability of inland carriers for loss.

Ante, p. 1254.

1. An inherent defect, vice, or weakness, or a spontaneous action, of the property itself;
2. The act of a public enemy of the United States;
3. The act of the law; or
4. Any irresistible superhuman cause.

CROSS REFERENCES

Liability as warehouseman, see section 901.

Post, p. 1254.

Selling perishable articles, see section 983.¹

Termination of liability, see sections 900 to 902.

Post, p. 1254.

SEC. 976. WHEN EXEMPTIONS DO NOT APPLY.—A common carrier is liable, even in the cases excepted by section 975, if his want of ordinary care exposes the property to the cause of the loss.

When exemptions do not apply.

SEC. 977. LIABILITY FOR DELAY.—A common carrier is liable for delay only when it is caused by his want of ordinary care and diligence.

Liability for delay.

CROSS REFERENCE

Delay in carriage, liability for, see sections 896 and 1611.

Ante, p. 1253; *post*, p. 1332.

SEC. 978. CONSIGNOR OF VALUABLES TO DECLARE THEIR NATURE.—A common carrier of gold, silver, platinum, or precious stones, or of imitations thereof, in a manufactured or unmanufactured state; of timepieces of any description; of negotiable paper or other valuable writings; of pictures, glass, or chinaware; of statuary, silk or laces; or of plated ware of any kind, is not liable for more than fifty dollars upon the loss or injury of any one package of such articles, unless he has notice, upon his receipt thereof, by mark upon the package or otherwise, of the nature of the freight; nor is such carrier liable upon any package carried for more than the value of the articles named in the receipt of the bill of lading.

Consignor of valuables to declare value.

¹ So in original.

CROSS REFERENCES

- Ante*, p. 1256. Contract limiting loss where value not declared, see section 964.
Ante, p. 1256. Letters or packages containing valuables, liability for loss of, see section 965.
- Delivery of freight beyond usual route. **SEC. 979. DELIVERY OF FREIGHT BEYOND USUAL ROUTE.**—If a common carrier accepts freight for a place beyond his usual route, he must, unless he stipulates otherwise, deliver it at the end of his route in that direction to some other competent carrier carrying to the place of address, or connected with those who thus carry, and his liability ceases upon making such delivery.

CROSS REFERENCE

- Ante*, p. 1254. Delivery, in general, see section 900.
- Proof in case of loss. **SEC. 980. PROOF TO BE GIVEN IN CASE OF LOSS.**—If freight addressed to a place beyond the usual route of the common carrier who first received it is lost or injured, he must, within a reasonable time after demand, give satisfactory proof to the consignor that the loss or injury did not occur while it was in his charge, or he will be himself liable therefor.
- Carrier's services, other than carriage and delivery. **SEC. 981. CARRIER'S SERVICES, OTHER THAN CARRIAGE AND DELIVERY.**—In respect to any service rendered by a common carrier about freight, other than its carriage and delivery, his rights and obligations are defined by the chapters on deposit and the chapters on service.

CROSS REFERENCES

- Ante*, p. 1226. Deposit, see sections 699 et seq.
Ante, p. 1247. Service, see sections 841 et seq.

TRUSTS IN GENERAL.

CHAPTER 49.—TRUSTS IN GENERAL.

Nature and creation.

NATURE AND CREATION OF A TRUST

Trusts classified.

SEC. 986. TRUSTS CLASSIFIED.—A trust is either:

1. Voluntary, or
2. Involuntary.

Voluntary.

SEC. 987. VOLUNTARY TRUST, WHAT.—A voluntary trust is an obligation arising out of a personal confidence reposed in, and voluntarily accepted by, one for the benefit of another.

Involuntary.

SEC. 988. INVOLUNTARY TRUST, WHAT.—An involuntary trust is one which is created by operation of law.

CROSS REFERENCE

- Post*, pp. 1259, 1261. Involuntary trust, see sections 994, 995, and 1008.

Parties.

SEC. 989. PARTIES TO THE CONTRACT.—The person whose confidence creates a trust is called the trustor; the person in whom the confidence is reposed is called the trustee; and the person for whose benefit the trust is created is called the beneficiary.

What constitutes one a trustee.

SEC. 990. WHAT CONSTITUTES ONE A TRUSTEE.—Everyone who voluntarily assumes a relation of personal confidence with another is deemed a trustee, within the meaning of this chapter, not only as to the person who reposes such confidence, but also as to all persons of whose affairs he thus acquires information which was given to such person in the like confidence, or over whose affairs he, by such confidence, obtains any control.

For what purpose a trust may be created.

SEC. 991. FOR WHAT PURPOSE A TRUST MAY BE CREATED.—A trust may be created for any purpose for which a contract may lawfully be made, except as otherwise prescribed by the chapter on transfer of property.

SEC. 992. VOLUNTARY TRUST, HOW CREATED AS TO TRUSTOR.—A voluntary trust is created, as to the trustor and beneficiary, by any words or acts of the trustor, indicating with reasonable certainty:

1. An intention on the part of the trustor to create a trust; and
2. The subject, purpose, and beneficiary of the trust.

Voluntary trust, how created as to trustor.

CROSS REFERENCES

Creation of involuntary trust, see sections 994 and 995.

Trusts for benefit of third persons, see section 1011.

Post, p. 1261.

SEC. 993. HOW CREATED AS TO TRUSTEE.—A voluntary trust is created, as to the trustee, by any words or acts of his indicating, with reasonable certainty:

1. His acceptance of the trust, or his acknowledgment, made upon sufficient consideration, of its existence; and
2. The subject, purpose, and beneficiary of the trust.

As to trustee.

SEC. 994. INVOLUNTARY TRUSTEE, WHO IS.—One who wrongfully detains a thing is an involuntary trustee thereof, for the benefit of the owner.

"Involuntary trustee."

CROSS REFERENCES

Compensation of involuntary trustee, see sections 1025 and 1076.

Involuntary trustee, who is, see sections 988 and 1008.

Post, pp. 1263, 1269.
Ante, p. 1258; *post*, p. 1261.

SEC. 995. INVOLUNTARY TRUST RESULTING FROM FRAUD, MISTAKE, ETC.—One who gains a thing by fraud, accident, mistake, undue influence, the violation of a trust, or other wrongful act, is, unless he has some other and better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who would otherwise have had it.

Involuntary trust resulting from fraud, mistake, etc.

CROSS REFERENCES

Compensation of involuntary trustee, see sections 1025 and 1026.

Involuntary trustee, who is, see sections 988, 994, and 1008.

Post, p. 1263.
Ante, p. 1258; *post*, p. 1261.

OBLIGATIONS OF TRUSTEES

SEC. 996. TRUSTEE'S OBLIGATION TO GOOD FAITH.—In all matters connected with his trust, a trustee is bound to act in the highest good faith toward his beneficiary, and may not obtain any advantage therein over the latter by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind.

Obligations of trustees.

Good faith.

SEC. 997. TRUSTEE NOT TO USE PROPERTY FOR HIS OWN PROFIT.—A trustee may not use or deal with the trust property for his own profit, or for any other purpose unconnected with the trust, in any manner.

Not to use property for own profit.

CROSS REFERENCES

Presumption of undue influence on transactions between the trustee and beneficiary, see section 1003.

Purchaser from trustee charged with the trust when, see section 1008.

Violations of duties by trustee are fraudulent, see section 1002.

Post, p. 1260.

Post, p. 1261.

Post, p. 1260.

SEC. 998. CERTAIN TRANSACTIONS FORBIDDEN.—Neither a trustee nor any of his agents may take part in any transaction concerning the trust in which he or any one for whom he acts as agent has an interest, present or contingent, adverse to that of his beneficiary, except as follows:

Transactions forbidden.

1. When the beneficiary, having capacity to contract, with a full knowledge of the motives of the trustee, and of all other facts concerning the transaction which might affect his own decision, and

without the use of any influence on the part of the trustee, permits him to do so;

2. When the beneficiary not having capacity to contract, the proper court, upon the like information of the facts, grants the like permission; or

3. When some of the beneficiaries having capacity to contract, and some not having it, the former grant permission for themselves, and the proper court for the latter, in the manner above prescribed.

CROSS REFERENCES

Duty to inform beneficiary of adverse interest, see section 1001.
Undertaking inconsistent trust, see section 1000.

Trustee's influence not to be used for his advantage.

SEC. 999. TRUSTEE'S INFLUENCE NOT TO BE USED FOR HIS ADVANTAGE.—A trustee may not use the influence which his position gives him to obtain any advantage from his beneficiary.

Trustee not to assume a trust adverse to interest of beneficiary.

SEC. 1000. TRUSTEE NOT TO ASSUME A TRUST ADVERSE TO INTEREST OF BENEFICIARY.—No trustee, so long as he remains in the trust, may undertake another trust adverse in its nature to the interest of his beneficiary in the subject of the trust, without the consent of the latter.

CROSS REFERENCES

Ante, p. 1259.
Post, p. 1263.

Compare section 998.
Removal of trustee, see sections 1030 and 1031.
Trustee's duty to disclose adverse interest, see section 1001.

To disclose adverse interest.

SEC. 1001. TO DISCLOSE ADVERSE INTEREST.—If a trustee acquires any interest, or becomes charged with any duty, adverse to the interest of his beneficiary in the subject of the trust, he must immediately inform the latter thereof, and may be at once removed.

When guilty of fraud.
Ante, p. 1259.

SEC. 1002. TRUSTEE GUILTY OF FRAUD, WHEN.—Every violation of the provisions of sections 996 to 1001 is a fraud against the beneficiary of a trust.

Presumption against trustees.

SEC. 1003. PRESUMPTION AGAINST TRUSTEES.—All transactions between a trustee and his beneficiary during the existence of the trust, or while the influence acquired by the trustee remains, by which he obtains any advantage from his beneficiary, are presumed to be entered into by the latter without sufficient consideration, and under undue influence.

Trustee mingling property.

SEC. 1004. TRUSTEE MINGLING TRUST PROPERTY WITH HIS OWN.—A trustee who willfully and unnecessarily mingles the trust property with his own, so as to constitute himself in appearance its absolute owner, is liable for its safety in all events, and for the value of its use.

Measure of liability for breach of trust.
Ante, p. 1259.

SEC. 1005. MEASURE OF LIABILITY FOR BREACH OF TRUST.—A trustee who uses or disposes of the trust property, contrary to section 997, may, at the option of the beneficiary, be required to account for all profits so made, or to pay the value of its use, and, if he has disposed thereof, to replace it, with its fruits, or to account for its proceeds, with interest.

CROSS REFERENCES

Post, p. 1262.
Post, p. 1262.

Degree of diligence requisite, see section 1016.
Liability for noninvestment of funds, see section 1019.

When unintentional breach.

SEC. 1006. SAME.—A trustee who uses or disposes of the trust property in any manner not authorized by the trust, but in good faith, and with intent to serve the interests of the beneficiary, is liable only to make good whatever is lost to the beneficiary by his error.

SEC. 1007. **COTRUSTEES, HOW FAR LIABLE FOR EACH OTHER.**—A trustee is responsible for the wrongful acts of a cotrustee to which he consented, or which, by his negligence, he enabled the latter to commit, but for no others.

Cotrustees, liability.

CROSS REFERENCE

Compare with section 1022.

Post, p. 1262.

OBLIGATIONS OF THIRD PERSONS

Obligations of third persons.

SEC. 1008. **THIRD PERSONS, WHEN INVOLUNTARY TRUSTEES.**—Every one to whom property is transferred in violation of a trust, holds the same as an involuntary trustee under such trust, unless he purchased it in good faith, and for a valuable consideration.

When involuntary trustees.

CROSS REFERENCE

Involuntary trustees, who are, see sections 988, 994, and 995.

Ante, pp. 1258, 1260.

SEC. 1009. **WHEN THIRD PERSON MUST SEE TO APPLICATION OF TRUST PROPERTY.**—One who actually and in good faith transfers any money or other property to a trustee, as such, is not bound to see to the application thereof, and his rights can in no way be prejudiced by a misapplication thereof by the trustee. Other persons must, at their peril, see to the proper application of money or other property paid or delivered by them.

When third person must see to application of trust property.

CHAPTER 50.—TRUSTS FOR BENEFIT OF THIRD PERSONS

TRUSTS FOR BENEFIT OF THIRD PERSONS.

NATURE AND CREATION OF THE TRUST

Nature and creation of trust.

SEC. 1010. **WHO ARE TRUSTEES WITHIN SCOPE OF THIS CHAPTER.**—The provisions of this chapter apply only to express trusts, created for the benefit of another than the trustor, and in which the title to the trust property is vested in the trustee; not including, however, those of executors, administrators, and guardians, as such.

Who are trustees within scope of this chapter.

SEC. 1011. **CREATION OF TRUST.**—The mutual consent of a trustor and trustee creates a trust of which the beneficiary may take advantage at any time prior to its rescission.

Creation of trust.

CROSS REFERENCES

Promise for benefit of third person, see section 494.

Ante, p. 1191.

Revoking trust, beneficiary's consent necessary, see section 1028.

Post, p. 1268.

SEC. 1012. **TRUSTEES APPOINTED BY COURT.**—When a trustee is appointed by a court or public officer, as such, such court or officer is the trustor, within the meaning of section 1011.

Court, etc., as trustor.

SEC. 1013. **DECLARATION OF TRUST.**—The nature, extent, and object of a trust are expressed in the declaration of trust.

Declaration of trust.

SEC. 1014. **SAME.**—All declarations of a trustor to his trustees, in relation to the trust, before its acceptance by the trustees, or any of them, are to be deemed part of the declaration of the trust, except that when a declaration of trust is made in writing, all previous declarations by the same trustor are merged therein.

OBLIGATIONS OF TRUSTEES

Obligations of trustees.

SEC. 1015. **TRUSTEES MUST OBEY DECLARATION OF TRUST.**—A trustee must fulfill the purpose of the trust, as declared at its creation, and must follow all the directions of the trustor given at that time, except as modified by the consent of all parties interested, in the same manner, and to the same extent, as an employee.

Must obey declaration of trust.

CROSS REFERENCE

Authority of trustee, generally, see section 1021.

Degree of care and diligence.

SEC. 1016. DEGREE OF CARE AND DILIGENCE IN EXECUTION OF TRUST.—A trustee, whether he receives any compensation or not, must use at least ordinary care and diligence in the execution of his trust.

CROSS REFERENCE

Ante, p. 1259.

Obligations of trustees, see, generally, sections 996 et seq.

Duty as to appointment of successor.

SEC. 1017. DUTY OF TRUSTEE AS TO APPOINTMENT OF SUCCESSOR.—If a trustee procures or assents to his discharge from his office, before his trust is fully executed, he must use at least ordinary care and diligence to secure the appointment of a trustworthy successor before accepting his own final discharge.

CROSS REFERENCE

Post, p. 1264.

Succession or appointment of new trustees, see section 1032 et seq.

Investment of money by.

SEC. 1018. INVESTMENT OF MONEY BY TRUSTEE.—A trustee must invest money received by him under the trust, as fast as he collects a sufficient amount, in such manner as to afford reasonable security and interest for the same.

CROSS REFERENCE

Liability for interest or failure to invest funds, see section 1019.

Trustee's liability for interest.

SEC. 1019. INTEREST, SIMPLE OR COMPOUND, ON OMISSION TO INVEST TRUST MONEYS.—If a trustee omits to invest the trust moneys according to section 1018, he must pay simple interest thereon, if such omission is negligent merely, and compound interest if it is willful.

CROSS REFERENCE

Ante, p. 1260.

Trustee's liability for interest, compare with section 1005.

Purchase by trustee of claims against trust fund.

SEC. 1020. PURCHASE BY TRUSTEE OF CLAIMS AGAINST TRUST FUND.—A trustee can not enforce any claim against the trust property which he purchases after or in contemplation of his appointment as trustee; but he may be allowed, by any competent court, to charge to the trust property what he has in good faith paid for the claim, upon discharging the same.

CROSS REFERENCE

Ante, p. 1259.

Purchasing debts against the trust estate prohibited, see section 998.

Trustee's powers.

POWERS OF TRUSTEES

As agent.

SEC. 1021. TRUSTEE'S POWER AS AGENT.—A trustee is a general agent for the trust property. His authority is such as is conferred upon him by the declaration of trust and by this chapter, and none other. His acts, within the scope of his authority, bind the trust property to the same extent as the acts of an agent bind his principal.

CROSS REFERENCES

Post, p. 1267.

Agent's acts binding principal, see sections 1063 et seq.

Ante, p. 1258.

For what purposes trusts may be created, see section 991.

Powers to two or more trustees, see section 1022.

All must act.

SEC. 1022. ALL MUST ACT.—Where there are several cotrustees, all must unite in any act to bind the trust property, unless the declaration of trust otherwise provides.

CROSS REFERENCES

Liability for acts of cotrustee, see section 1007.
Survival of trust, see section 1033.

Ante, p. 1261.

Post, p. 1264.

SEC. 1023. DISCRETIONARY POWERS.—A discretionary power conferred upon a trustee is presumed not to be left to his arbitrary discretion, but may be controlled by the proper court if not reasonably exercised, unless an absolute discretion is clearly conferred by the declaration of trust.

Discretionary powers.

RIGHTS OF TRUSTEES

Rights of trustees.

SEC. 1024. INDEMNIFICATION OF TRUSTEE.—A trustee is entitled to the repayment, out of the trust property, of all expenses actually and properly incurred by him in the performance of his trust. He is entitled to the repayment of even unlawful expenditures, if they were productive of actual benefit to the estate.

Indemnification.

CROSS REFERENCE

Reimbursement on purchase of claims against estate, see section 1020.

Ante, p. 1262.

SEC. 1025. COMPENSATION OF TRUSTEE.—Except as provided in the Code of Civil Procedure, when a declaration of trust is silent upon the subject of compensation the trustee is entitled to the same compensation as an executor. If it specifies the amount of his compensation, he is entitled to the amount thus specified and no more. If it directs that he shall be allowed a compensation but does not specify the rate or amount, he is entitled to such compensation as may be reasonable under the circumstances. If there are two or more trustees, the compensation shall be apportioned among the trustees according to the services rendered by them respectively.

Compensation.

CROSS REFERENCE

Involuntary trustee entitled to no compensation when, see section 1026.

SEC. 1026. INVOLUNTARY TRUSTEE.—An involuntary trustee, who becomes such through his own fault, has none of the rights mentioned in this subchapter.

Involuntary trustee.

CROSS REFERENCE

Involuntary trustee, defined, see sections 988, 994, and 995.

Ante, pp. 1258, 1259.

TERMINATION OF THE TRUST

SEC. 1027. TRUST, HOW EXTINGUISHED.—A trust is extinguished by the entire fulfillment of its object, or by such object becoming impossible or unlawful.

Termination of the trust.

How extinguished.

SEC. 1028. NOT REVOCABLE.—A trust can not be revoked by the trustor after its acceptance, actual or presumed, by the trustee and beneficiaries, except by the consent of all the beneficiaries, unless the declaration of trust reserves a power of revocation to the trustor, and in that case the power must be strictly pursued.

Not revocable.

SEC. 1029. TRUSTEE'S OFFICE, HOW VACATED.—The office of a trustee is vacated:

How trustee's office vacated.

1. By his death; or
2. By his discharge.

SEC. 1030. TRUSTEE, HOW DISCHARGED.—A trustee can be discharged from his trust only as follows:

How discharged.

1. By the extinction of the trust;
2. By the completion of his duties under the trust;

- 3. By such means as may be prescribed by the declaration of trust;
- 4. By the consent of the beneficiary, if he have capacity to contract;
- 5. By the judgment of a competent tribunal, in a direct proceeding for that purpose, that he is of unsound mind; or
- 6. By the district court.

Removal by district court.

SEC. 1031. REMOVAL BY DISTRICT COURT.—The district court may remove any trustee who has violated or is unfit to execute the trust, or may accept the resignation of a trustee.

CROSS REFERENCE

Ante, p. 1260.

Removal for adverse interest, see section 1001.

Succession or appointment of new trustees.

SUCCESSION OR APPOINTMENT OF NEW TRUSTEES

Appointment by court.

SEC. 1032. APPOINTMENT OF TRUSTEE BY COURT TO FILL VACANCY.—The district court must appoint a trustee whenever there is a vacancy, and the declaration of trust does not provide a practical method of appointment. In all cases of appointment of any trustee or trustees by any court, if the cestui que trustent, or any one of them are of the age of fourteen years, they, or the one or more of them of the age of fourteen years, may make nomination, to the court, and unless such nominee or nominees are incompetent, upon one or more of the grounds of incompetency specified in the Code of Civil Procedure, to discharge the duties of trustee, the court must appoint such nominee, or nominees, as trustee, or trustees, as the case may be.

Survivorship between cotrustees.

SEC. 1033. SURVIVORSHIP BETWEEN COTRUSTEES.—On the death, renunciation, or discharge of one of several cotrustees the trust survives to the others.

When district court to appoint.

SEC. 1034. DISTRICT COURT TO APPOINT TRUSTEE WHEN.—When a trust exists without any appointed trustee, or where all the trustees renounce, die, or are discharged, the district court must appoint another trustee and direct the execution of the trust. The court may, in its discretion, appoint the original number, or any less number of trustees.

AGENCY IN GENERAL.

CHAPTER 51.—AGENCY IN GENERAL

DEFINITION OF AGENCY

Definition.

SEC. 1035. AGENCY, WHAT.—An agent is one who represents another, called the principal, in dealings with third persons. Such representation is called agency.

CROSS REFERENCES

Ante, p. 1251.

Agents, see sections 875 to 878.

Ante, p. 1251.

Factors, see sections 879 et seq.

Capacity to appoint; to serve as.

SEC. 1036. WHO MAY APPOINT, AND WHO MAY BE AN AGENT.—Any person having capacity to contract may appoint an agent, and any person may be an agent.

General or special.

SEC. 1037. AGENTS, GENERAL OR SPECIAL.—An agent for a particular act or transaction is called a special agent. All others are general agents.

Actual or ostensible.

SEC. 1038. AGENCY, ACTUAL OR OSTENSIBLE.—An agency is either actual or ostensible.

CROSS REFERENCES

Actual agent's authority, see sections 1052, 1053, 1055, and 1056.

Post, p. 1266.

Ostensible agent's authority, see sections 1052, 1054 to 1056, and 1067.

Post, pp. 1266, 1267.

SEC. 1039. ACTUAL AGENCY.—An agency is actual when the agent is really employed by the principal.

Actual agency.

SEC. 1040. OSTENSIBLE AGENCY.—An agency is ostensible when the principal intentionally, or by want of ordinary care, causes a third person to believe another to be his agent who is not really employed by him.

Ostensible.

CROSS REFERENCE

Compare section 1054.

Post, p. 1266.

AUTHORITY OF AGENTS

Authority of agents.

SEC. 1041. WHAT AUTHORITY MAY BE CONFERRED.—An agent may be authorized to do any acts which his principal might do, except those to which the latter is bound to give his personal attention.

Extent.

CROSS REFERENCE

Post, p. 1266.

Delegation of authority by agent, see sections 1077 to 1079.

SEC. 1042. AGENT MAY PERFORM ACTS REQUIRED OF PRINCIPAL BY CODE.—Every act which, according to this code, may be done by or to any person, may be done by or to the agent of such person for that purpose, unless a contrary intention clearly appears.

All legal acts.

SEC. 1043.—AGENT CAN NOT HAVE AUTHORITY TO DEFRAUD PRINCIPAL.—An agent can never have authority, either actual or ostensible, to do an act which is, and is known or suspected by the person with whom he deals, to be a fraud upon the principal.

Authority to defraud principal denied.

SEC. 1044. CREATION OF AGENCY.—An agency may be created, and an authority may be conferred by a precedent authorization or a subsequent ratification.

Creation of agency.

SEC. 1045. CONSIDERATION UNNECESSARY.—A consideration is not necessary to make an authority, whether precedent or subsequent, binding upon the principal.

Consideration unnecessary.

SEC. 1046. FORM OF AUTHORITY.—An oral authorization is sufficient for any purpose, except that an authority to enter into a contract required by law to be in writing can only be given by an instrument in writing.

Form of authority.

CROSS REFERENCES

Power of attorney to execute mortgage, see section 1345

Post, p. 1301.

Statute of frauds, see sections 451 and 600.

Ante, pp. 1185, 1204.

SEC. 1047. RATIFICATION OF PART OF A TRANSACTION.—Ratification of part of an indivisible transaction is a ratification of the whole.

Ratification of part of transaction.

SEC. 1048. RATIFICATION OF AGENT'S ACT.—A ratification can be made only in the manner that would have been necessary to confer an original authority for the act ratified, or where an oral authorization would suffice, by accepting or retaining the benefit of the act with notice thereof.

Of agent's act.

CROSS REFERENCES

Ratification of part, see section 1047.

Ratification is not binding, and may be rescinded, if made without full knowledge of the facts, see section 1051.

Post, p. 1265.

SEC. 1049. WHEN RATIFICATION VOID.—A ratification is not valid unless, at the time of ratifying the act done, the principal has power to confer authority for such an act.

When ratification void.

Ratification not to work injury to third person.

SEC. 1050. RATIFICATION NOT TO WORK INJURY TO THIRD PERSONS.—No unauthorized act can be made valid, retroactively, to the prejudice of third persons, without their consent.

Rescission of.

SEC. 1051. RESCISSION OF RATIFICATION.—A ratification may be rescinded when made without such consent as is required in a contract, or with an imperfect knowledge of the material facts of the transaction ratified, but not otherwise.

Measure of agent's authority.

SEC. 1052. MEASURE OF AGENT'S AUTHORITY.—An agent has such authority as the principal, actually or ostensibly, confers upon him.

CROSS REFERENCES

Ante, p. 1265.

Actual agent, defined, see section 1039.

Post, p. 1267.

Extent of authority, see sections 1055 to 1057 and 1063.

Post, p. 1267.

Ostensible agency, see sections 1054 to 1056, 1063, and 1067.

Actual authority.

SEC. 1053. ACTUAL AUTHORITY, WHAT.—Actual authority is such as a principal intentionally confers upon the agent, or intentionally, or by want of ordinary care, allows the agent to believe himself to possess.

Ostensible.

SEC. 1054. OSTENSIBLE AUTHORITY, WHAT.—Ostensible authority is such as a principal, intentionally or by want of ordinary care, causes or allows a third person to believe the agent to possess.

CROSS REFERENCES

Ante, p. 1265.

Estoppel from a subsequent ratification, see sections 1044, 1048, and 1049 to 1051.

Ante, p. 1265.

Ostensible agent, defined, see section 1040.

Persons having notice of restrictions.

SEC. 1055. AGENT'S AUTHORITY AS TO PERSONS HAVING NOTICE OF RESTRICTIONS UPON IT.—Every agent has actually such authority as is defined by this chapter and chapter 52 of this code, unless specially deprived thereof by his principal, and has even then such authority ostensibly, except as to persons who have actual or constructive notice of the restriction upon his authority.

Post, p. 1269.

CROSS REFERENCE

Post, p. 1267.

Extent of authority, see sections 1052, 1056, 1057, and 1063.

Agent's necessary authority.

SEC. 1056. AGENT'S NECESSARY AUTHORITY.—An agent has authority:

1. To do everything necessary or proper and usual, in the ordinary course of business, for effecting the purpose of his agency; and

2. To make a representation respecting any matter of fact, not including the terms of his authority, but upon which his right to use his authority depends, and the truth of which can not be determined by the use of reasonable diligence on the part of the person to whom the representation is made.

CROSS REFERENCE

Post, p. 1267.

Extent of authority, see sections 1052, 1055, 1057, and 1063.

Power to disobey instructions.

SEC. 1057. AGENT'S POWER TO DISOBEY INSTRUCTIONS.—An agent has power to disobey instructions in dealing with the subject of the agency, in cases where it is clearly for the interest of his principal that he should do so, and there is not time to communicate with the principal.

CROSS REFERENCE

Post, p. 1267.

Extent of authority, see sections 1052, 1055, 1056, and 1063.

SEC. 1058.—AUTHORITY TO BE CONSTRUED BY ITS SPECIFIC RATHER THAN BY ITS GENERAL TERMS.—When an authority is given partly in general and partly in specific terms, the general authority gives no higher powers than those specifically mentioned.

Authority construed by specific terms.

SEC. 1059. EXCEPTIONS TO GENERAL AUTHORITY.—An authority expressed in general terms, however broad, does not authorize an agent:

Exceptions to general authority.

1. To act in his own name, unless it is the usual course of business to do so;

2. To define the scope of his agency; or

3. To do any act which a trustee is forbidden to do by sections 996 to 1007.

CROSS REFERENCES

Defining scope of agency, see section 1056 (2).

Ante, p. 1266.

Obligation of trustees, see sections 996 to 1007.

Ante, p. 1259.

SEC. 1060. WHAT INCLUDED IN AUTHORITY TO SELL PERSONAL PROPERTY.—An authority to sell personal property includes authority to warrant the title of the principal and the quality and quantity of the property.

Authority to sell personal property.

SEC. 1061. AUTHORITY OF GENERAL AGENT TO RECEIVE PRICE OF PROPERTY.—A general agent to sell, who is intrusted by the principal with the possession of the thing sold, has authority to receive the price.

Authority to receive price of property.

CROSS REFERENCE

Agent to collect, see section 877.

Ante, p. 1251.

SEC. 1062. AUTHORITY OF SPECIAL AGENT TO RECEIVE PRICE.—A special agent to sell has authority to receive the price on delivery of the thing sold, but not afterwards.

Of special agent to receive price.

MUTUAL OBLIGATIONS OF PRINCIPALS AND THIRD PERSONS

SEC. 1063. PRINCIPAL, HOW AFFECTED BY ACTS OF AGENT WITHIN THE SCOPE OF HIS AUTHORITY.—An agent represents his principal for all purposes within the scope of his actual or ostensible authority, and all the rights and liabilities which would accrue to the agent from transactions within such limit, if they had been entered into on his own account, accrue to the principal.

Mutual obligations of principals and third persons.

Acts of agent within scope of authority.

CROSS REFERENCE

Extent of agent's authority, see sections 1052, 1055, 1056, and 1057.

Ante, p. 1266.

SEC. 1064. PRINCIPAL, WHEN BOUND BY INCOMPLETE EXECUTION OF AUTHORITY.—A principal is bound by an incomplete execution of an authority when it is consistent with the whole purpose and scope thereof, but not otherwise.

When principal bound by incomplete execution of authority.

SEC. 1065. NOTICE TO AGENT, WHEN NOTICE TO PRINCIPAL.—As against a principal, both principal and agent are deemed to have notice of whatever either has notice of, and ought, in good faith and the exercise of ordinary care and diligence, to communicate to the other.

Notice to agent, as notice to principal.

SEC. 1066. OBLIGATION OF PRINCIPAL WHEN AGENT EXCEEDS HIS AUTHORITY.—When an agent exceeds his authority, his principal is bound by his authorized acts so far only as they can be plainly separated from those which are unauthorized.

Obligation when agent exceeds authority.

SEC. 1067. FOR ACTS DONE UNDER A MERELY OSTENSIBLE AUTHORITY.—A principal is bound by acts of his agent, under a merely ostensible

Acts done under ostensible authority.

authority, to those persons only who have in good faith, and without want of ordinary care, incurred a liability or parted with value, upon the faith thereof.

CROSS REFERENCE

Ante, p. 1266.

Ostensible authority, see sections 1054 to 1056.

When exclusive credit given agent.

SEC. 1068. WHEN EXCLUSIVE CREDIT IS GIVEN TO AGENT.—If exclusive credit is given to an agent by the person dealing with him, his principal is exonerated by payment or other satisfaction made by him to his agent in good faith, before receiving notice of the creditor's election to hold him responsible.

Rights of person against undisclosed principal.

SEC. 1069. RIGHTS OF PERSON WHO DEALS WITH AGENT WITHOUT KNOWLEDGE OF AGENCY.—One who deals with an agent without knowing or having reason to believe that the agent acts as such in the transaction, may set off against any claim of the principal arising out of the same, all claims which he might have set off against the agent before notice of the agency.

Instrument intended to bind principal.

SEC. 1070. INSTRUMENT INTENDED TO BIND PRINCIPAL DOES BIND HIM.—An instrument within the scope of his authority by which an agent intends to bind his principal, does bind him if such intent is plainly inferable from the instrument itself.

Liability for agent's negligence, etc.

SEC. 1071. PRINCIPAL'S RESPONSIBILITY FOR AGENT'S NEGLIGENCE, WRONGFUL ACT, OR OMISSION.—Unless required by or under the authority of law to employ that particular agent, a principal is responsible to third persons for the negligence of his agent in the transaction of the business of the agency, including wrongful acts committed by such agent in and as a part of the transaction of such business, and for his willful omission to fulfill the obligations of the principal.

Exception.

SEC. 1072. SAME.—A principal is responsible for no other wrongs committed by his agent than those mentioned in section 1071, unless he has authorized or ratified them, even though they are committed while the agent is engaged in his service.

Obligations of agents to third persons.

OBLIGATIONS OF AGENTS TO THIRD PERSONS

Warranty of authority.

SEC. 1073. WARRANTY OF AUTHORITY.—One who assumes to act as an agent thereby warrants, to all who deal with him in that capacity, that he has the authority which he assumes.

CROSS REFERENCE

Post, p. 1332.

Damages for breach of warranty of authority, see section 1612.

When personally liable.

SEC. 1074. AGENT'S RESPONSIBILITY TO THIRD PERSONS.—One who assumes to act as an agent is responsible to third persons as a principal for his acts in the course of his agency, in any of the following cases, and in no others:

1. When, with his consent, credit is given to him personally in a transaction;

2. When he enters into a written contract in the name of his principal, without believing, in good faith, that he has authority to do so; or

3. When his acts are wrongful in their nature.

Obligation to surrender property to third person.

SEC. 1075. OBLIGATION OF AGENT TO SURRENDER PROPERTY TO THIRD PERSON.—If an agent receives anything for the benefit of his principal, to the possession of which another person is entitled, he must, on demand, surrender it to such person, or so much of it as he has under his control, at the time of demand, on being indemnified for any advance which he has made to his principal, in good faith, on

account of the same; and is responsible therefor, if, after notice from the owner, he delivers it to his principal.

CROSS REFERENCE

Compare with sections on deposit, see sections 705, 708, and 709.

Ante, p. 1227.

SEC. 1076. CODE PROVISIONS GOVERNING.—The provisions of this subchapter are subject to the provisions of sections 15 to 28.

Code provisions governing.
Ante, p. 1125.

DELEGATION OF AGENCY

SEC. 1077. AGENT'S DELEGATION OF HIS POWERS.—An agent, unless specially forbidden by his principal to do so, can delegate his powers to another person in any of the following cases, and in no others:

Agent's delegation of powers.

1. When the act to be done is purely mechanical;
2. When it is such as the agent can not himself, and the subagent can lawfully perform;
3. When it is the usage of the place to delegate such powers; or
4. When such delegation is specially authorized by the principal.

SEC. 1078. AGENT'S UNAUTHORIZED EMPLOYMENT OF SUBAGENT.—If an agent employs a subagent without authority, the former is a principal and the latter his agent, and the principal of the former has no connection with the latter.

Unauthorized employment of subagent.

CROSS REFERENCE

As to liability of agent of an agent to principal, see section 878.

Ante, p. 1251.

SEC. 1079. SUBAGENT, RIGHTFULLY APPOINTED, REPRESENTS PRINCIPAL.—A subagent, lawfully appointed, represents the principal in like manner with the original agent; and the original agent is not responsible to third persons for the acts of the subagent.

Subagent rightfully appointed represents principal.

TERMINATION OF AGENCY

SEC. 1080. TERMINATION OF AGENCY.—An agency is terminated, as to every person having notice thereof, by—

Termination of agency.

1. The expiration of its term;
2. The extinction of its subject;
3. The death of the agent;
4. His renunciation of the agency; or
5. The incapacity of the agent to act as such.

SEC. 1081. SAME.—Unless the power of an agent is coupled with an interest in the subject of the agency, it is terminated, as to every person having notice thereof, by—

1. Its revocation by the principal;
2. His death; or
3. His incapacity to contract.

CHAPTER 52.—FACTORS

FACTORS.

SEC. 1082. FACTOR, WHAT.—A factor is an agent, as defined by section 879.

Definition.
Ante, p. 1251.

SEC. 1083. ACTUAL AUTHORITY OF FACTOR.—In addition to the authority of agents in general, a factor has actual authority from his principal, unless specially restricted:

Actual authority.

1. To insure property consigned to him uninsured;
2. To sell, on credit, anything intrusted to him for sale, except such things as it is contrary to usage to sell on credit; but not to pledge, mortgage, or barter the same; and

3. To delegate his authority to his partner or servant, but not to any person in an independent employment.

CROSS REFERENCE

Ante, p. 1251. Sale on credit by factor, see section 881.

Ostensible authority. SEC. 1084. OSTENSIBLE AUTHORITY.—A factor has ostensible authority to deal with the property of his principal as his own, in transactions with persons not having notice of the actual ownership.

PARTNERSHIP
IN GENERAL.

CHAPTER 53.—PARTNERSHIP IN GENERAL

WHAT CONSTITUTES A PARTNERSHIP

What constitutes. SEC. 1085. PARTNERSHIP, WHAT.—Partnership is the association of two or more persons, for the purpose of carrying on business together, and dividing its profits between them.

CROSS REFERENCES

Post, p. 1272. Dividing profits implies division of losses, see section 1091.
General partnership, what, see section 1100.

Shipowners. SEC. 1086. SHIPOWNERS.—Part owners of a ship do not, by simply using it in a joint enterprise, become partners as to the ship.

Formation of partnership. SEC. 1087. FORMATION OF PARTNERSHIP.—A partnership can be formed only by the consent of all the parties thereto, and therefore no new partner can be admitted into a partnership without the consent of every existing member thereof.

CROSS REFERENCE

Post, p. 1275. Formation of special partnership, see sections 1124 et seq.

Partnership prop-
erty.

PARTNERSHIP PROPERTY

Of what it consists. SEC. 1088. PARTNERSHIP PROPERTY, WHAT.—The property of a partnership consists of all that is contributed to the common stock at the formation of the partnership, and all that is subsequently acquired thereby.

Partner's interest in. SEC. 1089. PARTNER'S INTEREST IN PARTNERSHIP PROPERTY.—The interest of each member of a partnership extends to every portion of its property.

Share in profits and losses. SEC. 1090. PARTNER'S SHARE IN PROFITS AND LOSSES.—In the absence of any agreement on the subject the shares of partners in the profit or loss of the business are equal, and the share of each in the partnership property is the value of his original contribution, increased or diminished by his share of profit or loss.

CROSS REFERENCE

Post, p. 1271. Accounting between partners, see section 1096.

When division of losses implied. SEC. 1091. WHEN DIVISION OF LOSSES IMPLIED.—An agreement to divide the profits of a business implies an agreement for a corresponding division of its losses, unless it is otherwise expressly stipulated.

Application of partnership property to debts. SEC. 1092. PARTNER MAY REQUIRE APPLICATION OF PARTNERSHIP PROPERTY TO PAYMENT OF DEBTS.—Each member of a partnership may require its property to be applied to the discharge of its debts, and has a lien upon the shares of the other partners for this purpose, and for the payment of the general balance, if any, due to him.

SEC. 1093. WHAT PROPERTY IS PARTNERSHIP PROPERTY BY PRESUMPTION.—Property acquired with partnership funds is presumed to be partnership property. Partnership property by presumption.

MUTUAL OBLIGATION OF PARTNERS

Mutual obligation of partners.

SEC. 1094. PARTNERS TRUSTEES FOR EACH OTHER.—The relations of partners are confidential. They are trustees for each other within the meaning of chapter 49 of this code, and their obligations as such trustees are defined by that chapter. Trustees for each other.

CROSS REFERENCE

Chapter 49 of this code, see sections 986 to 1009.

Anie, p. 1258.

SEC. 1095. GOOD FAITH TO BE OBSERVED BETWEEN THEM.—In all proceedings connected with the formation, conduct, dissolution, and liquidation of a partnership, every partner is bound to act in the highest good faith toward his copartners. He may not obtain any advantage over them in the partnership affairs by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind. Good faith.

CROSS REFERENCES

In what business partner may not engage, see sections 1106 et seq.

Post, p. 1273.

Mutual obligations of partners, see sections 1105 et seq.

Post, p. 1273.

Partners act in bad faith, effect of, see section 1104.

Post, p. 1272.

SEC. 1096. MUTUAL LIABILITY OF PARTNERS TO ACCOUNT.—Each member of a partnership must account to it for everything that he receives on account thereof, and is entitled to reimbursement therefrom for everything that he properly expends for the benefit thereof, and to be indemnified thereby for all losses and risks which he necessarily incurs on its behalf. Mutual liability to account.

CROSS REFERENCE

Partner's acts bind firm, see section 1102.

Post, p. 1272.

SEC. 1097. NO COMPENSATION FOR SERVICES TO FIRM.—A partner is not entitled to any compensation for services rendered by him to the partnership, except by special agreement. No compensation for services.

RENUNCIATION OF PARTNERSHIP

Renunciation of partnership.

SEC. 1098.—RENUNCIATION OF FUTURE PROFITS EXONERATES FROM LIABILITY.—A partner may exonerate himself from all future liability to a third person, on account of the partnership, by renouncing, in good faith, all participation in its future profits, and giving notice to such third person, and to his own copartners, that he has made such renunciation, and that, so far as may be in his power, he dissolves the partnership and does not intend to be liable on account thereof for the future. Renunciation of future profits exonerates from liability.

CROSS REFERENCE

Dissolution of partnership, see sections 1113 et seq.

Post, p. 1274.

SEC. 1099. EFFECT OF RENUNCIATION.—After a partner has given notice of his renunciation of the partnership, he can not claim any of its subsequent profits, and his copartners may proceed to dissolve the partnership. Effect of renunciation.

CROSS REFERENCES

- Post*, p. 1274. Dissolution of partnership, see section 1113.
Post, p. 1275. Liquidation of partnership, see sections 1119 et seq.

GENERAL PART-
NERSHIP.

CHAPTER 54.—GENERAL PARTNERSHIP

Definition.

WHAT IS A GENERAL PARTNERSHIP

SEC. 1100. GENERAL PARTNERSHIP, WHAT.—Every partnership that is not formed in accordance with the law concerning special partnerships, and every special partnership, so far only as the general partners are concerned, is a general partnership.

CROSS REFERENCES

- Ante*, p. 1270. Partnership, what, see section 1085.
Post, pp. 1275, 1278. Special partnerships, see sections 1124 and 1146.
Post, p. 1278. Special partnership becomes general partnership when, see section 1145.

Powers and author-
ity of partners.

POWERS AND AUTHORITY OF PARTNERS

Majority.

SEC. 1101. POWER OF MAJORITY OF PARTNERS.—Unless otherwise expressly stipulated, the decision of the majority of the members of a general partnership binds it in the conduct of its business.

CROSS REFERENCE

- Post*, p. 1276. Power, rights, and duties of special partners, see section 1131 et seq.

Individual.

SEC. 1102. AUTHORITY OF INDIVIDUAL PARTNER.—Every general partner is agent for the partnership in the transaction of its business, and has authority to do whatever is necessary to carry on such business in the ordinary manner, and for this purpose may bind his copartners by an agreement in writing.

CROSS REFERENCES

- Ante*, p. 1271. Common liability for losses, see section 1096.
Post, p. 1273. Liability of partners for each other's acts, see section 1110.

Limitations on au-
thority.

SEC. 1103. WHAT AUTHORITY PARTNER HAS NOT.—A partner, as such, has not authority to do any of the following acts unless his copartners have wholly abandoned the business to him or are incapable of acting:

1. To make an assignment of the partnership property or any portion thereof to a creditor, or to a third person in trust for the benefit of a creditor, or of all creditors;
2. To dispose of the good will of the business;
3. To dispose of the whole of the partnership property at once, unless it consists entirely of merchandise;
4. To do any act which would make it impossible to carry on the ordinary business of the partnership;
5. To confess a judgment;
6. To submit a partnership claim to arbitration; or
7. To do any other act not within the scope of section 1102.

Acts in bad faith
ineffectual.

SEC. 1104. PARTNER'S ACTS IN BAD FAITH, WHEN INEFFECTUAL.—A partner is not bound by any act of a copartner, in bad faith toward him, though within the scope of the partner's powers, except in favor of persons who have in good faith parted with value in reliance upon such act.

CROSS REFERENCES

Good faith, duty to observe, see section 1095. *Ante*, p. 1271.

Liability of partners for each other's acts, see section 1110.

Partners are trustees for each other, see section 1094. *Ante*, p. 1271.

MUTUAL OBLIGATIONS OF PARTNERS

SEC. 1105. PROFITS OF INDIVIDUAL PARTNER.—All profits made by a general partner, in the course of any business usually carried on by the partnership, belong to the firm. Profits of individual partner.

CROSS REFERENCE

Mutual obligations of partners, see sections 1094 et seq. *Ante*, p. 1271.

SEC. 1106. IN WHAT BUSINESS PARTNER MAY NOT ENGAGE.—A general partner who agrees to give his personal attention to the business of the partnership may not engage in any business which gives him an interest adverse to that of the partnership or which prevents him from giving to such business all the attention which would be advantageous to it. In what business partner may not engage.

CROSS REFERENCE

Accounting by partner, see section 1108.

SEC. 1107. IN WHAT HE MAY ENGAGE.—A partner may engage in any separate business except as otherwise provided by sections 1105 and 1106. In what he may engage.

SEC. 1108. MUST ACCOUNT TO FIRM FOR PROFITS.—A general partner transacting business contrary to the provisions of this subchapter may be required by any copartner to account to the partnership for the profits of such business. Must account to firm for profits.

LIABILITY OF PARTNERS

SEC. 1109. LIABILITY OF PARTNERS TO THIRD PERSONS.—Every general partner is liable to third persons for all the obligations of the partnership, jointly with his copartners. Liability of partners. To third persons.

CROSS REFERENCES

As to joint and several obligations generally, see sections 427 et seq. *Ante*, p. 1182.

Effect of release of one of several joint debtors, see section 488. *Ante*, p. 1190.

Liability of general partners in special partnership, see section 1189. *Post*, p. 1277.

Liability of special partners, see section 1140. *Post*, p. 1277.

Special partner liable as general partner when, see section 1141. *Post*, p. 1277.

SEC. 1110. LIABILITY FOR EACH OTHER'S ACTS AS AGENTS.—The liability of general partners for each other's acts is defined by chapter 51 of this code on agency. Liability as agents.

CROSS REFERENCES

Acts a partner is not authorized to do, see section 1103. *Ante*, p. 1272.

Authority of individual partner, see sections 1102 and 1103. *Ante*, p. 1272.

Effect of acts of partner done in bad faith, see section 1104. *Ante*, p. 1272.

Agency, see sections 1035 to 1081. *Ante*, p. 1264.

SEC. 1111. LIABILITY OF ONE HELD OUT AS PARTNER.—Anyone permitting himself to be represented as a partner, general or special, is liable, as such, to third persons to whom such representation is communicated, and who, on the faith thereof, give credit to the partnership. Liability of one held out as partner.

SEC. 1112. NO ONE LIABLE AS PARTNER UNLESS HELD OUT AS SUCH.—No one is liable as a partner who is not such in fact, except as provided in section 1111. No liability unless so held out.

Termination of partnership.

TERMINATION OF PARTNERSHIP

Duration.

SEC. 1113. DURATION OF PARTNERSHIP.—If no term is prescribed by agreement for its duration, a general partnership continues until dissolved by a partner or by operation of law.

CROSS REFERENCES

Post, p. 1278.

Dissolution of special partnership, see section 1145.

Post, p. 1275.

Liquidation of partnership, see sections 1119 et seq.

Ante, p. 1271.

Renunciation of partnership by partner, see sections 1098 and 1099.

Total dissolution.

SEC. 1114. TOTAL DISSOLUTION OF PARTNERSHIP.—A general partnership is dissolved as to all the partners—

1. By lapse of the time prescribed by agreement for its duration;
2. By the expressed will of any partner, if there is no such agreement;
3. By the death of a partner;
4. By the transfer to a person, not a partner, of the interest of any partner in the partnership property;
5. By war, or the prohibition of commercial intercourse between the country in which one partner resides and that in which another resides; or
6. By a judgment of dissolution.

CROSS REFERENCES

Post, p. 1275.

Partner's power after dissolution of firm, see sections 1119 et seq.

Ante, p. 1271.

Renunciation of partnership by partner, see sections 1098 and 1099.

Post, p. 1278.

Special partnership, dissolution of, see section 1145.

Partial.

SEC. 1115. PARTIAL DISSOLUTION.—A general partnership may be dissolved, as to himself only, by the expressed will of any partner, notwithstanding his agreement for its continuance, subject, however, to liability to his copartners for any damage caused to them thereby, unless the circumstances are such as entitle him to a judgment of dissolution.

When partner entitled to.

SEC. 1116. PARTNER ENTITLED TO DISSOLUTION.—A general partner is entitled to a judgment of dissolution—

1. When he, or another partner, becomes legally incapable of contracting;
2. When another partner fails to perform his duties under the agreement of partnership, or is guilty of serious misconduct; or
3. When the business of the partnership can be carried on only at a permanent loss.

CROSS REFERENCE

Dissolution on renunciation of partnership by copartner, see section 1099.

Ante, p. 1271.

Notice of termination.

SEC. 1117. NOTICE OF TERMINATION.—The liability of a general partner for the acts of his copartners continues, even after a dissolution of the copartnership, in favor of persons who have had dealings with and given credit to the partnership during its existence, until they have had personal notice of the dissolution; and in favor of other persons until such dissolution has been advertised in a newspaper printed in English and of general circulation in the Canal Zone, to the extent in either case to which such persons part with value in good faith, and in the belief that such partner is still a member of the firm.

CROSS REFERENCE

Post, p. 1278.

Compare section 1145.

SEC. 1118. NOTICE BY CHANGE OF NAME.—A change of the partnership name, which plainly indicates the withdrawal of a partner, is sufficient notice of the fact of such withdrawal to all persons to whom it is communicated; but a change in the name, which does not contain such an indication, is not notice of the withdrawal of any partner.

By change of name.

LIQUIDATION

Liquidation.

SEC. 1119. POWERS OF PARTNERS AFTER DISSOLUTION.—After the dissolution of a partnership, the powers and authority of the partners are such only as are prescribed by this subchapter.

Powers of partners after dissolution.

CROSS REFERENCE

Dissolution of partnership, see sections 1113 et seq.

Ante, p. 1274.

SEC. 1120. WHO MAY ACT IN LIQUIDATION.—Any member of a general partnership may act in liquidation of its affairs, except as provided by section 1121.

Who may act in liquidation.

SEC. 1121. WHO MAY NOT ACT IN LIQUIDATION.—If the liquidation of a partnership is committed, by consent of all the partners, to one or more of them, the others have no right to act therein; but their acts are valid in favor of persons parting with value, in good faith, upon credit thereof.

Who may not act.

SEC. 1122. POWERS OF PARTNERS IN LIQUIDATION.—A partner authorized to act in liquidation may collect, compromise, or release any debts due to the partnership, pay or compromise any claims against it, and dispose of the partnership property.

Powers.

SEC. 1123. WHAT PARTNER MAY DO IN LIQUIDATION.—A partner authorized to act in liquidation may indorse, in the name of the firm, promissory notes or other obligations held by the partnership for the purpose of collecting the same, but he can not create any new obligation in its name or revive a debt against the firm, by an acknowledgment, when an action thereon is barred under the provisions of the Code of Civil Procedure.

What a partner may do.

CHAPTER 55.—SPECIAL PARTNERSHIP

SPECIAL PARTNERSHIP.

FORMATION

SEC. 1124.—FORMATION OF SPECIAL PARTNERSHIP.—A special partnership may be formed by two or more persons, in the manner and with the effect prescribed in this chapter, for the transaction of any business except banking or insurance by an insurer.

Formation.

CROSS REFERENCE

No partnership until compliance with law, see section 1129.

SEC. 1125. OF WHAT TO CONSIST.—A special partnership may consist of one or more persons called general partners, and one or more persons called special partners.

Of what to consist.

SEC. 1126. CERTIFIED STATEMENT.—Persons desirous of forming a special partnership must severally sign a certificate, stating:

Certified statement.

1. The name under which the partnership is to be conducted;
2. The general nature of the business intended to be transacted;
3. The names of all the partners, and their residences, specifying which are general and which are special partners;
4. The amount of capital which each special partner has contributed to the common stock;
5. The periods at which such partnership will begin and end.

Acknowledging and recording; false statement.
Ante, p. 1275.

SEC. 1127. ACKNOWLEDGED AND RECORDED; FALSE STATEMENT.—Certificates under section 1126 must be acknowledged by all the partners, before the clerk of the district court and filed in his office, and shall be open to public inspection. If any false statement is made in any such certificate, all the persons interested in the partnership are liable, as general partners, for all the engagements thereof.

CROSS REFERENCES

Post, p. 1277.

Liability for false statements, see section 1140.

Post, p. 1277.

Liability for unintentional acts, see section 1141.

Affidavit as to sums contributed.

SEC. 1128. AFFIDAVIT AS TO SUMS CONTRIBUTED.—An affidavit of each of the partners, stating that the sums specified in the certificate of the partnership as having been contributed by each of the special partners, have been actually and in good faith paid, in the lawful money of the United States, must be filed in the same office with the original certificate.

No partnership until compliance.
Ante, p. 1275.

SEC. 1129. NO PARTNERSHIP UNTIL COMPLIANCE.—No special partnership is formed until the provisions of sections 1124 to 1128 are complied with.

Renewal of.

SEC. 1130. RENEWAL OF SPECIAL PARTNERSHIP.—Every renewal or continuance of a special partnership must be certified, filed, and verified in the same manner as upon its original formation.

CROSS REFERENCE

Post, p. 1278.

Compare with section 1143.

Powers, rights, and duties of partners.

POWERS, RIGHTS, AND DUTIES OF PARTNERS

General partners to do business.

SEC. 1131. WHO TO DO BUSINESS.—The general partners only have authority to transact the business of a special partnership.

Special, may advise.

SEC. 1132. SPECIAL PARTNERS MAY ADVISE.—A special partner may at all times investigate the partnership affairs, and advise his partners, or their agents, as to their management.

May loan money; insolvency.

SEC. 1133. MAY LOAN MONEY; INSOLVENCY.—A special partner may lend money to the partnership, or advance money for it, and take from it security therefor, and as to such loans or advances has the same rights as any other creditor; but in case of the insolvency of the partnership, all other claims which he may have against it must be postponed until all other creditors are satisfied.

General partners may sue and be sued.

SEC. 1134. GENERAL PARTNERS MAY SUE AND BE SUED.—In all matters relating to a special partnership, its general partners may sue and be sued alone, in the same manner as if there were no special partners.

Withdrawal of capital.

SEC. 1135. WITHDRAWAL OF CAPITAL.—No special partner, under any pretense, may withdraw any part of the capital invested by him in the partnership, during its continuance.

CROSS REFERENCE

Withdrawal of capital, see section 1137.

Interest and profits.

SEC. 1136. INTEREST AND PROFITS.—A special partner may receive such lawful interest and such proportion of profits as may be agreed upon, if not paid out of the capital invested in the partnership by him, or by some other special partner, and is not bound to refund the same to meet subsequent losses.

Result of withdrawing capital.

SEC. 1137. RESULT OF WITHDRAWING CAPITAL.—If a special partner withdraws capital from the firm, contrary to the provisions of this subchapter, he thereby becomes a general partner.

CROSS REFERENCE

Withdrawal of capital, see section 1135.

Ante, p. 1276.

SEC. 1138. PREFERENTIAL TRANSFER VOID.—Every transfer of the property of a special partnership, or of a partner therein, made after or in contemplation of the insolvency of such partnership or partner, with intent to give a preference to any creditor of such partnership or partner over any other creditor of such partnership; is void against the creditors thereof; and every judgment confessed, lien created, or security given, in like manner and with the like intent, is in like manner void.

Preferential transfer void.

LIABILITY OF PARTNERS

Liability of partners.

SEC. 1139. LIABILITY OF PARTNERS.—The general partners in a special partnership are liable to the same extent as partners in a general partnership.

General partners.

CROSS REFERENCE

Liability of general partners, see section 1109.

Ante, p. 1273.

SEC. 1140. OF SPECIAL PARTNERS.—The contribution of a special partner to the capital of the firm, and the increase thereof, is liable for its debts, but he is not otherwise liable therefor, except as follows:

Special partners.

1. If he has willfully made or permitted a false or materially defective statement in the certificate of the partnership, the affidavit filed therewith, or the published announcement thereof, he is liable, as a general partner, to all creditors of the firm;

2. If he has willfully interfered with the business of the firm, except as permitted in sections 1131 to 1138, he is liable in like manner; or

Ante, p. 1276.

3. If he has willfully joined in or assented to an act contrary to any of the provisions of said sections 1131 to 1138, he is liable in like manner.

CROSS REFERENCE

False certificate, see sections 1127 and 1129.

Ante, p. 1276.

SEC. 1141. LIABILITY FOR UNINTENTIONAL ACT.—When a special partner has unintentionally done any of the acts mentioned in section 1140, he is liable, as a general partner, to any creditor of the firm who has been actually misled thereby to his prejudice.

Liability for unintentional act.

CROSS REFERENCES

False statement in certificate, see sections 1127 and 1140.

Ante, p. 1276.

Liability of general partners, see section 1109.

Ante, p. 1273.

SEC. 1142. WHO MAY QUESTION EXISTENCE OF SPECIAL PARTNERSHIP.—One who, upon making a contract with a partnership, accepts from or gives to it a written memorandum of the contract, stating that the partnership is special, and giving the names of the special partners, can not afterwards charge the persons thus named as general partners upon that contract, by reason of an error or defect in the proceedings for the creation of the special partnership, prior to the acceptance of the memorandum, if an effort has been made by the partners, in good faith, to form a special partnership in the manner required by sections 1124 to 1130.

Who may question existence of special partnership.

Ante, p. 1276.

Alteration and dissolution.

ALTERATION AND DISSOLUTION

When special becomes general.

SEC. 1143. WHEN SPECIAL PARTNERSHIP BECOMES GENERAL.—A special partnership becomes general if, within ten days after any partner withdraws from it, or any new partner is received into it, or a change is made in the nature of its business or in its name, a certificate of such fact, duly verified and signed by one or more of the partners, is not filed with the clerk of the district court.

CROSS REFERENCE

Ante, p. 1276.

Partner withdrawing capital becomes general partner, see section 1137.

Admission of new partners.

SEC. 1144. HOW NEW SPECIAL PARTNERS MAY BE ADMITTED.—New special partners may be admitted into a special partnership upon a certificate, stating the names, residences, and contributions to the common stock of each of such partners, signed by each of them, and by the general partners, verified, acknowledged, and filed with the clerk of the district court.

Dissolution of special partnership; notice.

SEC. 1145. DISSOLUTION OF SPECIAL PARTNERSHIP; NOTICE.—A special partnership is subject to dissolution in the same manner as a general partnership, except that no dissolution, by the act of the partners, is complete until a notice thereof has been filed and recorded in the office of the clerk of the district court, and published once in each week, for four successive weeks, in a newspaper of general circulation in the Canal Zone.

CROSS REFERENCE

Ante, p. 1274.

Dissolution of general partnership, see sections 1114 et seq.

Use of special partner's name.

SEC. 1146. THE NAME OF A SPECIAL PARTNER NOT USED, UNLESS.—The name of a special partner must not be used in the firm name of partnership, unless it be accompanied with the word "limited."

INSURANCE IN GENERAL.

CHAPTER 56.—INSURANCE IN GENERAL

CROSS REFERENCE

Ante, p. 1147.

Foreign insurance companies, see sections 176 to 181.¹

DEFINITION OF INSURANCE

"Insurance," defined.

SEC. 1147. INSURANCE, WHAT.—Insurance is a contract whereby one undertakes to indemnify another against loss, damage, or liability, arising from an unknown or contingent event.

CROSS REFERENCE

Post, p. 1288.

Reinsurance contract of, see section 1236.

What may be insured.

WHAT MAY BE INSURED

What events may be insured against.

SEC. 1148. WHAT EVENTS MAY BE INSURED AGAINST.—Any contingent or unknown event, whether past or future, which may damnify a person having an insurable interest, or create a liability against him, may be insured against, subject to the provisions of this chapter.

CROSS REFERENCES

Post, p. 1279.

Insurable interest, see sections 1157 et seq.

Post, p. 1280.

Insurable interest in expectancy or inchoate interest, see sections 1158 and 1160.

¹ So in original.

SEC. 1149. INSURANCE OF LOTTERY OR LOTTERY PRIZE UNAUTHORIZED.—Section 1148 does not authorize an insurance for or against the drawing of any lottery, or for or against any chance or ticket in a lottery drawing a prize.

Insurance of lottery, etc., unauthorized.

CROSS REFERENCES

Fire insurance, see sections 1240 et seq.

Post, p. 1288.

Life and health insurance, see sections 1245 et seq.

Post, p. 1289.

SEC. 1151. ALL SUBJECT TO THIS CHAPTER.—All kinds of insurance, other than marine insurance, are subject to the provisions of this chapter.

All kinds subject to this chapter.

PARTIES TO CONTRACT

Parties to contract.

SEC. 1152. DESIGNATION OF PARTIES.—The person who undertakes to indemnify another by a contract of insurance is called the insurer, and the person indemnified is called the insured.

Designation of.

SEC. 1153. WHO MAY INSURE.—Anyone capable of making a contract may be an insurer, subject to the restrictions imposed by special statutes upon foreign corporations, nonresidents, and others.

Who may insure.

CROSS REFERENCE

Regulation of foreign insurance companies, see sections 176 to 181.¹

Act, p. 1147.

SEC. 1154. WHO MAY BE INSURED.—Anyone except a public enemy may be insured.

Who may be insured.

SEC. 1155. ASSIGNMENT TO MORTGAGEE OF POLICY ON THING INSURED.—Unless the policy otherwise provides, where a mortgagor of property effects insurance in his own name providing that the loss shall be payable to the mortgagee, or assigns a policy of insurance to a mortgagee, the insurance is deemed to be upon the interest of the mortgagor, who does not cease to be a party to the original contract, and any act of his, prior to the loss, which would otherwise avoid the insurance will have the same effect, although the property is in the hands of the mortgagee, but any act which, under the contract of insurance, is to be performed by the mortgagor, may be performed by the mortgagee therein named, with the same effect as if it had been performed by the mortgagor.

Assignment to mortgagee of policy on thing insured.

SEC. 1156. NEW CONTRACT BETWEEN INSURER AND ASSIGNEE.—If an insurer assents to the transfer of an insurance from a mortgagor to a mortgagee, and, at the time of his assent, imposes further obligations on the assignee, making a new contract with him, the acts of the mortgagor can not affect his rights.

New contract between insurer and assignee.

INSURABLE INTEREST

Insurable interest.

SEC. 1157. INSURABLE INTEREST, WHAT.—Every interest in property, or any relation thereto, or liability in respect thereof, of such a nature that a contemplated peril might directly damnify the insured is an insurable interest.

Definition.

CROSS REFERENCES

Assignment to one without insurable interest, see section 1247.

Post, p. 1289.

Bailees or carriers, see section 1159.

Post, p. 1280.

Effect of transfer of interest, see section 1164.

Post, p. 1280.

Extent of insurable interest, see section 1161.

Post, p. 1280.

Future products insurable, see section 1160.

Post, p. 1280.

Insurable interest in expectancy or inchoate interest, see section 1148, 1158, and 1160.

Act, p. 1273; post, p. 1280.

¹ So in original.

- Post*, p. 1289. Insurable interest in life or health, see section 1246.
 Insurance without insurable interest is void, see section 1162.
- Post*, p. 1289. Life insurance, see section 1246.
- Post*, p. 1284. Partner, see section 1197.
- Post*, pp. 1282, 1283. Stating insurer's interests in policy, see sections 1177 and 1194.
- Post*, p. 1281. Stipulation for payment irrespective of insurable interest is void, see section 1169.
 When insurable interest must exist, see section 1163.

- IN WHAT MAY CONSIST.** SEC. 1158. **IN WHAT MAY CONSIST.**—An insurable interest in property may consist in:
1. An existing interest;
 2. An inchoate interest founded on an existing interest; or
 3. An expectancy, coupled with an existing interest in that out of which the expectancy arises.

CROSS REFERENCES

- Ante*, p. 1278. Insurable interest in expectancy or inchoate interest, see sections 1148 and 1160.
- Ante*, p. 1278. What events may be insured against, see section 1148.
- Interest of carrier or depositary. SEC. 1159. **INTEREST OF CARRIER OR DEPOSITARY.**—A carrier or depositary of any kind has an insurable interest in a thing held by him as such, to the extent of its value.
- Mere expectancies. SEC. 1160. **MERE EXPECTANCIES.**—A mere contingent or expectant interest in anything, not founded on an actual right to the thing, nor upon any valid contract for it, is not insurable.

CROSS REFERENCES

- Ante*, p. 1278. Insurable interest in expectancy or inchoate interest, see section 1158.
 Unknown or contingent event, insurance against, see section 1148.
- Measure of interest. SEC. 1161. **MEASURE OF INTEREST IN PROPERTY.**—The measure of an insurable interest in property is the extent to which the insured might be damnified by loss or injury thereof.

CROSS REFERENCE

Insurance without interest, see section 1162.

- Insurance without interest illegal. SEC. 1162. **INSURANCE WITHOUT INTEREST, ILLEGAL.**—The sole object of insurance is the indemnity of the insured, and if he has no insurable interest the contract is void.

CROSS REFERENCE

- Post*, p. 1281. Stipulation for payment irrespective of interest is void, see section 1169.

- When interest must exist. SEC. 1163. **WHEN INTEREST MUST EXIST.**—An interest insured must exist when the insurance takes effect, and when the loss occurs, but need not exist in the meantime.

- Effect of transfer. SEC. 1164. **EFFECT OF TRANSFER.**—Except in the cases specified in sections 1165 to 1168, and in the cases of life, accident, and health insurance, a change of interest in any part of a thing insured, unaccompanied by a corresponding change of interest in the insurance, suspends the insurance to an equivalent extent, until the interest in the thing and the interest in the insurance are vested in the same person.

CROSS REFERENCES

Transfer by coowner or partner, see section 1168.

Transfer by operation of law, see section 1167.¹

Transfer of life-insurance policy, see section 1247.

Transfer of thing insured does not transfer policy, see section 1200.

Post, p. 1280.

Post, p. 1284.

SEC. 1165. TRANSFER AFTER LOSS.—A change of interest in a thing insured, after the occurrence of an injury which results in a loss, does not affect the right of the insured to indemnity for the loss.

Transfer after loss.

SEC. 1166. EXCEPTION IN THE CASE OF SEVERAL SUBJECTS IN ONE POLICY.—A change of interest in one or more of several distinct things, separately insured by one policy, does not avoid the insurance as to the others.

Exception where several subjects in one policy.

SEC. 1168. IN THE CASE OF TRANSFER BETWEEN COTENANTS.—A transfer of interest by one of several partners, joint owners, or owners in common, who are jointly insured, to the others, does not avoid an insurance, even though it has been agreed that the insurance shall cease upon an alienation of the thing insured.

Transfer between cotenants.

CROSS REFERENCE

Insurance by partner or cotenant, see section 1197.

Post, p. 1284.

SEC. 1169. POLICY, WHEN VOID.—Every stipulation in a policy of insurance for the payment of loss whether the person insured has or has not any interest in the property insured, or that the policy shall be received as proof of such interest and every policy executed by way of gaming or wagering, is void.

Policy, when void.

CROSS REFERENCE

Insurance without interest is illegal, see section 1162.

Ante, p. 1280.

CONCEALMENT AND REPRESENTATIONS

SEC. 1170. CONCEALMENT, WHAT.—A neglect to communicate that which a party knows, and ought to communicate, is called a concealment.

Concealment and representations.

Concealment, defined.

CROSS REFERENCE

"Party" refers to either party to the contract, see section 1172.

SEC. 1171. EFFECT OF CONCEALMENT.—A concealment, whether intentional or unintentional, entitles the injured party to rescind a contract of insurance.

Effect of.

SEC. 1172. WHAT MUST BE DISCLOSED.—Each party to a contract of insurance must communicate to the other, in good faith, all facts within his knowledge which are or which he believes to be material to the contract, and which the other has not the means of ascertaining, and as to which he makes no warranty.

What must be disclosed.

SEC. 1173. MATTERS WHICH NEED NOT BE COMMUNICATED WITHOUT INQUIRY.—Neither party to a contract of insurance is bound to communicate information of the matters following, except in answer to the inquiries of the other:

Matters which need not be communicated.

1. Those which the other knows;
2. Those which, in the exercise of ordinary care, the other ought to know, and of which the former has no reason to suppose him ignorant;
3. Those of which the other waives communication;
4. Those which prove or tend to prove the existence of a risk excluded by a warranty, and which are not otherwise material; and

¹ So in original.

5. Those which relate to a risk excepted from the policy, and which are not otherwise material.

CROSS REFERENCES

Facts covered by warranty, see section 1178.
 Information as to nature of amount of interest, see section 1177.
 Matters of opinion, see section 1179.
 Waiver of communication, see section 1176.

Test of materiality. SEC. 1174. TEST OF MATERIALITY.—Materiality is to be determined not by the event, but solely by the probable and reasonable influence of the facts upon the party to whom the communication is due, in forming his estimate of the disadvantages of the proposed contract or in making his inquiries.

CROSS REFERENCE

Post, p. 1283. Materiality of representation, see section 1190.

Matters which each is bound to know. SEC. 1175. MATTERS WHICH EACH IS BOUND TO KNOW.—Each party to a contract of insurance is bound to know all the general causes which are open to his inquiry, equally with that of the other, and which may affect either the political or material perils contemplated; and all general usages of trade.

Waiver of communication. SEC. 1176. WAIVER OF COMMUNICATION.—The right to information of material facts may be waived, either by the terms of insurance or by neglect to make inquiries as to such facts, where they are distinctly implied in other facts of which information is communicated.

Interest of insured. SEC. 1177. INTEREST OF INSURED.—Information of the nature or amount of the interest of one insured need not be communicated unless in answer to an inquiry, except as prescribed by section 1194.

Post, p. 1283. Fraudulent warranty. SEC. 1178. FRAUDULENT WARRANTY.—An intentional and fraudulent omission, on the part of one insured, to communicate information of matters proving or tending to prove the falsity of a warranty, entitles the insurer to rescind.

CROSS REFERENCES

Ante, p. 1281. Effect of concealment, see section 1171.
Post, p. 1284. Warranties, see section 1207 et seq.

Matters of opinion. SEC. 1179. MATTERS OF OPINION.—Neither party to a contract of insurance is bound to communicate, even upon inquiry, information of his own judgment upon the matters in question.

How representation made. SEC. 1180. REPRESENTATION, HOW MADE.—A representation may be oral or written.

When made. SEC. 1181. WHEN MADE.—A representation may be made at the same time with issuing the policy, or before it.

CROSS REFERENCE

Post, p. 1284. Warranties, see sections 1207 and 1208.

How interpreted. SEC. 1182. HOW INTERPRETED.—The language of a representation is to be interpreted by the same rules as the language of contracts in general.

CROSS REFERENCE

Ante, p. 1197. Interpretation of contracts, see sections 546 et seq.

Representation as to future. SEC. 1183. REPRESENTATION AS TO FUTURE.—A representation as to the future is to be deemed a promise, unless it appears that it was merely a statement of belief or expectation.

SEC. 1184. **HOW MAY AFFECT POLICY.**—A representation can not be allowed to qualify an express provision in a contract of insurance, but it may qualify an implied warranty.

How affect policy.

SEC. 1185. **WHEN MAY BE WITHDRAWN.**—A representation may be altered or withdrawn before the insurance is effected, but not afterwards.

When may be withdrawn.

SEC. 1186. **TIME INTENDED BY REPRESENTATION.**—The completion of the contract of insurance is the time to which a representation must be presumed to refer.

Time intended by representation.

SEC. 1187. **REPRESENTING INFORMATION.**—When a person insured has no personal knowledge of a fact, he may nevertheless repeat information which he has upon the subject, and which he believes to be true, with the explanation that he does so on the information of others, or he may submit the information, in its whole extent, to the insurer; and in neither case is he responsible for its truth, unless it proceeds from an agent of the insured, whose duty it is to give the intelligence.

Representing information.

SEC. 1188. **FALSITY.**—A representation is to be deemed false when the facts fail to correspond with its assertions or stipulations.

Falsity.

SEC. 1189. **EFFECT OF FALSITY.**—If a representation is false in a material point, whether affirmative or promissory, the injured party is entitled to rescind the contract from the time when the representation becomes false.

Effect of.

SEC. 1190. **MATERIALITY.**—The materiality of a representation is determined by the same rule as the materiality of a concealment.

Materiality.

CROSS REFERENCES

Materiality of representation, how determined, see section 1174.

Ante, p. 1282.

Violation of material warranty, see section 1214.

Post, p. 1285.

SEC. 1191. **APPLICATION OF PROVISIONS OF THIS SUBCHAPTER.**—The provisions of this subchapter apply as well to a modification of a contract of insurance as to its original formation.

Application of this subchapter.

SEC. 1192. **RIGHT TO RESCIND.**—Whenever a right to rescind a contract of insurance is given to the insurer by any provision of this chapter, such right may be exercised at any time previous to the commencement of an action on the contract.

Right to rescind.

THE POLICY

The policy.

SEC. 1193. **POLICY, WHAT.**—The written instrument, in which a contract of insurance is set forth, is called a policy of insurance.

Definition.

SEC. 1194. **WHAT MUST BE SPECIFIED IN A POLICY.**—A policy of insurance must specify:

What must specify.

1. The parties between whom the contract is made;
2. The rate of premium;
3. The property or life insured;
4. The interest of the insured in property insured, if he is not the absolute owner thereof;
5. The risks insured against; and
6. The period during which the insurance is to continue.

Whose interest covered.

SEC. 1195. **WHOSE INTEREST IS COVERED.**—When the name of the person intended to be insured is specified in a policy, it can be applied only to his own proper interest.

CROSS REFERENCES

Insurable interest, generally, see section 1157.

Ante, p. 1270.

Stating interest of insured, see section 1177.

Ante, p. 1282.

Insurance by agent
or trustee.

SEC. 1196. INSURANCE BY AGENT OR TRUSTEE.—When an insurance is made by an agent or trustee, the fact that his principal or beneficiary is the person really insured may be indicated by describing him as agent or trustee, or by other general words in the policy.

By part owner.

SEC. 1197. INSURANCE BY PART OWNER.—To render an insurance, effected by one partner or part owner, applicable to the interest of his copartners, or of other part owners, it is necessary that the terms of the policy should be such as are applicable to the joint or common interest.

CROSS REFERENCE

Ante, p. 1281.

Transfer by coowner, see section 1168.

General terms.

SEC. 1198. GENERAL TERMS.—When the description of the insured in a policy is so general that it may comprehend any person or any class of persons, he only can claim the benefit of the policy who can show that it was intended to include him.

Successive owners.

SEC. 1199. SUCCESSIVE OWNERS.—A policy may be so framed that it will inure to the benefit of whomsoever, during the continuance of the risk, may become the owner of the interest insured.

Transfer of thing insured.

SEC. 1200. TRANSFER OF THE THING INSURED.—The mere transfer of a thing insured does not transfer the policy, but suspends it until the same person becomes the owner of both the policy and the thing insured.

CROSS REFERENCE

Ante, p. 1281.

Transfer of interest, see sections 1164 et seq.

Open and valued
policies.

SEC. 1201. OPEN AND VALUED POLICIES.—A policy is either open or valued.

Open policy.

SEC. 1202. OPEN POLICY, WHAT.—An open policy is one in which the value of the thing insured is not agreed upon, but is left to be ascertained in case of loss.

Valued policy.

SEC. 1203. VALUED POLICY, WHAT.—A valued policy is one which expresses on its face an agreement that the thing insured shall be valued at a specified sum.

Running policy.

SEC. 1204. RUNNING POLICY, WHAT.—A running policy is one which contemplates successive insurances, and which provides that the object of the policy may be from time to time defined, especially as to the subjects of insurance, by additional statements or indorsements.

Effect of receipt.

SEC. 1205. EFFECT OF RECEIPT.—An acknowledgment in a policy of the receipt of premium is conclusive evidence of its payment, so far as to make the policy binding, notwithstanding any stipulation therein that it shall not be binding until the premium is actually paid.

CROSS REFERENCE

Post, p. 1285.

Premiums, in general, see sections 1217 et seq.

Agreement not to
transfer.

SEC. 1206. AGREEMENT NOT TO TRANSFER.—An agreement made before a loss, not to transfer the claim of a person insured against the insurer, after the loss has happened, is void.

Warranties.

WARRANTIES

Express or implied.

SEC. 1207. WARRANTY, EXPRESS OR IMPLIED.—A warranty is either express or implied.

CROSS REFERENCE

Post, p. 1285.

Express warranties to be in policy, see section 1209.

SEC. 1208. FORM.—No particular form of words is necessary to create a warranty. Form.

SEC. 1209. EXPRESS WARRANTIES TO BE IN POLICY.—Every express warranty, made at or before the execution of a policy, must be contained in the policy itself, or in another instrument signed by the insured and referred to in the policy, as making a part of it. Express warranties to be in policy.

CROSS REFERENCE

Representations, see sections 1180 et seq. *Ante*, p. 1282.

SEC. 1210. PAST, PRESENT, AND FUTURE WARRANTIES.—A warranty may relate to the past, the present, the future, or to any or all of these. Time.

SEC. 1211. EXPRESS WARRANTY, WHAT CONSTITUTES.—A statement in a policy, of a matter relating to the person or thing insured, or to the risk, as a fact, is an express warranty thereof. What constitutes express warranty.

SEC. 1212. WARRANTY AS TO THE FUTURE.—A statement in a policy, which imports that it is intended to do or not to do a thing which materially affects the risk, is a warranty that such act or omission shall take place. Warranty as to future.

SEC. 1213. PERFORMANCE EXCUSED.—When before the time arrives for the performance of a warranty relating to the future, a loss insured against happens, or performance becomes unlawful at the place of the contract, or impossible, the omission to fulfill the warranty does not avoid the policy. Performance excused.

CROSS REFERENCE

Rescinding contract of insurance, see section 1192. *Ante*, p. 1283.

SEC. 1214. WHAT ACTS AVOID THE POLICY.—The violation of a material warranty, or other material provision of a policy, on the part of either party thereto, entitles the other to rescind. What acts avoid policy.

CROSS REFERENCE

Test of the materiality of a representation, see section 1190. *Ante*, p. 1283.

SEC. 1215. POLICY MAY PROVIDE FOR AVOIDANCE.—A policy may declare that a violation of specified provisions thereof shall avoid it; otherwise the breach of an immaterial provision does not avoid the policy. Policy may provide for avoidance.

SEC. 1216. BREACH WITHOUT FRAUD.—A breach of warranty, without fraud, merely exonerates an insurer from the time that it occurs, or where it is broken in its inception prevents the policy from attaching to the risk. Breach without fraud.

CROSS REFERENCE

Breach of warranty without fraud, return of premium, see section 1220. *Post*, p. 1286.

PREMIUM

SEC. 1217. WHEN PREMIUM IS EARNED¹. Premium. When earned.

CROSS REFERENCE

Receipt in policy, how far conclusive of payment, see section 1205. *Ante*, p. 1284.

SEC. 1218. RETURN OF PREMIUM.—A person insured is entitled to a return of premium, as follows: Return of premium.

Where the insurance is made for a definite period of time, and the insured surrenders his policy, to such proportion of the premium above the customary short rate premium as corresponds with the

¹ So in original.

unexpired time, after deducting from the whole premium any claim for loss or damage under the policy which has previously accrued.

CROSS REFERENCE

Return for fraud, see section 1220.

When not allowed. SEC. 1219. WHEN NOT ALLOWED.—If a peril insured against has existed, and the insurer has been liable for any period, however short, the insured is not entitled to return of premiums so far as that particular risk is concerned.

Return for fraud. SEC. 1220. RETURN FOR FRAUD.—A person insured is entitled to a return of the premium when the contract is voidable, on account of the fraud or misrepresentation of the insurer, or on account of facts, of the existence of which the insured was ignorant without his fault; or when, by any default of the insured other than actual fraud, the insurer never incurred any liability under the policy.

CROSS REFERENCE

Ante, p. 1285. Return of premium, see section 1218.

Overinsurance by several insurers. SEC. 1221. OVERINSURANCE BY SEVERAL INSURERS.—In case of an overinsurance by several insurers, the insured is entitled to a ratable return for the premium, proportioned to the amount by which the aggregate sum insured in all the policies exceeds the insurable value of the thing at risk.

CROSS REFERENCE

Post, p. 1287. Double insurance, defined, see section 1234.

Contribution. SEC. 1222. CONTRIBUTION.—When an overinsurance is affected by simultaneous policies, the insurers contribute to the premium to be returned in proportion to the amount insured by their respective policies.

CROSS REFERENCE

Post, p. 1287. Contribution in cases of double insurance, see section 1235.

Proportionate contribution. SEC. 1223. PROPORTIONATE CONTRIBUTION.—When an overinsurance is effected by successive policies, those only contribute to a return of the premium who are exonerated by prior insurance from the liability assumed by them, and in proportion as the sum for which the premium was paid exceeds the amount for which, on account of prior insurance, they could be made liable.

Loss.

LOSS

Perils, remote and proximate. SEC. 1224. PERILS, REMOTE AND PROXIMATE.—An insurer is liable for a loss of which a peril insured against was the proximate cause, although a peril not contemplated by the contract may have been a remote cause of the loss; but he is not liable for a loss of which the peril insured against was only a remote cause.

CROSS REFERENCE

Post, p. 1287. Negligence of insured, see section 1227.

Loss incurred in rescue. SEC. 1225. LOSS INCURRED IN RESCUE FROM PERIL.—An insurer is liable where the thing insured is rescued from a peril insured against, that would otherwise have caused a loss, if in the course of such rescue the thing is exposed to a peril not insured against, which permanently deprives the insured of its possession, in whole or in part; or where a loss is caused by efforts to rescue the thing insured from a peril insured against.

SEC. 1226. **EXCEPTED PERILS.**—Where a peril is specially excepted in a contract of insurance, a loss, which would not have occurred but for such peril, is thereby excepted, although the immediate cause of the loss was a peril which was not excepted. Excepted perils.

SEC. 1227. **NEGLIGENCE AND FRAUD.**—An insurer is not liable for a loss caused by the willful act of the insured; but he is not exonerated by the negligence of the insured, or of his agents or others. Negligence and fraud.

NOTICE OF LOSS

SEC. 1228. **NOTICE OF LOSS.**—In case of loss upon an insurance against fire, an insurer is exonerated if notice thereof be not given to him by some person insured, or entitled to the benefit of the insurance, without unnecessary delay. Notice of loss.

SEC. 1229. **TIME FOR GIVING NOTICE OF ACCIDENTS, ETC.**—No conditions, stipulations, or agreements contained in any application for insurance in any casualty or accident insurance company, or contained in any policy issued by any such company, or in any way made by any such company, limiting the time within which notice of the accident or injury, or death, shall be given to such company to a period of less than twenty days after the happening of the accident, or injury, or death, shall be valid. Said notice may be given to the company insuring, at any time within twenty days after the happening of the accident, or injury, or death, and shall be valid and binding on the company; and notice deposited in the mails properly addressed within the time stated is sufficient, though it does not reach the insurer within that time. Time for giving notice.

SEC. 1230. **PRELIMINARY PROOFS.**—When preliminary proof of loss is required by a policy, the insured is not bound to give such proof as would be necessary in a court of justice; but it is sufficient for him to give the best evidence which he has in his power at the time. Preliminary proofs.

SEC. 1231. **WAIVER OF DEFECTS IN NOTICE, ETC.**—All defects in a notice of loss, or in preliminary proof thereof, which the insured might remedy, and which the insurer omits to specify to him, without unnecessary delay, as grounds of objection, are waived. Waiver of defects in notice, etc.

SEC. 1232. **WAIVER OF DELAY.**—Delay in the presentation to an insurer of notice or proof of loss is waived, if caused by any act of his, or if he omits to make objection promptly and specifically upon that ground. Waiver of delay.

SEC. 1233. **CERTIFICATE, WHEN DISPENSED WITH.**—If a policy requires, by way of preliminary proof of loss, the certificate or testimony of a person other than the insured, it is sufficient for the insured to use reasonable diligence to procure it, and in case of the refusal of such person to give it, then to furnish reasonable evidence to the insurer that such refusal was not induced by any just grounds of disbelief in the facts necessary to be certified. When certificate dispensed with.

DOUBLE INSURANCE

SEC. 1234. **DOUBLE INSURANCE.**—A double insurance exists where the same person is insured by several insurers separately in respect to the same subject and interest. Double insurance.

SEC. 1235. **CONTRIBUTION IN CASE OF DOUBLE INSURANCE.**—In case of double fire insurance, each insurer must contribute ratably toward the loss, without regard to the dates of the several policies. Contribution in case of.

CROSS REFERENCE

Return of premium by successive insurers, see sections 1221 and 1223.

Act, p. 1285.

REINSURANCE

- Reinsurance. Definition.** SEC. 1236. REINSURANCE, WHAT.—A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.
- Disclosures required.** SEC. 1237. DISCLOSURES REQUIRED.—Where an insurer obtains reinsurance, he must communicate all the representations of the original insured, and also all the knowledge and information he possesses, whether previously or subsequently acquired, which are material to the risk.
- Reinsurance presumed to be against liability.** SEC. 1238. REINSURANCE PRESUMED TO BE AGAINST LIABILITY.—A reinsurance is presumed to be a contract of indemnity against liability and not merely against damage.
- Original insured has no interest.** SEC. 1239. ORIGINAL INSURED HAS NO INTEREST.—The original insured has no interest in a contract of reinsurance.

FIRE INSURANCE.

CHAPTER 57.—FIRE INSURANCE

CROSS REFERENCES

- Ante*, p. 1279. Chapter 56 of this code is also applicable to fire insurance, see section 1151.
- Ante*, p. 1147. Foreign insurance companies, see sections 176 to 181.¹
- Alteration increasing risk.** SEC. 1240. ALTERATION INCREASING RISK.—An alteration in the use or condition of a thing insured from that to which it is limited by the policy, made without the consent of the insurer, by means within the control of the insured, and increasing the risk, entitles an insurer to rescind a contract of fire insurance.
- Not increasing risk.** SEC. 1241. ALTERATION NOT INCREASING RISK.—An alteration in the use or condition of a thing insured from that to which it is limited by the policy, which does not increase the risk, does not affect a contract of fire insurance.
- Acts of insured.** SEC. 1242. ACTS OF INSURED.—A contract of fire insurance is not affected by any act of the insured subsequent to the execution of the policy, which does not violate its provisions, even though it increases the risk and is the cause of a loss.
- Measure of indemnity.** SEC. 1243. MEASURE OF INDEMNITY.—If there is no valuation in the policy, the measure of indemnity in an insurance against fire is the expense it would be to the insured at the time of the commencement of the fire to replace the thing lost or injured in the condition in which it was at the time of the injury; but the effect of a valuation in a policy of fire insurance is the same as in a policy of marine insurance.
- Value of interest in policy; how fixed; total or partial loss.** SEC. 1244. VALUE OF INTEREST IN POLICY OF INSURANCE; HOW MAY BE FIXED; TOTAL OR PARTIAL LOSS.—Whenever the insured desires to have a valuation named in his policy, insuring any building or structure against fire, he may require such building or structure to be examined by the insurer, and the value of the insured's interest therein shall be thereupon fixed by the parties. The cost of such examination shall be paid for by the insured. A clause shall be inserted in such policy stating substantially that the value of the insured's interest in such building or structure has been thus fixed. In the absence of any change increasing the risk without the consent of the insurer or of fraud on the part of the insured, then, in case of a total loss under such policy, the whole amount so insured upon the insured's interest in such building or structure, as stated in the policy upon which the insurers have received a premium, shall be paid, and in case of a partial loss the full amount of the partial loss shall be so paid, and in case there are two or more policies covering the insured's interest therein, each policy shall contribute

¹ So in original.

pro rata to the payment of such whole or partial loss. But in no case shall the insurer be required to pay more than the amount thus stated in such policy. This section shall not prevent the parties from stipulating in such policies concerning the repairing, rebuilding, or replacing buildings or structures wholly or partially damaged or destroyed.

CHAPTER 58.—LIFE AND HEALTH INSURANCE

LIFE AND
HEALTH INSUR-
ANCE.

CROSS REFERENCES

Chapter 56 of this code is also applicable to life insurance, see section 1151. Foreign insurance companies, see sections 176 to 181.¹

Ante, p. 1279.

Ante, p. 1148.

SEC. 1245. INSURANCE UPON LIFE, WHEN PAYABLE.—An insurance upon life may be made payable on the death of the person, or on his surviving a specified period, or periodically so long as he shall live, or otherwise contingently on the continuance or determination of life.

When insurance
upon life payable.

SEC. 1246. INSURABLE INTEREST.—Every person has an insurable interest in the life and health—

Insurable interest.

1. Of himself;
2. Of any person on whom he depends wholly or in part for education or support;
3. Of any person under a legal obligation to him for the payment of money, or respecting property or services, of which death or illness might delay or prevent the performance; and
4. Of any person upon whose life any estate or interest vested in him depends.

CROSS REFERENCE

Insurable interest, generally, see sections 1157 et seq.

Ante, p. 1279.

SEC. 1247. ASSIGNEE, ETC., OF LIFE POLICY NEED HAVE NO INTEREST.—A policy of insurance upon life or health may pass by transfer, will, or succession to any person, whether he has an insurable interest or not, and such person may recover upon it whatever the insured might have recovered.

Assignee, etc., of life
policy need have no
interest.

CROSS REFERENCE

Compare section 1164.

Ante, p. 1280.

SEC. 1248. NOTICE OF TRANSFER.—Notice to an insurer of a transfer or bequest thereof is not necessary to preserve the validity of a policy of insurance upon life or health, unless thereby expressly required.

Notice of transfer.

SEC. 1249.—MEASURE OF INDEMNITY.—Unless the interest of a person insured is susceptible of exact pecuniary measurement, the measure of indemnity under a policy of insurance upon life or health is the sum fixed in the policy.

Measure of indem-
nity.

SEC. 1250. DISPOSITION BY BENEFICIARY OF INTEREST IN INSTALLMENT.—The beneficiary under a policy of life insurance, providing for the payment of the proceeds thereof in periodical installments, may be restrained from disposing of or encumbering his interest in any such installment, prior to the date when it shall become due and payable by the insurer, by a condition or stipulation in the policy.

Disposition by bene-
ficiary of interest in in-
stallment.

SEC. 1251. PAYMENT OF PROCEEDS OF POLICY.—The proceeds of every policy of insurance due on the death of insured shall by the insurer be paid either to the beneficiary designated therein, or, if no beneficiary is designated therein, to the estate of insured; or, if the policy has been assigned, to the assignee thereof; and such payment shall satisfy all obligations of the insurer with respect to said policy.

Payment of pro-
ceeds.

¹ So in original.

INDEMNITY.

CHAPTER 59.—INDEMNITY

Definition.

SEC. 1251—*a*. INDEMNITY, WHAT.—Indemnity is a contract by which one engages to save another from a legal consequence of the conduct of one of the parties, or of some other person.

CROSS REFERENCES

Post, p. 1291.

Guaranty, see sections 1261 et seq.

Post, p. 1294.

Suretyship, see sections 1285 et seq.

Indemnity for future wrongful act void.

SEC. 1252. INDEMNITY FOR A FUTURE WRONGFUL ACT VOID.—An agreement to indemnify a person against an act thereafter to be done, is void, if the act be known by such person at the time of doing it to be unlawful.

For past wrongful act valid.

SEC. 1253. INDEMNITY FOR A PAST WRONGFUL ACT VALID.—An agreement to indemnify a person against an act already done, is valid, even though the act was known to be wrongful, unless it was a felony.

Indemnity extends to agents.

SEC. 1254. INDEMNITY EXTENDS TO ACTS OF AGENTS.—An agreement to indemnify against the acts of a certain person, applies not only to his acts and their consequences, but also to those of his agents.

Indemnity to several.

SEC. 1255. INDEMNITY TO SEVERAL.—An agreement to indemnify several persons applies to each, unless a contrary intention appears.

Person indemnifying, liable jointly or severally.

SEC. 1256. PERSON INDEMNIFYING LIABLE JOINTLY OR SEVERALLY WITH PERSON INDEMNIFIED.—One who indemnifies another against an act to be done by the latter is liable jointly with the person indemnified, and separately, to every person injured by such act.

Rules for interpreting agreement.

SEC. 1257. RULES FOR INTERPRETING AGREEMENT OF INDEMNITY.—In the interpretation of a contract of indemnity the following rules are to be applied, unless a contrary intention appears:

1. Upon an indemnity against liability, expressly, or in other equivalent terms, the person indemnified is entitled to recover upon becoming liable.

2. Upon an indemnity against claims, or demands, or damages, or costs, expressly, or in other equivalent terms, the person indemnified is not entitled to recover without payment thereof.

3. An indemnity against claims, or demands, or liability, expressly, or in other equivalent terms, embraces the costs of defense against such claims, demands, or liability incurred in good faith and in the exercise of a reasonable discretion.

4. The person indemnifying is bound, on request of the person indemnified, to defend actions or proceedings brought against the latter in respect to the matters embraced by the indemnity, but the person indemnified has the right to engage in the conduct of such defenses, if he chooses to do so.

5. If, after request, the person indemnifying neglects to defend the person indemnified, a recovery against the latter suffered by him in good faith is conclusive in his favor against the former.

6. If the person indemnifying, whether he is a principal or a surety in the agreement, has not reasonable notice of the action or proceeding against the person indemnified, or is not allowed to control its defense, judgment against the latter is only presumptive evidence against the former.

7. A stipulation that a judgment against the person indemnified shall be conclusive upon the person indemnifying, is inapplicable if he had a good defense upon the merits, which by want of ordinary care he failed to establish in the action.

SEC. 1258. REIMBURSEMENT OF PERSON INDEMNIFYING OTHER.—Where one, at the request of another, engages to answer in damages, whether liquidated or unliquidated, for any violation of duty on the part of the latter, he is entitled to be reimbursed in the same manner as a surety for whatever he may pay.

Reimbursement of person indemnifying other.

SEC. 1259. BAIL, WHAT.—Upon those contracts of indemnity which are taken in legal proceedings as security for the performance of an obligation imposed or declared by the tribunals, and known as undertakings or recognizances, the sureties are called bail.

Bail, defined.

SEC. 1260. HOW REGULATED.—The obligations of bail are governed by the law specially applicable thereto.

How regulated.

CHAPTER 60.—GUARANTY IN GENERAL

GUARANTY IN GENERAL.

DEFINITION OF GUARANTY

SEC. 1261. GUARANTY, WHAT.—A guaranty is a promise to answer for the debt, default, or miscarriage of another person.

Definition.

CROSS REFERENCES

Indemnity, see sections 1251-a et seq.

Ante, p. 1290.

Suretyship, see sections 1285 et seq.

Post, p. 1294.

CREATION OF GUARANTY

Creation of.

SEC. 1262. KNOWLEDGE OF PRINCIPAL NOT NECESSARY.—A person may become guarantor even without the knowledge or consent of the principal.

Knowledge of principal not necessary.

SEC. 1263. NECESSITY OF A CONSIDERATION.—Where a guaranty is entered into at the same time with the original obligation, or with the acceptance of the latter by the guarantee, and forms with that obligation a part of the consideration to him, no other consideration need exist. In all other cases there must be a consideration distinct from that of the original obligation.

Necessity of consideration.

SEC. 1264. GUARANTY TO BE IN WRITING, ETC.—Except as prescribed by section 1265, a guaranty must be in writing, and signed by the guarantor; but the writing need not express a consideration.

Guaranty to be in writing, etc.

CROSS REFERENCE

Guaranty, to be written, see section 541 (2).

Ante, p. 1197.

SEC. 1265. ENGAGEMENT TO ANSWER FOR OBLIGATION OF ANOTHER, WHEN DEEMED ORIGINAL.—A promise to answer for the obligation of another, in any of the following cases, is deemed an original obligation of the promisor, and need not be in writing:

Engagement to answer for obligation of another, when deemed original.

1. Where the promise is made by one who has received property of another upon an undertaking to apply it pursuant to such promise, or by one who has received a discharge from an obligation in whole or in part in consideration of such promise.

2. Where the creditor parts with value, or enters into an obligation, in consideration of the obligation in respect to which the promise is made, in terms or under circumstances such as to render the party making the promise the principal debtor, and the person in whose behalf it is made, his surety.

3. Where the promise, being for an antecedent obligation of another, is made upon the consideration that the party receiving it cancels the antecedent obligation, accepting the new promise as a substitute therefor; or upon the consideration that the party receiving it releases the property of another from a levy, or his person from imprisonment under an execution on a judgment obtained upon

the antecedent obligation; or upon a consideration beneficial to the promisor, whether moving from either party to the antecedent obligation or from another person.

4. Where a factor undertakes, for a commission, to sell merchandise and guarantee the sale.

5. Where the holder of an instrument for the payment of money, upon which a third person is or may become liable to him, transfers it in payment of a precedent debt of his own, or for a new consideration, and in connection with such transfer enters into a promise respecting such instrument.

CROSS REFERENCE

Ante, p. 1197.

Guaranty, necessity of writing, see section 541.

Acceptance of guaranty.

SEC. 1266. ACCEPTANCE OF GUARANTY.—A mere offer to guarantee is not binding until notice of its acceptance is communicated by the guarantee to the guarantor; but an absolute guaranty is binding upon the guarantor without notice of acceptance.

CROSS REFERENCE

Absolute guaranty, see section 1271.

Interpretation of.

INTERPRETATION OF GUARANTY

Guaranty of incomplete contract.

SEC. 1267. GUARANTY OF INCOMPLETE CONTRACT.—In a guaranty of a contract, the terms of which are not then settled, it is implied that its terms shall be such as will not expose the guarantor to greater risks than he would incur under those terms which are most common in similar contracts at the place where the principal contract is to be performed.

That an obligation is good or collectible.

SEC. 1268. GUARANTY THAT AN OBLIGATION IS GOOD OR COLLECTIBLE.—A guaranty to the effect that an obligation is good, or is collectible, imports that the debtor is solvent and that the demand is collectible by the usual legal proceedings, if taken with reasonable diligence.

Recovery upon.

SEC. 1269. RECOVERY UPON SUCH GUARANTY.—A guaranty, such as is mentioned in section 1268, is not discharged by an omission to take proceedings upon the principal debt, or upon any collateral security for its payment, if no part of the debt could have been collected thereby.

Guarantor's liability.

SEC. 1270. GUARANTOR'S LIABILITY UPON SUCH GUARANTY.—In the cases mentioned in section 1268, the removal of the principal from the Canal Zone, leaving no property therein from which the obligation might be satisfied, is equivalent to the insolvency of the principal in its effect upon the rights and obligations of the guarantor.

Liability of guarantors.

LIABILITY OF GUARANTORS

Guaranty construed.

SEC. 1271. GUARANTY, HOW CONSTRUED.—A guaranty is to be deemed unconditional unless its terms import some condition precedent to the liability of the guarantor.

Liability upon guaranty of payment or performance.

SEC. 1272. LIABILITY UPON GUARANTY OF PAYMENT OR PERFORMANCE.—A guarantor of payment or performance is liable to the guarantee immediately upon the default of the principal, and without demand or notice.

Of conditional obligation.

SEC. 1273. LIABILITY UPON GUARANTY OF CONDITIONAL OBLIGATION.—Where one guarantees a conditional obligation, his liability is commensurate with that of the principal, and he is not entitled to notice of the default of the principal, unless he is unable, by the exercise of reasonable diligence, to acquire information of such default, and the creditor has actual notice thereof.

SEC. 1274. OBLIGATION OF GUARANTOR CAN NOT EXCEED THAT OF THE PRINCIPAL.—The obligation of a guarantor must be neither larger in amount nor in other respects more burdensome than that of the principal; and if in its terms it exceeds it, it is reducible in proportion to the principal obligation.

Obligation not to exceed that of principal.

SEC. 1275. GUARANTOR NOT LIABLE ON ILLEGAL CONTRACT.—A guarantor is not liable if the contract of the principal is unlawful; but he is liable notwithstanding any mere personal disability of the principal, though the disability be such as to make the contract void against the principal.

Illegal contracts.

CONTINUING GUARANTY

SEC. 1276. CONTINUING GUARANTY, WHAT.—A guaranty relating to a future liability of the principal, under successive transactions, which either continue his liability or from time to time renew it after it has been satisfied, is called a continuing guaranty.

Continuing guaranty.

Definition.

SEC. 1277. REVOCATION.—A continuing guaranty may be revoked at any time by the guarantor, in respect to future transactions, unless there is a continuing consideration as to such transactions which he does not renounce.

Revocation.

EXONERATION OF GUARANTORS

SEC. 1278. WHAT DEALINGS WITH DEBTOR EXONERATE GUARANTOR.—A guarantor is exonerated, except so far as he may be indemnified by the principal, if by any act of the creditor, without the consent of the guarantor, the original obligation of the principal is altered in any respect, or the remedies or rights of the creditor against the principal, in respect thereto, in any way impaired or suspended.

Exoneration of guarantors.

What dealings with debtor exonerate.

CROSS REFERENCES

Exoneration of surety, see sections 1290 and 1291.

Post, p. 1294.

Forbearance will not discharge, see section 1282.

Liability of guarantor, see sections 1271 et seq.

Ante, p. 1292.

Neglect or refusal to sue after request will discharge, see section 1293.

Post, p. 1295.

Rights of creditor where security given, see section 1299.

Post, p. 1296.

SEC. 1279. VOID PROMISES.—A promise by a creditor, which for any cause is void, or voidable by him at his option, does not alter the obligation or suspend or impair the remedy, within the meaning of section 1278.

Void promises.

SEC. 1280. RESCISSION OF ALTERATION.—The rescission of an agreement altering the original obligation of a debtor, or impairing the remedy of a creditor, does not restore the liability of a guarantor who has been exonerated by such agreement.

Rescission of alteration.

SEC. 1281. PART PERFORMANCE.—The acceptance, by a creditor, of anything in partial satisfaction of an obligation, reduces the obligation of a guarantor thereof, in the same measure as that of the principal, but does not otherwise affect it.

Part performance.

CROSS REFERENCES

Acceptance of consideration of accord, see section 480.

Ante, p. 1189.

Acceptance of part performance in satisfaction of obligation, see section 481.

Ante, p. 1189.

Effect of part performance, see sections 450, 454, and 481.

Ante, pp. 1185, 1186, 1189.

SEC. 1282. DELAY OF CREDITOR DOES NOT DISCHARGE GUARANTOR.—Mere delay on the part of a creditor to proceed against the principal, or to enforce any other remedy, does not exonerate a guarantor.

Delay does not discharge guarantor.

CROSS REFERENCE

Notice to creditor to sue, see section 1293.

Post, p. 1295.

Indemnified guarantors.

SEC. 1283. GUARANTOR INDEMNIFIED BY THE DEBTOR, NOT EXONERATED.—A guarantor who has been indemnified by the principal is liable to the creditor to the extent of the indemnity, notwithstanding that the creditor, without the assent of the guarantor, may have modified the contract or released the principal.

CROSS REFERENCE

Ante, pp. 1291, 1293.

See sections 1278 and 1265 (1).

Discharge of principal by act of law.

SEC. 1284. DISCHARGE OF PRINCIPAL BY ACT OF LAW DOES NOT DISCHARGE GUARANTOR.—A guarantor is not exonerated by the discharge of his principal by operation of law, without the intervention or omission of the creditor.

SURETYSHIP.

CHAPTER 61.—SURETYSHIP

WHO ARE SURETIES

Definition.

SEC. 1285. SURETY, WHAT.—A surety is one who at the request of another, and for the purpose of securing to him a benefit, becomes responsible for the performance by the latter of some act in favor of a third person, or hypothecates property as security therefor.

CROSS REFERENCES

Ante, p. 1291.

Guaranty, see sections 1261 et seq.

Ante, p. 1290.

Indemnity, see sections 1251-a et seq.

Apparent principal may show suretyship.

SEC. 1286. APPARENT PRINCIPAL MAY SHOW THAT HE IS SURETY.—One who appears to be a principal, whether by the terms of a written instrument or otherwise, may show that he is in fact a surety, except as against persons who have acted on the faith of his apparent character of principal.

Liability of sureties.

LIABILITY OF SURETIES

Limit of.

SEC. 1287. LIMIT OF SURETY'S OBLIGATION.—A surety can not be held beyond the express terms of his contract, and if such contract prescribes a penalty for its breach, he can not in any case be liable for more than the penalty.

CROSS REFERENCE

Ante, p. 1292.

Liability of guarantors, see sections 1272 and 1273.

Rules of interpretation.

SEC. 1288. RULES OF INTERPRETATION.—In interpreting the terms of a contract of suretyship, the same rules are to be observed as in the case of other contracts.

Judgment against surety does not alter the relation.

SEC. 1289. JUDGMENT AGAINST SURETY DOES NOT ALTER THE RELATION.—Notwithstanding the recovery of judgment by a creditor against a surety, the latter still occupies the relation of surety.

Exoneration by performance or offer of.

SEC. 1290. SURETY EXONERATED BY PERFORMANCE OR OFFER OF PERFORMANCE.—Performance of the principal obligation, or an offer of such performance, duly made as provided in this code, exonerates a surety.

CROSS REFERENCE

Ante, p. 1186.

Offer of performance, see sections 453 to 473.

Sureties discharged by acts of creditor.

SEC. 1291. SURETY DISCHARGED BY CERTAIN ACTS OF THE CREDITOR.—A surety is exonerated—

1. In like manner with a guarantor;
2. To the extent to which he is prejudiced by any act of the creditor which would naturally prove injurious to the remedies of

the surety or inconsistent with his rights, or which lessens his security; or

3. To the extent to which he is prejudiced by an omission of the creditor to do anything, when required by the surety, which it is his duty to do.

CROSS REFERENCES

Exoneration of guarantor, see sections 1278 et seq.

Omission of creditor to proceed against principal, see section 1293.

Ante, p. 1293.

RIGHTS OF SURETIES

Rights of sureties.

SEC. 1292. SURETY HAS RIGHTS OF GUARANTOR.—A surety has all the rights of a guarantor, whether he become personally responsible or not.

Has rights of guarantor.

SEC. 1293. SURETY MAY REQUIRE THE CREDITOR TO PROCEED AGAINST THE PRINCIPAL.—A surety may require his creditor to proceed against the principal, or to pursue any other remedy in his power which the surety can not himself pursue, and which would lighten his burden; and if in such case the creditor neglects to do so, the surety is exonerated to the extent to which he is thereby prejudiced.

May require creditor to proceed against principal.

CROSS REFERENCE

Mere delay by creditor to pursue principal does not discharge surety, see sections 1282 and 1291 (1).

Ante, pp. 1293, 1294.

SEC. 1294. SURETY MAY COMPEL PRINCIPAL TO PERFORM OBLIGATIONS, WHEN DUE.—A surety may compel his principal to perform the obligation when due.

May compel principal to perform obligations.

CROSS REFERENCE

Substitute for equitable action, see section 1293.

SEC. 1295. A PRINCIPAL BOUND TO REIMBURSE HIS SURETY.—If a surety satisfies the principal obligation, or any part thereof, whether with or without legal proceedings, the principal is bound to reimburse what he has disbursed, including necessary costs and expenses; but the surety has no claim for reimbursement against other persons, though they may have been benefited by his act, except as prescribed by section 1296.

Exoneration.

SEC. 1296. THE SURETY ACQUIRES THE RIGHT OF THE CREDITOR.—A surety, upon satisfying the obligation of the principal, is entitled to enforce every remedy which the creditor then has against the principal to the extent of reimbursing what he has expended, and also to require all his cosureties to contribute thereto, without regard to the order of time in which they became such.

Subrogation.

SEC. 1297. SURETY ENTITLED TO BENEFIT OF SECURITIES HELD BY CREDITOR.—A surety is entitled to the benefit of every security for the performance of the principal obligation held by the creditor, or by a cosurety at the time of entering into the contract of suretyship, or acquired by him afterwards, whether the surety was aware of the security or not.

Surety entitled to securities held by creditor.

SEC. 1298. THE PROPERTY OF PRINCIPAL TO BE TAKEN FIRST.—Whenever property of a surety is hypothecated with property of the principal, the surety is entitled to have the property of the principal first applied to the discharge of the obligation.

Property of principal to be taken first.

¹ So in original.

Rights of creditors.

RIGHTS OF CREDITORS

Creditor entitled to benefit of securities held by surety.

SEC. 1299. CREDITOR ENTITLED TO BENEFIT OF SECURITIES HELD BY SURETY.—A creditor is entitled to the benefit of everything which a surety has received from the debtor by way of security for the performance of the obligation, and may, upon maturity of the obligation, compel the application of such security to its satisfaction.

Letter of credit.

LETTER OF CREDIT

Definition.

SEC. 1300. LETTER OF CREDIT, WHAT.—A letter of credit is a written instrument, addressed by one person to another, requesting the latter to give credit to the person in whose favor it is drawn.

How addressed.

SEC. 1301. HOW ADDRESSED.—A letter of credit may be addressed to several persons in succession.

Liability of writer.

SEC. 1302. LIABILITY OF THE WRITER.—The writer of a letter of credit is, upon the default of the debtor, liable to those who gave credit in compliance with its terms.

CROSS REFERENCE

When notice to the writer necessary, see section 1307.

Letters of credit, general or special.

SEC. 1303. LETTERS OF CREDIT EITHER GENERAL OR SPECIAL.—A letter of credit is either general or special. When the request for credit in a letter is addressed to specified persons by name or description, the letter is special. All other letters of credit are general.

CROSS REFERENCE

Credit to correspond with terms of letter, see section 1308.

Nature of general letter.

SEC. 1304. NATURE OF GENERAL LETTER OF CREDIT.—A general letter of credit gives any person to whom it may be shown authority to comply with its request, and by his so doing it becomes, as to him, of the same effect as if addressed to him by name.

Extent of.

SEC. 1305. EXTENT OF GENERAL LETTER OF CREDIT.—Several persons may successively give credit upon a general letter.

Letter of credit as continuing guaranty.

SEC. 1306. A LETTER OF CREDIT MAY BE A CONTINUING GUARANTY.—If the parties to a letter of credit appear, by its terms, to contemplate a course of future dealing between the parties, it is not exhausted by giving a credit, even to the amount limited by the letter, which is subsequently reduced or satisfied by payments made by the debtor, but is to be deemed a continuing guaranty.

Notice to writer.

SEC. 1307. WHEN NOTICE TO THE WRITER NECESSARY.—The writer of a letter of credit is liable for credit given upon it without notice to him, unless its terms express or imply the necessity of giving notice.

Credit given must agree with terms of letter.

SEC. 1308. THE CREDIT GIVEN MUST AGREE WITH THE TERMS OF THE LETTER.—If a letter of credit prescribes the persons by whom, or the mode in which, the credit is to be given, or the term of credit, or limits the amount thereof, the writer is not bound except for transactions which, in these respects, conform strictly to the terms of the letter.

LIENS IN GENERAL.

CHAPTER 62.—LIENS IN GENERAL

DEFINITION OF LIENS

Definition.

SEC. 1309. LIEN, WHAT.—A lien is a charge imposed in some mode other than by a transfer in trust upon specific property by which it is made security for the performance of an act.

General or special.

SEC. 1310. LIENS, GENERAL OR SPECIAL.—Liens are either general or special.

SEC. 1311. GENERAL LIEN, WHAT.—A general lien is one which the holder thereof is entitled to enforce as a security for the performance of all the obligations, or all of a particular class of obligations, which exist in his favor against the owner of the property.

General lien.

CROSS REFERENCES

Banker, see section 1397.

Post, p. 1307.

Factors, lien, see section 1396.

Post, p. 1307.

Lien for services, see section 1393.

Post, p. 1306.

SEC. 1312. SPECIAL LIEN, WHAT.—A special lien is one which the holder thereof can enforce only as security for the performance of a particular act or obligation, and of such obligations as may be incidental thereto.

Special lien.

CROSS REFERENCES

Mortgage is a special lien unless otherwise agreed, see section 1336.

Post, p. 1300.

Rights where prior lien discharged, see section 1313.

Special lien of officer levying attachment on execution, see section 1398.

Post, p. 1307.

Special lien on personalty for services, see section 1393.

Post, p. 1306.

Special lien of seller of personalty, see sections 649 et seq.

Ante, p. 1215.

SEC. 1313. PRIOR LIENS.—Where the holder of a special lien is compelled to satisfy a prior lien for his own protection, he may enforce payment of the amount so paid by him, as a part of the claim for which his own lien exists.

Prior liens.

SEC. 1314. CONTRACTS SUBJECT TO PROVISIONS OF THIS CHAPTER.—Contracts of mortgage and pledge are subject to all the provisions of this chapter.

Mortgages and pledges subject to provisions herein.

CREATION OF LIENS

SEC. 1315. LIEN, HOW CREATED.—A lien is created:

Creation of liens.

1. By contract of the parties; or

How created.

2. By operation of law.

SEC. 1316. NO LIEN FOR CLAIM NOT DUE.—No lien arises by mere operation of law until the time at which the act to be secured thereby ought to be performed.

No lien for claim not due.

SEC. 1317. LIEN ON FUTURE INTEREST.—An agreement may be made to create a lien upon property not yet acquired by the party agreeing to give the lien, or not yet in existence. In such case the lien agreed for attaches from the time when the party agreeing to give it acquires an interest in the thing, to the extent of such interest.

Lien on future interest.

SEC. 1318. LIEN MAY BE CREATED BY CONTRACT.—A lien may be created by contract, to take immediate effect, as security for the performance of obligations not then in existence.

Creation by contract.

EFFECT OF LIENS

SEC. 1319. LIEN, OR CONTRACT FOR LIEN, TRANSFERS NO TITLE.—Notwithstanding an agreement to the contrary, a lien, or a contract for a lien, transfers no title to the property subject to the lien.

Effect of.

No title transferred.

CROSS REFERENCE

Mortgage gives no right to possession, see section 1340.

Post, p. 1300.

SEC. 1320. CERTAIN CONTRACTS VOID.—All contracts for the forfeiture of property subject to a lien, in satisfaction of the obligation secured thereby, and all contracts in restraint of the right of redemption from a lien, are void.

Certain contracts void.

Creation does not imply personal obligation.

SEC. 1321. CREATION OF LIEN DOES NOT IMPLY PERSONAL OBLIGATION.—The creation of a lien does not of itself imply that any person is bound to perform the act for which the lien is a security.

CROSS REFERENCE

Post, pp. 1299, 1300, 1305.

See, also, sections 1329, 1341, and 1381.

Extent of.

SEC. 1322. EXTENT OF LIEN.—The existence of a lien upon property does not of itself entitle the person in whose favor it exists to a lien upon the same property for the performance of any other obligation than that which the lien originally secured.

Holder not entitled to compensation.

SEC. 1323. HOLDER OF LIEN NOT ENTITLED TO COMPENSATION.—One who holds property by virtue of a lien thereon is not entitled to compensation from the owner thereof for any trouble or expense which he incurs respecting it, except to the same extent as a borrower, under sections 805 and 806.

Ante, p. 1242.

PRIORITY OF LIENS

Priority of liens.

SEC. 1324. PRIORITY OF LIENS.—Other things being equal, different liens upon the same property have priority according to the time of their creation, except in cases of bottomry and respondentia.

Order of resort to different funds.

SEC. 1325. ORDER OF RESORT TO DIFFERENT FUNDS.—Where one has a lien upon several things, and other persons have subordinate liens upon, or interests in, some but not all of the same things, the person having the prior lien, if he can do so without risk of loss to himself or of injustice to other persons, must resort to the property in the following order, on the demand of any party interested:

1. To the things upon which he has an exclusive lien;
2. To the things which are subject to the fewest subordinate liens;
3. In like manner inversely to the number of subordinate liens upon the same things; and
4. When several things are within one of the foregoing classes, and subject to the same number of liens, resort must be had—
 - (1) To the things which have not been transferred since the prior lien was created;
 - (2) To the things which have been so transferred without a valuable consideration; and
 - (3) To the things which have been so transferred for a valuable consideration in the inverse order of the transfer.

CROSS REFERENCE

Post, p. 1338.

Marshaling of assets, see section 1658.

Redemption from liens.

REDEMPTION FROM LIENS

Right to redeem; subrogation.

SEC. 1326. RIGHT TO REDEEM; SUBROGATION.—Every person, having an interest in property subject to a lien, has the right to redeem it from the lien at any time after the claim is due and before his right of redemption is foreclosed, and, by such redemption, becomes subrogated to all the benefits of the lien, as against all owners of other interests in the property, except in so far as he was bound to make such redemption for their benefit.

CROSS REFERENCE

Post, p. 1306.

Pledgor's right of redemption may be foreclosed, see section 1392.

SEC. 1327. RIGHTS OF INFERIOR LIENOR.—One who has a lien inferior to another, upon the same property, has a right: Rights of inferior lienor.

1. To redeem the property in the same manner as its owner might, from the superior lien; and

2. To be subrogated to all the benefits of the superior lien, when necessary for the protection of his interests, upon satisfying the claim secured thereby.

SEC. 1328. REDEMPTION FROM LIEN, HOW MADE.—Redemption from a lien is made by performing, or offering to perform, the act for the performance of which it is a security, and paying, or offering to pay, the damages, if any, to which the holder of the lien is entitled for delay. Redemption from lien, how made.

CROSS REFERENCE

Offer to perform, see section 453.

Ante, p. 1186.

EXTINCTION OF LIENS

Extinction of liens.

SEC. 1329. LIEN DEEMED ACCESSORY TO THE ACT WHOSE PERFORMANCE IT SECURES.—A lien is to be deemed accessory to the act for the performance of which it is a security, whether any person is bound for such performance or not, and is extinguishable in like manner with any other accessory obligation. Lien deemed accessory to the act whose performance it secures.

CROSS REFERENCE

Assignment of debt, see section 1348.

Post, p. 1301.

SEC. 1330. EXTINCTION BY SALE OR CONVERSION.—The sale of any property on which there is a lien, in satisfaction of the claim secured thereby or in case of personal property, its wrongful conversion by the person holding the lien, extinguishes the lien thereon. Extinction by sale or conversion.

CROSS REFERENCE

Sale of property by lien holder, see section 1395.

Post, p. 1307.

SEC. 1331. LIEN EXTINGUISHED BY LAPSE OF TIME UNDER STATUTE OF LIMITATIONS.—A lien is extinguished by the lapse of the time within which, under the provisions of the Code of Civil Procedure, an action can be brought upon the principal obligation. By lapse of time.

SEC. 1332. APPORTIONMENT OF LIEN.—The partial performance of an act secured by a lien does not extinguish the lien upon any part of the property subject thereto, even if it is divisible. Apportionment of lien.

SEC. 1333. WHEN RESTORATION EXTINGUISHES LIEN.—The voluntary restoration of property to its owner by the holder of a lien thereon dependent upon possession extinguishes the lien as to such property, unless otherwise agreed by the parties, and extinguishes it, notwithstanding any such agreement, as to creditors of the owner and persons subsequently acquiring a title to the property, or a lien thereon, in good faith, and for value. Restoration extinguishes lien.

CROSS REFERENCE

Lien dependent on possession, see section 1393.

Post, p. 1306.

CHAPTER 63.—MORTGAGE

MORTGAGE.

MORTGAGES IN GENERAL

In general.

SEC. 1334. MORTGAGE, WHAT.—Mortgage is a contract by which specific property is hypothecated for the performance of an act, without the necessity of a change of possession. Definition.

CROSS REFERENCE

Actual transfer of possession of personalty would change it into a pledge, see section 1337.

To be in writing.

SEC. 1335. TO BE IN WRITING.—A mortgage can be created, renewed, or extended, only by writing, subscribed by the party to be charged or by his agent thereunto authorized in writing.

Lien of, when special.

SEC. 1336. LIEN OF A MORTGAGE, WHEN SPECIAL.—The lien of a mortgage is special, unless otherwise expressly agreed, and is independent of possession.

CROSS REFERENCE

Ante, p. 1297.

Special lien, definition, see section 1312.

Transfer, when mortgage, when pledge.

SEC. 1337. TRANSFER, WHEN MORTGAGE, WHEN PLEDGED.—Every transfer of an interest in property, other than in trust, made only as a security for the performance of another act, is to be deemed a mortgage, except when it is accompanied by actual change of possession, in which case it is to be deemed a pledge.

CROSS REFERENCE

Deed absolute on its face, when a mortgage, see section 1338.

Transfer made subject to defeasance, may be proved.

SEC. 1338. TRANSFER MADE SUBJECT TO DEFEASANCE MAY BE PROVED.—The fact that a transfer was made subject to defeasance on a condition, may, for the purpose of showing such transfer to be a mortgage, be proved (except as against a subsequent purchaser or encumbrancer for value and without notice), though the fact does not appear by the terms of the instrument.

CROSS REFERENCE

Transfer, when mortgage, when pledge, see section 1337.

Mortgage as lien.

SEC. 1339. MORTGAGE, ON WHAT A LIEN.—A mortgage is a lien upon everything that would pass by a grant of the property.

CROSS REFERENCES

Ante, p. 1152.

Fixtures, generally, see section 188.

Post, p. 1303.

Growing crops, see section 1365.

Right to possession.

SEC. 1340. MORTGAGE DOES NOT ENTITLE MORTGAGEE TO POSSESSION.—A mortgage does not entitle the mortgagee to the possession of the property, unless authorized by the express terms of the mortgage; but after the execution of the mortgage the mortgagor may agree to such change of possession without a new consideration.

CROSS REFERENCE

Ante, p. 1299.

Mortgagee's possession, see sections 1334 and 1336.

Mortgage not a personal obligation.

SEC. 1341. MORTGAGE NOT A PERSONAL OBLIGATION.—A mortgage does not bind the mortgagor personally to perform the act for the performance of which it is a security, unless there is an express covenant therein to that effect.

Waste.

SEC. 1342. WASTE.—No person whose interest is subject to the lien of a mortgage may do any act which will substantially impair the mortgagee's security.

Subsequently acquired title inures to mortgagee.

SEC. 1343. SUBSEQUENTLY ACQUIRED TITLE INURES TO MORTGAGEE.—Title acquired by the mortgagor subsequent to the execution of the mortgage, inures to the mortgagee as security for the debt in like manner as if acquired before the execution.

SEC. 1344. POWER OF SALE.—A power of sale may be conferred by a mortgage upon the mortgagee or any other person, to be exercised after a breach of the obligation for which the mortgage is a security.

Power of sale.

SEC. 1345. POWER OF ATTORNEY TO EXECUTE.—A power of attorney to execute a mortgage must be in writing, subscribed, acknowledged, or proved, and certified in the manner prescribed in chapter 22 of this code, and recorded in the office of the registrar of property.

Power of attorney to execute.

Ante, p. 1164.

CROSS REFERENCE

Authorization, generally, see section 1046.

Ante, p. 1265.

SEC. 1345a. MORTGAGE, WHEN VOID AS TO THIRD PERSONS.—A mortgage of property is void as against creditors of the mortgagor and subsequent purchasers and encumbrances of the property in good faith for value, unless it is acknowledged or proved and certified in the manner prescribed in chapter 22 of this code, and recorded in the office of the Registrar of Property of the Canal Zone.

Mortgage, when void as to third person.

Ante, p. 1164.

SEC. 1346. RECORDING ASSIGNMENT OF MORTGAGE.—An assignment of a mortgage may be recorded in like manner as a mortgage, and such record operates as notice to all persons subsequently deriving title to the mortgage from the assignor.

Recording assignment of mortgage.

SEC. 1347. RECORDING ASSIGNMENT OF MORTGAGE NOT NOTICE TO MORTGAGOR.—When the mortgage is executed as security for money due, or to become due, on a promissory note, bond, or other instrument designated in the mortgage, the record of the assignment of the mortgage is not, of itself, notice to a mortgagor, his heirs, or personal representatives, so as to invalidate any payment made by them, or either of them, to the person holding such note, bond, or other instrument.

Recording assignment, not notice to mortgagor.

SEC. 1348. MORTGAGE PASSES BY ASSIGNMENT OF DEBT.—The assignment of a debt secured by mortgage carries with it the security.

Mortgage passes by assignment of debt.

SEC. 1349. MORTGAGE, HOW DISCHARGED.—A recorded mortgage may be discharged by an entry in the margin of the record thereof, signed by the mortgagee, or his personal representative or assignee, acknowledging the satisfaction of the mortgage in the presence of the registrar of property, who must certify the acknowledgment in form substantially as follows: "Signed and acknowledged before me, this _____ day of _____, in the year _____. A. B., Registrar of Property."

How mortgage discharged.

SEC. 1350. SAME.—A recorded mortgage, if not discharged as provided in section 1349, must be discharged upon the record by the officer having custody thereof, on the presentation to him of a certificate signed by the mortgagee, his personal representatives or assigns, acknowledged or proved and certified as prescribed by chapter 22 of this code, stating that the mortgage has been paid, satisfied, or discharged.

SEC. 1351. DUTY OF MORTGAGEE ON SATISFACTION OF MORTGAGE.—When any mortgage has been satisfied, the mortgagee or his assignee must immediately, on the demand of the mortgagor, execute, acknowledge, and deliver to him a certificate of the discharge thereof, so as to entitle it to be recorded, or he must enter satisfaction, or cause satisfaction of such mortgage to be entered of record; and any mortgagee, or assignee of such mortgagee, who refuses to execute, acknowledge, and deliver to the mortgagor the certificate of discharge, or to enter satisfaction, or cause satisfaction of the mortgage to be entered, as provided in this chapter, is liable to the mortgagor, or his grantee or heirs, for all damages which he or they may sustain by reason of such refusal, and shall also forfeit to him or them the sum of one hundred dollars.

Duty of mortgagee on satisfaction.

Contracts of bottomry or respondentia not affected.

SEC. 1352. PROVISIONS OF THIS CHAPTER DO NOT AFFECT BOTTOMRY OR RESPONDENTIA.—Contracts of bottomry or respondentia, although in the nature of mortgages, are not affected by any of the provisions of this chapter.

Mortgages of personal property.

MORTGAGES OF PERSONAL PROPERTY

What may be mortgaged.

SEC. 1353.—WHAT PERSONAL PROPERTY MAY BE MORTGAGED.—Mortgages may be made upon all growing crops, including fruit, and upon any and all kinds of personal property, except articles of wearing apparel and personal adornment.

CROSS REFERENCE

Post, p. 1303.

As to the validity of mortgages on excepted property, see section 1366.

Mortgage of stock in trade.

SEC. 1354. MORTGAGE OF STOCK IN TRADE OF MERCHANT.—Where a mortgage is made upon the stock in trade of a merchant, it shall be deemed, in the absence of a contrary intention, to cover goods subsequently acquired; and purchasers from the mortgagor in good faith and in the usual course of business shall not be liable to the mortgagee.

Form of personal mortgage.

SEC. 1355. FORM OF PERSONAL MORTGAGE.—A mortgage of personal property may be made in substantially the following form:

This mortgage, made the — day of —, in the year —, by A B, of —, by occupation a —, mortgagor, to C D, of —, by occupation a —, mortgagee, witnesseth:

That the mortgagor mortgages to the mortgagee (here describe the property), as security for the payment to him of — dollars, on (or before) the — day of —, in the year —, with interest thereon (or, as security for the payment of a note or obligation, describing it, and so forth) A B.

When void as to third persons.

SEC. 1356. WHEN VOID AS TO THIRD PERSONS.—A mortgage of personal property is void as against creditors of the mortgagor and subsequent purchasers and encumbrancers of the property in good faith and for value, unless:

1. It is accompanied by the affidavit of all the parties thereto that it is made in good faith and without any design to hinder, delay, or defraud creditors;

2. It is acknowledged or proved and certified in the manner prescribed in chapter 22 of this code, and recorded in the office of the registrar of property of the Canal Zone.

Ante, p. 1164.

Recording books for.

SEC. 1357. BOOKS TO BE KEPT FOR PERSONAL MORTGAGES.—Mortgages of personal property must be recorded in books kept for personal mortgages exclusively.

CROSS REFERENCE

Manner of acknowledging, proving, certifying, and recording, see section 1356.

Removing mortgaged property from Zone.

SEC. 1359. REMOVING MORTGAGED PROPERTY FROM ZONE.—No mortgagor shall remove or permit the removal of mortgaged property from the Canal Zone without the written consent of the mortgagee.

How foreclosed.

SEC. 1360. HOW FORECLOSED.—A mortgagee of personal property, when the debt to secure which the mortgage was executed becomes due, may foreclose the mortgagor's right of redemption by a sale of the property, made in the manner and upon the notice prescribed by chapter 64 of this code on "pledge," or by proceedings under the Code of Civil Procedure.

Post, p. 1305.

CROSS REFERENCES

Post, p. 1305.

Actual notice required, see section 1383.

Post, p. 1305.

Sale of pledge, see sections 1381 et seq.

SEC. 1361. MORTGAGED PROPERTY MAY BE LEVIED UPON.—Personal property mortgaged may be taken under attachment or execution issued at the suit of a creditor of the mortgagor. Mortgaged property may be levied upon.

SEC. 1362. ATTACHMENT AND EXECUTIONS ON MORTGAGED PERSONAL PROPERTY.—Before the property is so taken the officer must pay or tender to the mortgagee the amount of the mortgage debt and interest or must deposit the amount thereof with the registrar of property, payable to the order of the mortgagee: *Provided, however,* That when an attachment or execution creditor presents to the officer a verified statement that the mortgage is void or invalid for reasons therein specified and delivers to the officer a good and sufficient indemnity bond in double the amount of the mortgage debt or double the value of the mortgaged property, as the officer may determine and require, the officer shall take the property, and, in the case of an execution, sell it in the manner provided by law. Attachment and executions on. Proviso. When mortgage void, etc., indemnity bond.

The bond shall be made to both the officer and the mortgagee and shall indemnify them and each of them for the taking of the property against loss, liability, damages, costs, and counsel fees.

CROSS REFERENCE

Measure of special owner's damage for conversion, see section 1618.

Post, p. 1333.

SEC. 1363. APPLICATION OF PROCEEDS OF SALE.—When the property is taken after payment or tender of deposit as provided for in section 1362, and is sold under process the officer must apply the proceeds of the sale as follows: Application of proceeds.

1. To the repayment of the sum paid to the mortgagee, with interest from the date of such payment; and
2. The balance, if any, in like manner as the proceeds of sales under execution are applied in other cases.

When the property is taken after presentation to the officer of the verified statement and bond mentioned in the proviso in section 1362 and is sold under process the officer must apply the proceeds of the sale as follows:

1. To the satisfaction of the amount specified in the process including interest and costs; and
2. The balance, if any, in like manner as the proceeds of sales under execution are applied in other cases.

SEC. 1364. CERTAIN SECTIONS NOT APPLICABLE TO MORTGAGE OF CERTAIN SHIPS.—Sections 1356 and 1357 to 1359 do not apply to any mortgage of a ship or part of a ship under the flag of the United States. Designated sections not applicable to mortgage of certain ships. Ante, p. 1302.

SEC. 1365. CONTINUANCE OF LIEN OF MORTGAGE ON CROPS.—The lien of a mortgage on a growing crop continues on the crop after severance, whether remaining in its original state or converted into another product, so long as the same remains on the land of mortgagor. Continuance of lien of mortgage on crops.

SEC. 1366. VALIDITY OF CERTAIN MORTGAGES.—Mortgages of personal property, other than that mentioned in section 1353, and mortgages not made in conformity with the provisions of this subchapter, are nevertheless valid between the parties, their heirs, legatees, and personal representatives, and persons who, before parting with value, have actual notice thereof. Validity of certain mortgages.

CHAPTER 64.—PLEDGE

PLEDGE.

SEC. 1367. PLEDGE, WHAT.—Pledge is a deposit of personal property by way of security for the performance of another act. Defined.

CROSS REFERENCE

Increase of property pledged, see section 1370.

When contract deemed a pledge.

SEC. 1368. WHEN CONTRACT IS TO BE DEEMED A PLEDGE.—Every contract by which the possession of personal property is transferred, as security only, is to be deemed a pledge.

Delivery essential.

SEC. 1369. DELIVERY ESSENTIAL TO VALIDITY OF PLEDGE.—The lien of a pledge is dependent on possession, and no pledge is valid until the property pledged is delivered to the pledgee, or to a pledge holder, as hereinafter prescribed.

Increase of property.

SEC. 1370. INCREASE OF THING.—The increase of property pledged is pledged with the property.

Lienor may pledge property to extent of lien.

SEC. 1371. LIENOR MAY PLEDGE PROPERTY TO EXTENT OF HIS LIEN.—One who has a lien upon property may pledge it to the extent of his lien.

CROSS REFERENCES

Compare section 1372.

Post, p. 1333.

Lienor's action for damages, see section 1618.

Real owner can not defeat pledge of property transferred to apparent owner.

SEC. 1372. REAL OWNER CAN NOT DEFEAT PLEDGE OF PROPERTY TRANSFERRED TO APPARENT OWNER FOR THE PURPOSE OF PLEDGE.—One who has allowed another to assume the apparent ownership of property for the purpose of making any transfer of it, can not set up his own title, to defeat a pledge of the property, made by the other, to a pledgee who received the property in good faith, in the ordinary course of business, and for value.

Pledge lender.

SEC. 1373. PLEDGE LENDER, WHAT.—Property may be pledged as security for the obligation of another person than the owner, and in so doing the owner has all the rights of a pledgor for himself, except as hereinafter stated.

Pledge holder.

SEC. 1374. PLEDGE HOLDER, WHAT.—A pledgor and pledgee may agree upon a third person with whom to deposit the property pledged, who, if he accepts the deposit, is called a pledge holder.

When pledge lender may withdraw property.

SEC. 1375. WHEN PLEDGE LENDER MAY WITHDRAW PROPERTY PLEDGED.—One who pledges property as security for the obligation of another can not withdraw the property pledged otherwise than as a pledgor for himself might, and if he receives from the debtor a consideration for the pledge he can not withdraw it without his consent.

Obligations of pledge holder.

SEC. 1376. OBLIGATIONS OF PLEDGE HOLDER.—A pledge holder for reward can not exonerate himself from his undertaking; and a gratuitous pledge holder can do so only by giving reasonable notice to the pledgor and pledgee to appoint a new pledge holder, and in case of their failure to agree, by depositing the property pledged with some impartial person, who will then be entitled to a reasonable compensation for his care of the same.

Pledge holder must enforce rights of pledgee.

SEC. 1377. PLEDGE HOLDER MUST ENFORCE RIGHTS OF PLEDGEE.—A pledge holder must enforce all the rights of the pledgee, unless authorized by him to waive them.

Obligation of pledgees, etc., for reward.

SEC. 1378. OBLIGATION OF PLEDGEE AND PLEDGE HOLDER, FOR REWARD.—A pledgee, or a pledge holder for reward, assumes the duties and liabilities of a depositary for reward.

CROSS REFERENCE

Ante, p. 1229.

Depositary for reward, see section 725.

Gratuitous pledge holder.

SEC. 1379. GRATUITOUS PLEDGE HOLDER.—A gratuitous pledge holder assumes the duties and liabilities of a gratuitous depositary.

CROSS REFERENCE

Gratuitous pledge holder, see sections 722 and 723.

Ante, p. 1229.

SEC. 1380. DEBTOR'S MISREPRESENTATION OF VALUE OF PLEDGE.—Where a debtor has obtained credit, or an extension of time, by a fraudulent misrepresentation of the value of property pledged by or for him, the creditor may demand a further pledge to correspond with the value represented; and in default thereof may recover his debt immediately, though it be not actually due.

Debtor's misrepresentation of value.

SEC. 1381. WHEN PLEDGEE MAY SELL.—When performance of the act for which a pledge is given is due, in whole or in part, the pledgee may collect what is due to him by a sale of property pledged, subject to the rules and exceptions hereinafter prescribed.

Pledgee may sell.

CROSS REFERENCE

Foreclosure of right of redemption, see section 1392.

Post, p. 1306.

SEC. 1382. SALE OF PLEDGED PROPERTY.—Before property pledged can be sold, and after performance of the act for which it is security is due, the pledgee must demand performance thereof from the debtor, if the debtor can be found.

Sale.

CROSS REFERENCE

Waiver of demand of performance before sale, see section 1385.

SEC. 1383. NOTICE OF SALE TO PLEDGOR.—A pledgee must give actual notice to the pledgor of the time and place at which the property pledged will be sold, at such a reasonable time before the sale as will enable the pledgor to attend.

Notice of.

SEC. 1384. WAIVER OF NOTICE OF SALE.—Notice of sale may be waived by a pledgor at any time; but is not waived by a mere waiver of demand of performance.

Waiver of.

SEC. 1385. WAIVER OF DEMAND.—A debtor or pledgor waives a demand of performance as a condition precedent to a sale of the property pledged, by a positive refusal to perform, after performance is due; but can not waive it in any other manner except by contract.

Waiver of demand.

SEC. 1386. SALE OF PLEDGED PROPERTY, MANNER OF.—The sale by pledgee, of property pledged, must be made by public auction, in the manner and upon the notice of sale of personal property under execution.

Sale by public auction.

SEC. 1387. PLEDGEE'S SALE OF SECURITIES.—A pledgee can not sell any evidence of debt pledged to him, except the obligations of governments, States, or corporations; but he may collect the same when due.

Pledgee's sale of securities.

CROSS REFERENCE

Right of redemption, see section 1326.

Ante, p. 1298.

SEC. 1388. SALE ON THE DEMAND OF THE PLEDGOR.—Whenever property pledged can be sold for a price sufficient to satisfy the claim of the pledgee, the pledgor may require it to be sold, and its proceeds to be applied to such satisfaction, when due.

Sale on demand of pledgor.

CROSS REFERENCE

Retaining proceeds, see section 1390.

Post, p. 1306.

SEC. 1389. SURPLUS TO BE PAID TO PLEDGOR.—After a pledgee has lawfully sold property pledged, or otherwise collected its proceeds, he may deduct therefrom the amount due under the principal obli-

Surplus to be paid pledgor.

gation, and the necessary expenses of sale and collection, and must pay the surplus to the pledgor, on demand.

Pledgee may retain all that can become due.

SEC. 1390. PLEDGEE MAY RETAIN ALL THAT CAN BECOME DUE.—When property pledged is sold by order of the pledgor before the claim of the pledgee is due, the latter may retain out of the proceeds all that can possibly become due under his claim until it becomes due.

Right to purchase at sale.

Ante, p. 1305.

SEC. 1391. PLEDGEE OR PLEDGE HOLDER MAY PURCHASE.—Whenever property pledged is sold at public auction, in the manner provided by section 1386, the pledgee or pledge holder may purchase said property at such sale.

Pledgee may foreclose right of redemption.

SEC. 1392. PLEDGEE MAY FORECLOSE RIGHT OF REDEMPTION.—Instead of selling property pledged, as hereinbefore provided, a pledgee may foreclose the right of redemption by a judicial sale, under the direction of a competent court; and in that case may be authorized by the court to purchase at the sale.

OTHER LIENS.

CHAPTER 65.—OTHER LIENS

CROSS REFERENCE

Ante, p. 1215.

Lien of seller of goods, see sections 649 et seq.

Lien on personal property for services.

SEC. 1393. LIEN ON PERSONAL PROPERTY FOR SERVICES THEREON.—Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safe-keeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid; and livery or boarding or feed-stable proprietors, and persons pasturing horses or stock, have a lien, dependent on possession, for their compensation in caring for, boarding, feeding, or pasturing such horses or stock; and laundry proprietors and persons conducting a laundry business, have a general lien, dependent on possession, upon all personal property in their hands belonging to a customer, for the balance due them from such customer for laundry work; and veterinary proprietors and veterinary surgeons shall have a lien, dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals; and keepers of garages for automobiles shall have a lien, dependent on possession, for their compensation in caring for and safe-keeping such automobiles.

CROSS REFERENCES

Ante, p. 1255.

Carrier's lien, see section 954.

Ante, p. 1299.

Restoration of property extinguishes lien, see section 1333.

Limitation, where written notice not given.

SEC. 1394. LIMITATION ON AMOUNT RECOVERABLE WHERE WRITTEN NOTICE NOT GIVEN.—That portion of any lien, as provided for in section 1393, in excess of \$100, for any work, services, care, or safe-keeping rendered or performed at the request of any person other than the holder of the legal title, shall be invalid, unless prior to commencing any such work, service, care, or safe-keeping, the person claiming such lien shall give actual notice in writing either by personal service or by registered letter addressed to the holder of the legal title to such property, if known. In the case of automobiles, the

person named as legal owner in the registration certificate, shall be deemed for the purpose of this section, as the holder of the legal title.

SEC. 1395. LIEN HOLDER MAY SELL PROPERTY; NOTICE OF SALE; PROCEEDS.—If the person entitled to the lien provided for in section 1393 be not paid the amount due and for which said lien is given, within twenty days after the same shall have become due, then such lien holder may proceed to sell said property, or so much thereof as may be necessary to satisfy said lien and costs of sale, at public auction, and by giving at least ten days' previous notice of such sale by advertising in some newspaper of general circulation in the Canal Zone. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping and selling the property; the remainder, if any, must be paid over to the owner thereof.

Lien holder may sell; notice; proceeds. *Anie*, p. 1306.

CROSS REFERENCE

Extinguishment of lien by sale or conversion, see section 1330.

Anie, p. 1296.

SEC. 1396. LIEN OF FACTOR.—A factor has a general lien, dependent on possession, for all that is due to him as such, upon all articles of commercial value that are intrusted to him by the same principal.

Lien of factor.

CROSS REFERENCES

Factor's enforcement of lien, see section 880.

Anie, p. 1251.

Power of pledging, see section 1372.

Anie, p. 1304.

SEC. 1397. BANKER'S LIEN.—A banker has a general lien, dependent on possession, upon all property in his hands belonging to a customer, for the balance due to him from such customer in the course of the business.

Banker's lien.

SEC. 1398. OFFICER'S LIEN.—An officer who levies an attachment or execution upon personal property acquires a special lien, dependent on possession, upon such property, which authorizes him to hold it until the process is discharged or satisfied, or a judicial sale of the property is had.

Officer's lien.

CHAPTER 66.—NEGOTIABLE INSTRUMENTS IN GENERAL

NEGOTIABLE INSTRUMENTS IN GENERAL.

NOTE.—This chapter and chapters 67 to 69 of this code comprise the Uniform Negotiable Instruments Act.

Post, pp. 1322-1326.

FORM AND INTERPRETATION

Form and interpretation.

SEC. 1400. REQUIREMENTS FOR NEGOTIABLE INSTRUMENT.—An instrument to be negotiable must conform to the following requirements:

Requirements.

- (1) It must be in writing and signed by the maker or drawer;
- (2) Must contain an unconditional promise or order to pay a sum certain in money;
- (3) Must be payable on demand, or at a fixed or determinable future time;
- (4) Must be payable to order or to bearer; and
- (5) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

SEC. 1401. SUM PAYABLE CERTAIN.—The sum payable is a sum certain within the meaning of chapters 66 to 69 of this code, although it is to be paid—

Sum certain.

- (1) With interest; or
- (2) By stated installments; or

(3) By stated installments, with a provision that upon default in payment of any installment or of interest, the whole shall become due; or

(4) With exchange, whether at a fixed rate or at the current rate; or

(5) With costs of collection or an attorney's fee, in case payment shall not be made at maturity.

Unconditional promise.

SEC. 1402. UNQUALIFIED PROMISE UNCONDITIONAL.—An unqualified order or promise to pay is unconditional within the meaning of chapters 66 to 69 of this code, though coupled with—

(1) An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or

(2) A statement of the transaction which gives rise to the instrument.

But an order or promise to pay out of a particular fund is not unconditional.

Time for payment.

SEC. 1403. TIME FOR PAYMENT.—An instrument is payable at a determinable, future time, within the meaning of chapters 66 to 69 of this code, which is expressed to be payable—

(1) At a fixed period after date or sight; or

(2) On or before a fixed or determinable future time specified therein; or

(3) On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

Nonnegotiable instrument.

SEC. 1404. NONNEGOTIABLE INSTRUMENT.—An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which—

(1) Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or

(2) Authorizes a confession of judgment, if the instrument be not paid at maturity; or

(3) Waives the benefit of any law intended for the advantage or protection of the obligor; or

(4) Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

Negotiability not affected.

SEC. 1405. NEGOTIABILITY NOT AFFECTED.—The validity and negotiable character of an instrument are not affected by the fact that—

(1) It is not dated; or

(2) Does not specify the value given, or that any value has been given therefor; or

(3) Does not specify the place where it is drawn or the place where it is payable; or

(4) Bears a seal; or

(5) Designates a particular kind of current money in which payment is to be made.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

SEC. 1406. PAYABLE ON DEMAND.—An instrument is payable on demand—

Payable on demand.

(1) Where it is expressed to be payable (1) on demand, or at sight, or on presentation; or

(2) In which no time for payment is expressed.

Where an instrument is issued, accepted, or indorsed when overdue, it is, as regards the person so issuing, accepting, or indorsing it, payable on demand.

SEC. 1407. PAYABLE TO ORDER.—The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of—

Payable to order.

(1) A payee who is not maker, drawer, or drawee; or

(2) The drawer or maker; or

(3) The drawee; or

(4) Two or more payees jointly; or

(5) One or some of several payees; or

(6) The holder of an office for the time being.

Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty.

Payable to bearer.

SEC. 1408. PAYABLE TO BEARER.—The instrument is payable to bearer—

(1) When it is expressed to be so payable; or

(2) When it is payable to a person named therein or bearer; or

(3) When it is payable to the order of a fictitious or nonexisting person, and such fact was known to the person making it so payable; or

(4) When the name of the payee does not purport to be the name of any person; or

(5) When the only or last indorsement is an indorsement in blank.

Language of instrument.

SEC. 1409. LANGUAGE OF INSTRUMENT.—The instrument need not follow the language of chapters 66 to 69 of this code, but any terms are sufficient which clearly indicate an intention to conform to the requirements thereof.

SEC. 1410. TRUE DATE.—Where the instrument or an acceptance or any indorsement thereon is dated, such date is deemed prima facie to be the true date of the making, drawing, acceptance, or indorsement as the case may be.

True date.

SEC. 1411. ANTE OR POST DATING.—The instrument is not invalid for the reason only that it is antedated or postdated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

Ante or post dating.

SEC. 1412. INSERTION OF DATE.—Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him, the date so inserted is to be regarded as the true date.

Insertion of date.

SEC. 1413. FILLING UP BLANKS.—Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up

Filling up blanks.

strictly in accordance with the authority given and within a reasonable time. But if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

Incomplete instru-
ment not delivered.

SEC. 1414. INCOMPLETE INSTRUMENT NOT DELIVERED.—Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery.

Delivery necessary.

SEC. 1415. DELIVERY NECESSARY.—Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting, or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional, or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

Rules of construc-
tion.

SEC. 1416. RULES OF CONSTRUCTION.—Where the language of the instrument is ambiguous or there are omissions therein, the following rules of construction apply:

(1) Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount;

(2) Where the instrument provides for the payment of interest, without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof;

(3) Where the instrument is not dated, it will be considered to be dated as of the time it was issued;

(4) Where there is a conflict between the written and printed provisions of the instrument, the written provisions prevail;

(5) Where the instrument is so ambiguous that there is doubt whether it is a bill or note, the holder may treat it as either at his election;

(6) Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser;

(7) Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.

Liability on.

SEC. 1417. LIABILITY ON INSTRUMENT.—No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

Signature by agent.

SEC. 1418. SIGNATURE BY AGENT.—The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency.

SEC. 1419. LIABILITY OF AGENT.—Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability.

Liability of agent.

SEC. 1420. SIGNATURE BY "PROCURATION."—A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

Signature by "procuration."

SEC. 1421. INDORSEMENT BY CORPORATION OR INFANT.—The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

Indorsement by corporation or infant.

SEC. 1422. FORGED SIGNATURE.—When a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party, against whom it is sought to enforce such right, is precluded from setting up the forgery or want of authority.

Forged signature.

CONSIDERATION

SEC. 1423. PRESUMPTION OF CONSIDERATION.—Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

Presumption of consideration.

SEC. 1424. CONSIDERATION, WHAT CONSTITUTES.—Value is any consideration sufficient to support a simple contract. An antecedent or preexisting debt constitutes value, and is deemed such whether the instrument is payable on demand or at a future time.

What constitutes consideration.

SEC. 1425. HOLDER FOR VALUE.—Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who become such prior to that time.

Holder for value.

SEC. 1426. LIEN ON AN INSTRUMENT.—Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien.

Lien on instrument.

SEC. 1427. EFFECT OF WANT OF CONSIDERATION.—Absence or failure of consideration is matter of defense as against any person not a holder in due course; and partial failure of consideration is a defense pro tanto, whether the failure is an ascertained and liquidated amount or otherwise.

Want of consideration.

SEC. 1428. LIABILITY OF ACCOMMODATION PARTY.—An accommodation party is one who has signed the instrument as maker, drawer, acceptor, or indorser, without receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

Liability of accommodation party.

NEGOTIATION

SEC. 1429. NEGOTIATION.—An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder completed by delivery.

Negotiation.

- Indorsement.** SEC. 1430. **INDORSEMENT.**—The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement.
- Indorsement of entire instrument.** SEC. 1431. **INDORSEMENT OF ENTIRE INSTRUMENT.**—The indorsement must be an indorsement of the entire instrument. An indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument. But where the instrument has been paid in part, it may be indorsed as to the residue.
- Kinds of indorsement.** SEC. 1432. **KINDS OF INDORSEMENT.**—An indorsement may be either special or in blank; and it may also be either restrictive or qualified, or conditional.
- Special.** SEC. 1433. **SPECIAL INDORSEMENT.**—A special indorsement specifies the person to whom, or to whose order, the instrument is to be payable; and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank specifies no indorsee, and an instrument so indorsed is payable to bearer and may be negotiated by delivery.
- Blank; how changed to special.** SEC. 1434. **BLANK INDORSEMENT, HOW CHANGED TO SPECIAL INDORSEMENT.**—The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.
- Restrictive.** SEC. 1435. **INDORSEMENT RESTRICTIVE.**—An indorsement is restrictive, which either—
- (1) Prohibits the further negotiation of the instrument; or
 - (2) Constitutes the indorsee the agent of the indorser; or
 - (3) Vests the title in the indorsee in trust for or to the use of some other person.
- But the mere absence of words implying power to negotiate does not make an indorsement restrictive.
- Rights conferred.** SEC. 1436. **RIGHTS CONFERRED.**—A restrictive indorsement confers upon the indorsee the right—
- (1) To receive payment of the instrument;
 - (2) To bring any action thereon that the indorser could bring;
 - (3) To transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.
- But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.
- Qualified.** SEC. 1437. **QUALIFIED INDORSEMENT.**—A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar import. Such an indorsement does not impair the negotiable character of the instrument.
- Conditional.** SEC. 1438. **CONDITIONAL INDORSEMENT.**—Where an indorsement is conditional, a party required to pay the instrument may disregard the condition, and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally.
- Payable to bearer.** SEC. 1439. **PAYABLE TO BEARER.**—Where an instrument, payable to bearer, is indorsed specially it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as make title through his indorsement.
- Payable to two or more persons.** SEC. 1440. **PAYABLE TO TWO OR MORE PERSONS.**—Where an instrument is payable to the order of two or more payees or indorsees who

are not partners, all must indorse, unless the one indorsing has authority to indorse for the others.

SEC. 1441. **INDORSED TO PERSON AS "CASHIER."**—Where an instrument is drawn or indorsed to person as "cashier" or other fiscal officer of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer, and may be negotiated by either the indorsement of the bank or corporation or the indorsement of the officer.

Indorsed to person as "cashier."

SEC. 1442. **NAME MISPELLED.**—Where the name of a payee or indorsee is wrongly designated or misspelled, he may indorse the instrument as therein described, adding, if he thinks fit, his proper signature.

Name misspelled.

SEC. 1443. **IN REPRESENTATIVE CAPACITY.**—Where any person is under obligation to indorse in a representative capacity, he may indorse in such terms as to negative personal liability.

In representative capacity.

SEC. 1444. **TIME OF INDORSEMENT.**—Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed prima facie to have been effected before the instrument was overdue.

Time of indorsement.

SEC. 1445. **PLACE OF INDORSEMENT.**—Except where the contrary appears, every indorsement is presumed prima facie to have been made at the place where the instrument is dated.

Place of indorsement.

SEC. 1446. **CONTINUATION.**—An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

Continuation of negotiability.

SEC. 1447. **STRIKING OUT INDORSEMENT.**—The holder may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out, and all indorsers subsequent to him, are thereby relieved from liability on the instrument.

Striking out indorsement.

SEC. 1448. **TRANSFER WITHOUT INDORSEMENT.**—Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferor had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferor. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as to the time when the indorsement is actually made.

Transfer without indorsement.

SEC. 1449. **PRIOR PARTY MAY NEGOTIATE.**—Where an instrument is negotiated back to a prior party such party may, subject to the provisions of chapters 66 to 69 of this code, reissue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

Prior party may negotiate.

Ante, p. 1307; *post*, p. 1329.

RIGHTS OF THE HOLDER

SEC. 1450. **RIGHT TO SUE.**—The holder of a negotiable instrument may sue thereon in his own name and payment to him in due course discharges the instrument.

Rights of holder.

To sue in own name.

SEC. 1451. **HOLDER IN DUE COURSE.**—A holder in due course is a holder who has taken the instrument under the following conditions:

Holder in due course.

- (1) That it is complete and regular upon its face;
- (2) That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact;
- (3) That he took it in good faith and for value;
- (4) That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

CROSS REFERENCES

Notice before full amount paid, see section 1453.

When person not deemed a holder in due course, see section 1452.

Who deemed a holder in due course, see section 1458.

Not holder in due course.

SEC. 1452. NOT HOLDER IN DUE COURSE.—Where an instrument payable on demand is negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course.

CROSS REFERENCES

Ante, p. 1313.

Notice before full amount paid, see section 1453.

Who deemed a holder in due course, see sections 1451 and 1458.

Notice before full amount paid.

SEC. 1453. NOTICE BEFORE FULL AMOUNT PAID.—Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

CROSS REFERENCES

Ante, p. 1313.

Rights of holder in due course, see section 1456.

Who deemed a holder in due course, see sections 1451 and 1458.

Who not deemed a holder in due course, see section 1452.

When title defective.

Ante, p. 1307; *post*, p. 1323.

SEC. 1454. WHEN TITLE DEFECTIVE.—The title of a person who negotiates an instrument is defective within the meaning of chapters 66 to 69 of this code, when he obtained the instrument, or any signature thereto, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

Notice of defect.

SEC. 1455. NOTICE OF DEFECT.—To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith.

Rights of holder in due course.

SEC. 1456. RIGHTS OF HOLDER IN DUE COURSE.—A holder in due course holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

CROSS REFERENCES

Ante, p. 1313.

Notice before full amount paid, see section 1453.

Who deemed holder in due course, see sections 1451 and 1458.

Who not deemed a holder in due course, see section 1452.

Defense against holder not in due course.

SEC. 1457. WHEN SUBJECT TO ORIGINAL.—In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were nonnegotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

Who deemed holder in due course.

SEC. 1458. WHO DEEMED HOLDER IN DUE COURSE.—Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as holder in due course. But the last-mentioned rule does not apply in favor of a

party who became bound on the instrument prior to the acquisition of such defective title.

CROSS REFERENCES

| | |
|--|------------------------|
| Notice before full amount paid, see section 1453. | <i>Ante</i> , p. 1314. |
| Rights of holder in due course, see section 1456. | |
| What constitutes a holder in due course, see section 1451. | <i>Ante</i> , p. 1313. |
| When person not deemed a holder in due course, see section 1452. | <i>Ante</i> , p. 1314. |

LIABILITIES OF PARTIES

SEC. 1459. **LIABILITY OF MAKER.**—The maker of a negotiable instrument by making it engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to indorse.

SEC. 1460. **LIABILITY OF DRAWER.**—The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse; and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negating or limiting his own liability to the holder.

SEC. 1461. **LIABILITY OF ACCEPTOR.**—The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance; and admits—

(1) The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

(2) The existence of the payee and his then capacity to indorse.

SEC. 1462. **PERSON DEEMED INDORSER.**—A person placing his signature upon an instrument otherwise than as maker, drawer, or acceptor, is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

SEC. 1463. **LIABILITY OF IRREGULAR INDORSER.**—Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery, he is liable as indorser, in accordance with the following rules:

(1) If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties.

(2) If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.

(3) If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.

SEC. 1464. **WARRANTY WHEN NEGOTIATION BY DELIVERY, ETC.**—Every person negotiating an instrument by delivery or by a qualified indorsement, warrants—

(1) That the instrument is genuine and in all respects what it purports to be;

(2) That he has a good title to it;

(3) That all prior parties had capacity to contract;

(4) That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subdivision three of this section do not apply to persons negotiating public or corporation securities, other than bills and notes.

Liabilities of parties.

Of maker.

Of drawer.

Of acceptor.

Person deemed indorser.

Liability of irregular indorser.

Warranty when negotiation by delivery, etc.

Of general indorser.

SEC. 1465. LIABILITY OF GENERAL INDORSER.—Every indorser who indorses without qualification, warrants to all subsequent holders in due course—

Ante, p. 1315.

(1) The matters and things mentioned in subdivisions 1, 2, and 3 of section 1464; and

(2) That the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it.

When negotiable by delivery.

SEC. 1466. WHEN NEGOTIABLE BY DELIVERY.—Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

Order of liability of indorsers.

SEC. 1467. LIABILITY OF INDORSERS.—As respects one another indorsers are liable prima facie in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsees who indorse are deemed to indorse jointly and severally.

Liability of broker or agent.

Ante, p. 1315.

SEC. 1468. LIABILITY OF BROKER OR AGENT.—Where a broker or other agent negotiates an instrument without indorsement he incurs all the liabilities prescribed by section 1464, unless he discloses the name of his principal and the fact that he is acting only as agent.

PRESENTMENT FOR PAYMENT

Presentment for payment.

SEC. 1469. PRESENTMENT FOR PAYMENT.—Presentment for payment is not necessary in order to charge the person primarily liable on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers.

When instrument payable on due date.

SEC. 1470. PRESENTMENT FOR PAYMENT.—Where the instrument is not payable on demand, presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

What constitutes sufficient presentment.

SEC. 1471. WHAT CONSTITUTES SUFFICIENT PRESENTMENT.—Presentment for payment, to be sufficient, must be made—

(1) By the holder, or by some person authorized to receive payment, on his behalf;

(2) At a reasonable hour on a business day;

(3) At a proper place as herein defined;

(4) To the person primarily liable on the instrument, or if he is absent or inaccessible, to any person found at the place where the presentment is made.

Place of.

SEC. 1472. PLACE OF PRESENTMENT.—Presentment for payment is made at the proper place—

(1) Where a place of payment is specified in the instrument and it is there presented;

(2) Where no place of payment is specified, but the address of the person to make payment is given in the instrument and it is there presented;

(3) Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment;

(4) In any other case if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.

SEC. 1473. **MUST BE EXHIBITED.**—The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it.

SEC. 1474. **WHERE PAYABLE AT BANK.**—Where the instrument is payable at a bank, presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

SEC. 1475. **WHEN PERSON LIABLE IS DEAD.**—Where the person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative, if such there be, and if, with the exercise of reasonable diligence, he can be found.

SEC. 1476. **PERSONS LIABLE AS PARTNERS.**—Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

SEC. 1477. **JOINT DEBTS.**—Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all.

SEC. 1478. **PRESENTMENT FOR PAYMENT NOT REQUIRED WHEN.**—Presentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

SEC. 1479. **PRESENTMENT FOR PAYMENT NOT REQUIRED WHEN.**—Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation and he has no reason to expect that the instrument will be paid if presented.

SEC. 1480. **DELAY EXCUSED.**—Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

SEC. 1481. **WHEN DISPENSED WITH.**—Presentment for payment is dispensed with—

(1) Where after the exercise of reasonable diligence presentment as required by this title can not be made;

(2) Where the drawee is a fictitious person;

(3) By waiver of presentment, express or implied.

SEC. 1482. **WHEN DISHONORED BY NONPAYMENT.**—The instrument is dishonored by nonpayment when—

(1) It is duly presented for payment and payment is refused or can not be obtained; or

(2) Presentment is excused and the instrument is overdue and unpaid.

SEC. 1483. **LIABILITY OF PERSON SECONDARILY LIABLE.**—Subject to the provisions of chapters 66 to 69 of this code, when the instrument is dishonored by nonpayment, an immediate right of recourse to all parties secondarily liable thereon accrues to the holder.

SEC. 1484. **TIME OF PAYMENT.**—Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding

Must be exhibited.

When payable at bank.

When person liable is dead.

Persons liable as partners.

Joint debts.

Presentment for payment not required, when.

Accommodation parties.

Delay excused.

When dispensed with.

When dishonored by nonpayment.

Liability of person secondarily liable. *Ante*, p. 1307; *post*, p. 1329.

Time of payment.

business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday.

Determination of time.

SEC. 1485. DETERMINATION OF TIME.—Where the instrument is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment.

CROSS REFERENCE

Ante, p. 1124.

Excluding first day and including last day, see section 9.

Payable at bank.

SEC. 1486. WHERE PAYABLE AT BANK.—Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

Payment in due course.

SEC. 1487. PAYMENT IN DUE COURSE.—Payment is made in due course when it is made at or after the maturity of the instrument to the holder thereof in good faith and without notice that his title is defective.

NOTICE OF DISHONOR

Notice of dishonor.

SEC. 1488. NOTICE OF DISHONOR.—Except as herein otherwise provided, when a negotiable instrument has been dishonored by non-acceptance or nonpayment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged.

CROSS REFERENCES

Post, p. 1319.

Notice to bankrupt, see section 1500.

Post, p. 1319.

Notice to partners, see section 1498.

Post, p. 1319.

Notice to persons jointly interested, see section 1499.

Post, p. 1320.

Notice to subsequent party, see section 1506.

Post, p. 1319.

Notice where person is dead, see section 1497.

Post, p. 1320.

When notice need not be given to drawer, see section 1513.

Post, p. 1321.

When notice need not be given to indorser, see section 1514.

By whom given.

SEC. 1489. BY WHOM GIVEN.—The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who upon taking it up would have a right to reimbursement from the party to whom the notice is given.

Notice of dishonor, by agent.

SEC. 1490. NOTICE OF DISHONOR.—Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

CROSS REFERENCE

When agent may give notice, see section 1493.

Effect of notice, by holder.

SEC. 1491. EFFECT OF NOTICE.—Where notice is given by or on behalf of the holder, it inures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given.

By party entitled to give.

SEC. 1492. EFFECT WHERE NOTICE IS GIVEN BY PARTY ENTITLED THERETO.—Where notice is given by or on behalf of a party entitled to give notice, it inures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

When agent may give.

SEC. 1493. WHEN AGENT MAY GIVE NOTICE.—Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon or he may give notice to his

principal. If he gives notice to his principal, he must do so within the same time as if he were the holder, and the principal upon the receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.

CROSS REFERENCE

Notice given by agent, see section 1490.

Ante, p. 1318.

SEC. 1494. WHEN NOTICE SUFFICIENT.—A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.

When sufficient.

CROSS REFERENCE

Form of notice, see section 1495.

SEC. 1495. FORM OF NOTICE.—The notice may be in writing or merely oral and may be given in any terms which sufficiently identify the instrument, and indicate that it has been dishonored by nonacceptance or nonpayment. It may in all cases be given by delivering it personally or through the mails.

Form of.

SEC. 1496. TO WHOM NOTICE GIVEN.—Notice of dishonor may be given either to the party himself or to his agent in that behalf.

To whom given.

SEC. 1497. NOTICE WHERE PARTY IS DEAD.—When any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there be one, and if with reasonable diligence he can be found. If there be no personal representative, notice may be sent to the last residence or last place of business of the deceased.

Where party is dead.

SEC. 1498. NOTICE TO PARTNERS.—Where the parties to be notified are partners, notice to any one partner is notice to the firm, even though there has been a dissolution.

To partners.

SEC. 1499. NOTICE TO PERSONS JOINTLY LIABLE.—Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others.

To persons jointly liable.

SEC. 1500. NOTICE TO BANKRUPT.—Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee.

To bankrupt.

SEC. 1501. TIME WITHIN WHICH NOTICE MUST BE GIVEN.—Notice may be given as soon as the instrument is dishonored; and unless delay is excused as hereinafter provided, must be given within the times fixed by chapters 66 to 69 of this code.

Time limit on giving of.

Ante, p. 1307; *post*, p. 1329.

SEC. 1502. NOTICE WHERE PARTIES RESIDE IN SAME PLACE.—Where the person giving and the person to receive notice reside in the same place, notice must be given within the following times:

Where parties reside in same place.

(1) If given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following;

(2) If given at his residence, it must be given before the usual hours of rest on the day following;

(3) If sent by mail, it must be deposited in the post office in time to reach him in usual course on the day following.

SEC. 1503. NOTICE WHERE PARTIES RESIDE IN DIFFERENT PLACES.—Where the person giving and the person to receive notice reside in different places, the notice must be given within the following times:

Where reside in different places.

(1) If sent by mail, it must be deposited in the post office in time to go by mail the day following the day of dishonor, or if

there be no mail at a convenient hour on that day, by the next mail thereafter;

(2) If given otherwise than through the post office, then within the time that notice would have been received in due course of mail, if it had been deposited in the post office within the time specified in the last subdivision.

Notice deemed given.

SEC. 1504. NOTICE DEEMED GIVEN.—Where notice of dishonor is duly addressed and deposited in the post office, the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.

Deposit in post office.

SEC. 1505. DEPOSIT IN POST OFFICE.—Notice is deemed to have been deposited in post office when deposited in any branch post office or in any letter box under the control of the Post Office Department.

Notice to subsequent party.

SEC. 1506. NOTICE TO SUBSEQUENT PARTY.—Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

Where notice may be sent.

SEC. 1507. WHERE NOTICE MAY BE SENT.—Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

(1) Either to the post office nearest to his place of residence, or to the post office where he is accustomed to receive his letters; or

(2) If he live in one place, and have his place of business in another, notice may be sent to either place; or

(3) If he is sojourning in another place, notice may be sent to the place where he is sojourning.

But where the notice is actually received by the party within the time specified in chapters 66 to 69 of this code, it will be sufficient, though not sent in accordance with the requirements of this section.

CROSS REFERENCE

Effect of miscarriage of mails, see section 1504.

Waiver of.

SEC. 1508. WAIVER OF NOTICE.—Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied.

Who is affected by waiver.

SEC. 1509. WHO IS AFFECTED BY WAIVER.—Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser, it binds him only.

Waiver of protest.

SEC. 1510. WAIVER OF PROTEST.—A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of formal protest, but also of presentment and notice of dishonor.

Notice dispensed with.

SEC. 1511. NOTICE DISPENSED WITH.—Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it can not be given to or does not reach the parties sought to be charged.

Delay excused.

SEC. 1512. DELAY EXCUSED.—Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate, notice must be given with reasonable diligence.

When notice of dishonor not required.

SEC. 1513. WHEN NOTICE OF DISHONOR IS NOT REQUIRED.—Notice of dishonor is not required to be given to the drawer in either of the following cases:

(1) Where the drawer and drawee are the same person;

(2) When the drawee is a fictitious person or a person not having capacity to contract;

(3) When the drawer is the person to whom the instrument is presented for payment;

(4) Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument;

(5) Where the drawer has countermanded payment.

SEC. 1514. WHEN NOT REQUIRED TO BE GIVEN INDORSER.—Notice of dishonor is not required to be given to an indorser in either of the following cases: When not required to be given indorser.

(1) Where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the instrument;

(2) Where the indorser is the person to whom the instrument is presented for payment;

(3) Where the instrument was made or accepted for his accommodation.

SEC. 1515. NOTICE OF NONPAYMENT WHERE ACCEPTANCE REFUSED.—Where due notice of dishonor by nonacceptance has been given, notice of a subsequent dishonor by nonpayment is not necessary, unless in the meantime the instrument has been accepted. Notice of nonpayment where acceptance refused.

SEC. 1516. EFFECT OF OMISSION.—An omission to give notice of dishonor by nonacceptance does not prejudice the rights of a holder in due course subsequent to the omission. Effect of omission.

SEC. 1517. PROTEST.—Where any negotiable instrument has been dishonored it may be protested for nonacceptance or nonpayment, as the case may be; but protest is not required except in the case of foreign bills of exchange. Protest.

DISCHARGE OF NEGOTIABLE INSTRUMENTS

SEC. 1518. HOW DISCHARGED.—A negotiable instrument is discharged— Discharge of negotiable instruments.

(1) By payment in due course by or on behalf of the principal debtor; How discharged.

(2) By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation;

(3) By the intentional cancellation thereof by the holder;

(4) By any other act which will discharge a simple contract for the payment of money;

(5) When the principal debtor becomes the holder of the instrument at or after maturity in his own right.

SEC. 1519. PERSONS SECONDARILY LIABLE DISCHARGED.—A person secondarily liable on the instrument is discharged— Persons secondarily liable discharged.

(1) By any act which discharges the instrument;

(2) By the intentional cancellation of his signature by the holder;

(3) By the discharge of a prior party;

(4) By a valid tender of payment made by a prior party;

(5) By a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved;

(6) By any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable, or unless the right of recourse against such party is expressly reserved. Right of party who discharged.

SEC. 1520. RIGHT OF PARTY WHO DISCHARGED.—Where the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights

as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument, except—

(1) Where it is payable to the order of a third person, and has been paid by the drawer; and

(2) Where it was made or accepted for accommodation, and has been paid by the party accommodated.

Renunciation by holder.

SEC. 1521. RENUNCIATION BY HOLDER.—The holder may expressly renounce his rights against any party to the instrument, before, at, or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

Cancellation.

SEC. 1522. CANCELLATION.—A cancellation made unintentionally, or under a mistake or without the authority of the holder, is inoperative; but where an instrument or any signature thereon appears to have been canceled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake or without authority.

Alteration.

SEC. 1523. ALTERATION.—Where a negotiable instrument is materially altered without the assent of all parties liable thereon, it is avoided, except as against a party who has himself made, authorized or assented to the alteration, and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

Material alteration.

SEC. 1524. MATERIAL ALTERATION.—Any alteration which changes—

- (1) The date;
- (2) The sum payable, either for principal or interest;
- (3) The time or place of payment;
- (4) The number or the relations of the parties;
- (5) The medium or currency in which payment is to be made;

Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

BILLS OF EXCHANGE.

CHAPTER 67.—BILLS OF EXCHANGE

Ante, p. 1307; *post*, p. 1323.

NOTE.—Chapters 66 to 69 of this code comprise the Uniform Negotiable Instruments Act.

Form and interpretation.

FORM AND INTERPRETATION

Defined.

SEC. 1525. BILL OF EXCHANGE DEFINED.—A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

Not an assignment of funds.

SEC. 1526. NOT AN ASSIGNMENT OF FUNDS.—A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same.

Addressed to more than one drawee.

SEC. 1527. ADDRESSED TO MORE THAN ONE DRAWEE.—A bill may be addressed to two or more drawees jointly, whether they are partners or not; but not to two or more drawees in the alternative or in succession.

Inland and foreign bills.

SEC. 1528. INLAND AND FOREIGN BILLS.—An inland bill of exchange is a bill which is, or on its face purports to be, both drawn

and payable within the Canal Zone. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

SEC. 1529. BILL TREATED AS PROMISSORY NOTE.—Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note.

Bill treated as promissory note.

SEC. 1530. REFEREE IN CASE OF NEED.—The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need; that is to say in case the bill is dishonored by nonacceptance or nonpayment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not as he may see fit.

Referee in case of need.

ACCEPTANCE

SEC. 1531. ACCEPTANCE.—The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money.

Acceptance.

SEC. 1532. HOLDER ENTITLED TO ACCEPTANCE ON FACE OF BILL.—The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill and, if such request is refused, may treat the bill as dishonored.

Holder entitled to acceptance on face of bill.

SEC. 1533. ACCEPTANCE BY SEPARATE INSTRUMENT.—Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

Acceptance by separate instrument.

SEC. 1534. PROMISE TO ACCEPT.—An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value.

Promise to accept.

SEC. 1535. TIME ALLOWED DRAWEE TO ACCEPT.—The drawee is allowed twenty-four hours after presentment in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation.

Time allowed drawee to accept.

SEC. 1536. LIABILITY OF DRAWEE RETAINING OR DESTROYING BILL.—Where a drawee to whom a bill is delivered for acceptance destroys the same, or refuses within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or nonaccepted to the holder, he will be deemed to have accepted the same.

Liability of drawee retaining or destroying bill.

SEC. 1537. ACCEPTANCE OF INCOMPLETE BILL.—A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by nonpayment. But when a bill payable after sight is dishonored by nonacceptance and the drawee subsequently accepts it, the holder in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

Acceptance of incomplete bill.

SEC. 1538. KINDS OF ACCEPTANCE.—An acceptance is either general or qualified. A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

Kinds of acceptance.

SEC. 1539. KINDS OF ACCEPTANCE.—An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere.

Qualified acceptance.

SEC. 1540. QUALIFIED ACCEPTANCE.—An acceptance is qualified which is—

- (1) Conditional; that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated;
- (2) Partial; that is to say, an acceptance to pay part only of the amount for which the bill is drawn;
- (3) Local; that is to say, an acceptance to pay only at a particular place;
- (4) Qualified as to time;
- (5) The acceptance of some one or more of the drawees, but not of all.

Rights of parties.

SEC. 1541. RIGHTS OF PARTIES AS TO QUALIFIED ACCEPTANCES.—The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance he may treat the bill as dishonored by nonacceptance. Where a qualified acceptance is taken the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto. When the drawer or an indorser receives notice of a qualified acceptance, he must, within a reasonable time, express his dissent to the holder, or he will be deemed to have assented thereto.

PRESENTMENT FOR ACCEPTANCE

When presentment must be made.

SEC. 1542. WHEN PRESENTMENT FOR ACCEPTANCE MUST BE MADE.—Presentment for acceptance must be made—

- (1) Where the bill is payable after sight, or in any other case, where presentment for acceptance is necessary in order to fix the maturity of the instrument; or
- (2) Where the bill expressly stipulates that it shall be presented for acceptance; or
- (3) Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

CROSS REFERENCE

Post, p. 1325.

Presentment, when excused, see section 1547.

Time for.

SEC. 1543. TIME FOR PRESENTMENT.—Except as herein otherwise provided, the holder of a bill which is required by section 1542 to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fails to do so, the drawer and all indorsers are discharged.

To whom must be made.

SEC. 1544. TO WHOM PRESENTMENT FOR ACCEPTANCE MUST BE MADE.—Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day and before the bill is overdue, to the drawee or some person, authorized to accept or refuse acceptance on his behalf; and—

- (1) Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only;
- (2) Where the drawee is dead, presentment may be made to his personal representative;
- (3) Where the drawee has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

SEC. 1545. PRESENTMENT OF BILL OF EXCHANGE.—A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections 1471 and 1484. When Saturday is not otherwise a holiday, presentment for acceptance may be made before twelve o'clock noon, on that day.

Bill of exchange.

Post, pp. 1327, 1328.

SEC. 1546. PRESENTMENT WHERE TIME IS INSUFFICIENT.—Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time with the exercise of reasonable diligence to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.

Where time is insufficient.

SEC. 1547. WHEN PRESENTMENT IS EXCUSED.—Presentment for acceptance is excused and a bill may be treated as dishonored by nonacceptance, in either of the following cases:

When excused.

(1) Where the drawee is dead, or has absconded, or is a fictitious person, or a person not having capacity to contract by bill;

(2) Where, after the exercise of reasonable diligence, presentment can not be made;

(3) Where, although presentment has been irregular, acceptance has been refused on some other ground.

SEC. 1548. BILL DISHONORED BY NONACCEPTANCE.—A bill is dishonored by nonacceptance—

Bill dishonored by nonacceptance.

(1) When it is duly presented for acceptance and such an acceptance as is prescribed by chapters 66 to 69 of this code is refused or can not be obtained; or

Ante, p. 1307; post, p. 1329.

(2) When presentment for acceptance is excused and the bill is not accepted.

SEC. 1549. DUTY OF HOLDER WHERE NOT ACCEPTED.—Where a bill is duly presented for acceptance and is not accepted within the prescribed time the person presenting it must treat the bill as dishonored by nonacceptance or he loses the right of recourse against the drawer and indorsers.

Duty of holder.

SEC. 1550. RIGHTS OF HOLDER WHERE BILL NOT ACCEPTED.—When a bill is dishonored by nonacceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder and no presentment for payment is necessary.

Rights of holder where bill not accepted.

PROTEST

Protest.

SEC. 1551. IN WHAT CASES PROTEST NECESSARY.—Where a foreign bill appearing on its face to be such is dishonored by nonacceptance, it must be duly protested for nonacceptance, and where such a bill which has not previously been dishonored by nonacceptance is dishonored by nonpayment, it must be duly protested for nonpayment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary.

When necessary.

SEC. 1552. HOW MADE.—The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it, and must specify—

How made.

(1) The time and place of presentment;

(2) The fact that presentment was made and the manner thereof;

(3) The cause or reason for protesting the bill;

(4) The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

By whom.

SEC. 1553. BY WHOM MADE.—Protest may be made by—

(1) A notary public; or

(2) By any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses.

When.

SEC. 1554. WHEN MADE.—When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein provided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

Where.

SEC. 1555. WHERE MADE.—A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business, or residence of some person other than the drawee, has been dishonored by nonacceptance, it must be protested for nonpayment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

Protest both for non-acceptance and non-payment.

SEC. 1556. PROTEST BOTH FOR NONACCEPTANCE AND NONPAYMENT.—A bill which has been protested for nonacceptance may be subsequently protested for nonpayment.

Before maturity.

SEC. 1557. PROTEST BEFORE MATURITY.—Where the acceptor has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

When dispensed with.

SEC. 1558. WHEN DISPENSED WITH.—Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

Lost, etc., bills.

SEC. 1559. WHEN BILL IS LOST AND SO FORTH.—When a bill is lost or destroyed or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

ACCEPTANCE FOR HONOR

Acceptance for honor.

SEC. 1560. ACCEPTANCE FOR HONOR.—Where a bill of exchange has been protested for dishonor by nonacceptance or protested for better security, and is not overdue, any person not being a party already liable thereon may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon, or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for the part only of the sum for which the bill is drawn; and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party.

How made.

SEC. 1561. HOW MADE.—An acceptance for honor supra protest must be in writing, and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

What deemed to be an acceptance for honor of the drawer.

SEC. 1562. WHAT DEEMED TO BE AN ACCEPTANCE FOR HONOR OF THE DRAWER.—Where an acceptance for honor does not expressly state for whose honor it is made, it is deemed to be an acceptance for the honor of the drawer.

Liability of acceptor.

SEC. 1563. LIABILITY OF ACCEPTOR.—The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

Agreement of acceptor for honor.

SEC. 1564. AGREEMENT OF ACCEPTOR FOR HONOR.—The acceptor for honor by such acceptance engages that he will on due presentment pay the bill according to the terms of his acceptance; provided, it

shall not have been paid by the drawee; and provided, also, that it shall have been duly presented for payment and protested for nonpayment and notice of dishonor given him.

SEC. 1565. BILL PAYABLE AFTER SIGHT.—Where a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for nonacceptance and not from the date of the acceptance for honor. Bill payable after sight.

SEC. 1566. PROTEST.—Where a dishonored bill has been accepted for honor supra protest or contains a reference in case of need, it must be protested for nonpayment before it is presented for payment to the acceptor for honor or referee in case of need. Protest.
Presentation to acceptor.

SEC. 1567. PRESENTMENT TO ACCEPTOR.—Presentment for payment to the acceptor for honor must be made as follows:

(1) If it is to be presented in the place where the protest for nonpayment was made, it must be presented not later than the day following its maturity.

(2) If it is to be presented in some other place than the place where it was protested, then it must be forwarded within the time specified in section 1503. Ante, p. 1319.

SEC. 1568. DELAY IN PRESENTMENT.—The provisions of section 1480 apply where there is delay in making presentment to the acceptor for honor or referee in case of need. Delay in presentment.
Ante, p. 1317.

SEC. 1569. DISHONOR OF BILL BY ACCEPTOR FOR HONOR.—When the bill is dishonored by the acceptor for honor it must be protested for nonpayment by him. Dishonor of bill by acceptor for honor.

PAYMENT FOR HONOR

SEC. 1570. PAYMENT FOR HONOR.—Where a bill has been protested for nonpayment, any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn. Payment for honor.

SEC. 1571. PAYMENT FOR HONOR, HOW MADE.—The payment for honor supra protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form an extension to it. How made.

SEC. 1572. DECLARATION.—The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays. Declaration.

SEC. 1573. PREFERENCE OF PARTIES.—Where two or more persons offer to pay a bill for the honor of different parties, the person whose payment will discharge most parties to the bill is to be given the preference. Preference of parties.

SEC. 1574. SUBSEQUENT PARTIES DISCHARGED.—Where a bill has been paid for honor, all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter. Subsequent parties discharged.

SEC. 1575. RIGHT OF RECOURSE LOST.—Where the holder of a bill refuses to receive payment supra protest, he loses his right of recourse against any party who would have been discharged by such payment. Right of recourse lost.

SEC. 1576. RIGHT OF PAYER FOR HONOR.—The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest. Right of payer for honor.

Bills in a set.

BILLS IN A SET

Constitutes one bill.

SEC. 1577. **BILLS IN SETS ONE BILL.**—Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill.

Where different parts are negotiated.

SEC. 1578. **WHERE DIFFERENT PARTS ARE NEGOTIATED.**—Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is, as between such holders, the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

Liability of holder.

SEC. 1579. **LIABILITY OF HOLDER.**—Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

Acceptance.

SEC. 1580. **ACCEPTANCE.**—The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

Payment by acceptor.

SEC. 1581. **PAYMENT BY ACCEPTOR.**—When the acceptor of a bill drawn in a set pays it without requiring the part being his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

Whole bill discharged.

SEC. 1582. **WHOLE BILL DISCHARGED.**—Except as herein otherwise provided, where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

PROMISSORY NOTES AND CHECKS.

CHAPTER 68.—PROMISSORY NOTES AND CHECKS

Ante, p. 1307; *post*, p. 1329.

NOTE.—Chapters 66 to 69 of this code comprise the Uniform Negotiable Instruments Act.

Definitions.
Promissory note.

SEC. 1583. **PROMISSORY NOTE DEFINED.**—A negotiable promissory note within the meaning of chapters 66 to 69 of this code is an unconditional promise in writing made by one person to another, signed by the maker, engaging to pay on demand, or at a fixed or determinable future time, a sum certain in money to order or to bearer, but the negotiability of a promissory note otherwise negotiable in form, secured by a mortgage or deed of trust upon real or personal property, shall not be affected or abridged by reason of a statement therein that it is so secured, nor by reason of the fact that said instrument is so secured, nor by any conditions contained in the mortgage or deed of trust securing the same. Where a note is drawn to the maker's own order it is not complete until indorsed by him.

Check.

SEC. 1584. **CHECK DEFINED.**—A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of chapters 66 to 69 of this code applicable to a bill of exchange payable on demand apply to a check.

Time for presenting.

SEC. 1585. **TIME FOR PRESENTING CHECK.**—A check must be presented for payment within a reasonable time after its issue or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

Certified check.

SEC. 1586. **CERTIFIED CHECK.**—Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.

SEC. 1587. EFFECT OF ACCEPTANCE OR CERTIFICATION.—Where the holder of a check procures it to be accepted or certified the drawer and all indorsers are discharged from liability thereon.

Effect of acceptance or certification.

SEC. 1588. WHEN CHECK OPERATES AS ASSIGNMENT.—A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

When check operates as assignment.

CHAPTER 69.—GENERAL PROVISIONS RESPECTING NEGOTIABLE INSTRUMENTS

GENERAL PROVISIONS RESPECTING NEGOTIABLE INSTRUMENTS.

NOTE.—Chapters 66 to 69 of this code comprise the Uniform Negotiable Instruments Act.

Ante, pp. 1307-1329.

SEC. 1589. DEFINITIONS.—In chapters 66 to 69 of this code, unless the context other requires—

Definitions.

“Acceptance” means an acceptance completed by delivery or notification.

“Action” includes counterclaim and set-off.

“Bank” includes any person or association of persons carrying on the business of banking, whether incorporated or not.

“Bearer” means the person in possession of a bill or note which is payable to bearer.

“Bill” means bill of exchange, and “note” means negotiable promissory note.

“Delivery” means transfer of possession, actual or constructive, from one person to another.

“Holder” means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

“Indorsement” means an indorsement completed by delivery.

“Instrument” means negotiable instrument.

“Issue” means the first delivery of the instrument complete in form, to a person who takes it as a holder.

“Person” includes a body of persons, whether incorporated or not.

“Value” means valuable consideration.

“Written” includes printed; and “writing” includes print.

SEC. 1590. PERSON PRIMARILY LIABLE ON INSTRUMENT.—The person “primarily” liable on an instrument is the person who by the terms of the instrument is absolutely required to pay the same. All other parties are “secondarily” liable.

Person primarily liable on instrument.

SEC. 1591. REASONABLE TIME, WHAT CONSTITUTES.—In determining what is a “reasonable time” or an “unreasonable time,” regard is to be had to the nature of the instrument, the usage of trade or business (if any) with respect to such instruments, and the facts of the particular case.

Reasonable time.

SEC. 1592. TIME, HOW COMPUTED WHEN LAST DAY FALLS ON HOLIDAY.—Where the day, or the last day, for doing any act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.

Time computation, last day falling on holiday.

SEC. 1593. APPLICATION OF CHAPTERS 66 TO 69.—The provisions of chapters 66 to 69 of this code do not apply to negotiable instruments made and delivered prior to the taking effect hereof. In any case not provided for in said chapters the rules of the law merchant shall govern.

Application of Chapters 66 to 69. *Ante*, pp. 1307-1329.

GENERAL PROVISIONS AFFECTING CHAPTERS 34 TO 69.

CHAPTER 70.—GENERAL PROVISIONS AFFECTING CHAPTERS 34 TO 69

Parties may waive certain provisions of Code.
Ante, pp. 1204-1329.

SEC. 1594. PARTIES MAY WAIVE PROVISIONS OF CODE.—Except where it is otherwise declared, the provisions of chapters 34 to 69 of this code, in respect to the rights and obligations of parties to contracts, are subordinate to the intention of the parties, when ascertained in the manner prescribed by the chapter on the interpretation of contracts; and the benefit thereof may be waived by any party entitled thereto, unless such waiver would be against public policy.

CROSS REFERENCE

Post, p. 1197.

Interpretation of contracts, see sections 546 et seq.

RELIEF IN GENERAL.

CHAPTER 71.—RELIEF IN GENERAL

Species of.

SEC. 1595. SPECIES OF RELIEF.—As a general rule compensation is a relief or remedy provided by the law of the Canal Zone for the violation of private rights, and the means of securing their observance; and specific and preventive relief may be given in no other cases than those specified in this chapter and chapters 72 and 73 of this code.

CROSS REFERENCES

Post, p. 1338.

Injunction, see sections 1652 et seq.

Person suffering detriment may recover damages, see section 1597.

Post, p. 1335.

Specific performance, see sections 1634 et seq.

In case of forfeiture.

SEC. 1596. RELIEF IN CASE OF FORFEITURE.—Whenever, by the terms of an obligation, a party thereto incurs a forfeiture, or a loss in the nature of a forfeiture, by reason of his failure to comply with its provisions, he may be relieved therefrom, upon making full compensation to the other party, except in case of a grossly negligent, willful, or fraudulent breach of duty.

COMPENSATORY RELIEF.

CHAPTER 72.—COMPENSATORY RELIEF

DAMAGES IN GENERAL

GENERAL PRINCIPLES

Who may recover.

SEC. 1597. PERSON SUFFERING DETRIMENT MAY RECOVER DAMAGES.—Every person who suffers detriment from the unlawful act or omission of another, may recover from the person in fault a compensation therefor in money, which is called damages.

CROSS REFERENCES

Post, p. 1334.

Damages are exclusive of exemplary damages and interest, except where those are expressly mentioned, see section 1624.

Post, p. 1332.

Damages for breach of contract, see sections 1605 et seq.

Post, p. 1333.

Damages for torts, see sections 1615 et seq.

Post, p. 1334.

Damages must be reasonable, see section 1626.

Post, p. 1331.

Exemplary damages, see section 1604.

Post, p. 1331.

Interest on damages, see sections 1600 and 1601.

Post, p. 1334.

Limitation on amount of damages, see section 1625.

Post, p. 1334.

Nominal damages, see section 1627.

“Detriment,” defined.

SEC. 1598. DETRIMENT, WHAT.—Detriment is a loss or harm suffered in person or property.

SEC. 1599. INJURIES RESULTING OR PROBABLE AFTER SUIT BROUGHT.—Damages may be awarded, in a judicial proceeding, for detriment resulting after the commencement thereof or certain to result in the future.

Injuries resulting or probable after suit brought.

INTEREST AS DAMAGES

Interest as damages.

SEC. 1600. PERSON ENTITLED TO RECOVER DAMAGES MAY RECOVER INTEREST THEREON.—Every person who is entitled to recover damages certain, or capable of being made certain by calculation, and the right to recover which is vested in him upon a particular day, is entitled also to recover interest thereon from that day, except during such time as the debtor is prevented by law, or by the act of the creditor, from paying the debt.

Recovery of.

CROSS REFERENCES

Damages prescribed in code are exclusive of interest, see section 1624.
 Interest as damages, see section 666.
 Interest as damages on breach of contract, see section 1607.
 Interest in actions for conversion, see section 1616.

Post, p. 1234.
 Ante, p. 1220.
 Post, p. 1332.
 Post, p. 1333.

SEC. 1601. IN ACTIONS OTHER THAN CONTRACT.—In an action for the breach of an obligation not arising from contract, and in every case of oppression, fraud, or malice, interest may be given, in the discretion of the court or jury.

Actions other than contract.

CROSS REFERENCE

Interest in trover and conversion, see section 1616.

Post, p. 1333.

SEC. 1602. LIMIT OF RATE BY CONTRACT.—Any legal rate of interest stipulated by a contract remains chargeable after a breach thereof, as before, until the contract is superseded by a judgment or other new obligation.

Limit of rate by contract.

SEC. 1603. ACCEPTANCE OF PRINCIPAL WAIVES CLAIM TO INTEREST.—Accepting payment of the whole principal, as such, waives all claim to interest.

Acceptance of principal waives claim to interest.

EXEMPLARY DAMAGES

Exemplary damages.

SEC. 1604. EXEMPLARY DAMAGES, IN WHAT CASES ALLOWED.—In an action for the breach of an obligation not arising from contract, where the defendant has been guilty of oppression, fraud, or malice, express or implied, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

When allowed.

CROSS REFERENCES

Damages for wrongs, generally, see sections 1615 et seq.
 Damages prescribed in code exclusive of exemplary damages, see section 1624.
 Infants and insane persons, liability for exemplary damages, see section 27.
 Injuries to animals, exemplary damages for, see section 1620.

Post, p. 1333.
 Post, p. 1334.
 Ante, p. 1126
 Post, p. 1333.

MEASURE OF DAMAGES

DAMAGES FOR BREACH OF CONTRACT

CROSS REFERENCES

Breach of warranty, see section 665.
 Measure of damages for breach of contracts to sell and sales of personal property, see sections 597 to 673.

Ante, p. 1219.
 Ante, p. 1204.

Measure of damages,
breach of contract.

SEC. 1605. MEASURE OF DAMAGES FOR BREACH OF CONTRACT.—For the breach of an obligation arising from contract, the measure of damages, except where otherwise expressly provided by this code, is the amount which will compensate the party aggrieved for all the detriment proximately caused thereby, or which, in the ordinary course of things, would be likely to result therefrom.

CROSS REFERENCES

Ante, p. 1201.

Contract fixing damages for breach in advance, effect of, see section 575.

Post, p. 1334.

Damages limited to amount one would gain by performance, see section 1625.

Post, p. 1334.

Damages to be reasonable, see section 1626.

Post, p. 1334.

Nominal damages, see section 1627.

Damages must be
certain.

SEC. 1606. DAMAGES MUST BE CERTAIN.—No damages can be recovered for a breach of contract which are not clearly ascertainable in both their nature and origin.

Breach of contract to
pay liquidated sum.

SEC. 1607. BREACH OF CONTRACT TO PAY LIQUIDATED SUM.—The detriment caused by the breach of an obligation to pay money only, is deemed to be the amount due by the terms of the obligation, with interest thereon.

Breach of carrier's
obligation to receive
goods, etc.

SEC. 1609. BREACH OF CARRIER'S OBLIGATION TO RECEIVE GOODS, AND SO FORTH.—The detriment caused by the breach of a carrier's obligation to accept freight, messages, or passengers, is deemed to be the difference between the amount which he had a right to charge for the carriage and the amount which it would be necessary to pay for the same service when it ought to be performed.

CROSS REFERENCE

Ante, p. 1255.

Obligation to receive freight, see section 957.

To deliver.

SEC. 1610. BREACH OF CARRIER'S OBLIGATION TO DELIVER.—The detriment caused by the breach of a carrier's obligation to deliver freight, where he has not converted it to his own use, is deemed to be the value thereof at the place and on the day at which it should have been delivered, deducting the freightage to which he would have been entitled if he had completed the delivery.

CROSS REFERENCES

Ante, p. 1254.

Delivery of property by carrier, see section 900.

Ante, p. 1216.

Stoppage in transitu, see sections 653 et seq.

Carrier's delay.

SEC. 1611. CARRIER'S DELAY.—The detriment caused by a carrier's delay in the delivery of freight, is deemed to be the depreciation in the intrinsic value of the freight during the delay, and also the depreciation, if any, in the market value thereof, otherwise than by reason of a depreciation in its intrinsic value, at the place where it ought to have been delivered, and between the day at which it ought to have been delivered, and the day of its actual delivery.

CROSS REFERENCES

Ante, p. 1257.

Carrier's liability for delay, see section 977.

Ante, pp. 1253, 1257.

Delay in carriage, liability for, see sections 895 and 977.

Breach of warranty
of authority.

SEC. 1612. BREACH OF WARRANTY OF AUTHORITY.—The detriment caused by the breach of a warranty of an agent's authority, is deemed to be the amount which could have been recovered and collected from his principal if the warranty had been complied with, and the reasonable expenses of legal proceedings taken, in good faith, to enforce the act of the agent against his principal.

CROSS REFERENCE

Warranty of authority by one assuming to act as agent, see section 1073.

Ante, p. 1268.

SEC. 1613. BREACH OF PROMISE OF MARRIAGE.—The damages for the breach of a promise of marriage rest in the sound discretion of the court or jury.

Breach of promise of marriage.

SEC. 1614. LIABILITY FOR NONPAYMENT OF CHECK.—No bank shall be liable to a depositor because of the nonpayment through mistake or error, and without malice, of a check which should have been paid unless the depositor shall allege and prove actual damage by reason of such nonpayment and in such event the liability shall not exceed the amount of damage so proved.

Liability for nonpayment of check.

DAMAGES FOR WRONGS

Damages for wrongs.

SEC. 1615. BREACH OF OBLIGATION OTHER THAN CONTRACT.—For the breach of an obligation not arising from contract the measure of damages, except where otherwise expressly provided by this code, is the amount which will compensate for all the detriment proximately caused thereby, whether it could have been anticipated or not.

Breach of obligation other than contract.

CROSS REFERENCE

Diminution of damages in proportion to want of care of persons injured, see section 595.

Ante, p. 1203.

SEC. 1616. CONVERSION OF PERSONAL PROPERTY.—The detriment caused by the wrongful conversion of personal property is presumed to be:

Conversion of personal property.

First. The value of the property at the time of the conversion, with the interest from that time, or where the action has been prosecuted with reasonable diligence, the highest market value of the property at any time between the conversion and the judgment, without interest, at the option of the injured party; and

Second. A fair compensation for the time and money properly expended in pursuit of the property.

SEC. 1617. SAME.—The presumption declared by section 1616 can not be repelled in favor of one whose possession was wrongful from the beginning, by his subsequent application of the property to the benefit of the owner, without his consent.

Presumption of detriment.

SEC. 1618. DAMAGES OF LIENOR.—One having a mere lien on personal property, can not recover greater damages for its conversion, from one having a right thereto superior to his, after his lien is discharged, than the amount secured by the lien, and the compensation allowed by section 1616 for loss of time and expenses.

Damages of lienor.

CROSS REFERENCES

Damages for conversion of personalty, generally, see section 1616.
Levy on mortgaged chattel, see section 1362.

Ante, p. 1303.

SEC. 1619. SEDUCTION.—The damages for seduction rest in the sound discretion of the court or jury.

Seduction.

SEC. 1620. INJURIES TO ANIMALS.—For wrongful injuries to animals being subjects of property, committed willfully or by gross negligence, in disregard of humanity, exemplary damages may be given.

Injuries to animals.

CROSS REFERENCE

Exemplary damages, generally, see section 1604.

Ante, p. 1331.

General provisions.

GENERAL PROVISIONS

Property of peculiar value.

SEC. 1622. PROPERTY OF PECULIAR VALUE.—Where certain property has a peculiar value to a person recovering damages for deprivation thereof, or injury thereto, that may be deemed to be its value against one who had notice thereof before incurring a liability to damages in respect thereof, or against a willful wrongdoer.

Value of thing in action.

SEC. 1623. VALUE OF THING IN ACTION.—For the purpose of estimating damages, the value of an instrument in writing is presumed to be equal to that of the property to which it entitles its owner.

Damages allowed in this subchapter, exclusive of others.
Ante, p. 1332.

SEC. 1624. DAMAGES ALLOWED IN THIS SUBCHAPTER, EXCLUSIVE OF OTHERS.—The damages prescribed by sections 1605 to 1627 are exclusive of exemplary damages and interest, except where those are expressly mentioned.

CROSS REFERENCES

Ante, p. 1331.

Exemplary damages, see section 1604.

Ante, pp. 1220, 1331.

Interest, see sections 666 and 1600 to 1603.

Limitation of damages.

SEC. 1625. LIMITATION OF DAMAGES.—Notwithstanding the provisions of sections 1605 to 1627, no person can recover a greater amount in damages for the breach of an obligation than he could have gained by the full performance thereof on both sides, except in the cases specified in section 1604 on exemplary damages and in sections 1613, 1619, and 1620.

Ante, p. 1332.*Ante*, p. 1333.

CROSS REFERENCE

Exemplary damages, see section 1604.

Ante, p. 1331.

To be reasonable.

SEC. 1626. DAMAGES TO BE REASONABLE.—Damages must, in all cases, be reasonable, and where an obligation of any kind appears to create a right to unconscionable and grossly oppressive damages, contrary to substantial justice, no more than reasonable damages can be recovered.

CROSS REFERENCE

Liquidated damages and penalty, see sections 574 and 575.

Ante, p. 1201.

Nominal damages.

SEC. 1627. NOMINAL DAMAGES.—When a breach of duty has caused no appreciable detriment to the party affected, he may yet recover nominal damages.

SPECIFIC AND PREVENTIVE RELIEF.

CHAPTER 73.—SPECIFIC AND PREVENTIVE RELIEF

General principles.

GENERAL PRINCIPLES

Specific relief, when allowed.

SEC. 1628. SPECIFIC RELIEF, AND SO FORTH, WHEN ALLOWED.—Specific or preventive relief may be given as provided by the laws of the Canal Zone.

CROSS REFERENCES

Post, p. 1337.

Cancellation of instruments, see sections 1648 et seq.

Post, p. 1338.

Injunctions, see sections 1652 et seq.

Post, p. 1335.

Possession of personal property, see sections 1632 et seq.

Ante, p. 1201; *post*, p. 1337.

Rescission of contracts, see sections 580 et seq. and 1645 et seq.

Post, p. 1336.

Revision of contracts, see sections 1641 et seq.

Post, p. 1335.

Specific performance of obligation, see sections 1634 et seq.

How given.

SEC. 1629. SPECIFIC RELIEF, HOW GIVEN.—Specific relief is given—
1. By taking possession of a thing and delivering it to a claimant;
2. By compelling a party himself to do that which ought to be done; or

3. By declaring and determining the rights of parties, otherwise than by an award of damages.

SEC. 1630. PREVENTIVE RELIEF, HOW GIVEN.—Preventive relief is given by prohibiting a party from doing that which ought not to be done.

Preventive relief,
how given.

CROSS REFERENCE

Preventive relief, generally, see sections 1652 et seq.

Post, p. 1338.

SEC. 1631. NOT TO ENFORCE PENALTY, AND SO FORTH.—Neither specific nor preventive relief can be granted to enforce a penal law, except in a case of nuisance, nor to enforce a penalty or forfeiture in any case.

Not granted to en-
force penalty, etc.

SPECIFIC RELIEF

Specific relief.

POSSESSION OF PERSONAL PROPERTY

Possession of per-
sonal property.

SEC. 1632. JUDGMENT FOR DELIVERY.—A person entitled to the immediate possession of specific personal property may recover the same in the manner provided by the Code of Civil Procedure.

Judgment for de-
livery.

SEC. 1633. SPECIFIC DELIVERY.—Any person having the possession or control of a particular article of personal property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession.

Specific delivery.

SPECIFIC PERFORMANCE OF OBLIGATIONS

Specific performance
of obligations.

CROSS REFERENCE

Specific performance of contract to deliver specific or ascertained goods, see section 664.

Ante, p. 1219.

SEC. 1634. SPECIFIC PERFORMANCE.—Except as otherwise provided in sections 1635 to 1640, the specific performance of an obligation may be compelled.

When granted.

CROSS REFERENCES

Specifically enforcing revised contract, see section 1644.

Post, p. 1337.

Specific performance, see sections 1638 and 1640.

Post, p. 1336.

SEC. 1635. NO REMEDY UNLESS MUTUAL.—Neither party to an obligation can be compelled specifically to perform it, unless the other party thereto has performed, or is compellable specifically to perform, everything to which the former is entitled under the same obligation, either completely or nearly so, together with full compensation for any want of entire performance.

Mutuality of remedy.

CROSS REFERENCE

Performance by parties seeking execution, compare with section 1640.

Post, p. 1336.

SEC. 1636. CONTRACT SIGNED BY ONE PARTY ONLY, MAY BE ENFORCED BY OTHER.—A party who has signed a written contract may be compelled specifically to perform it, though the other party has not signed it, if the latter has performed, or offers to perform it on his part, and the case is otherwise proper for enforcing specific performance.

Contract signed by
one party only, may be
enforced by other.

SEC. 1637. LIQUIDATION OF DAMAGES NOT A BAR TO SPECIFIC PERFORMANCE.—A contract otherwise proper to be specifically enforced, may be thus enforced, though a penalty is imposed, or the damages are liquidated for its breach, and the party in default is willing to pay the same.

Liquidation of dam-
ages not a bar to spe-
cific performance.

Obligations not specifically enforceable.

SEC. 1638. WHAT CAN NOT BE SPECIFICALLY ENFORCED.—The following obligations can not be specifically enforced:

1. An obligation to render personal service;
2. An obligation to employ another in personal service;
3. An agreement to submit a controversy to arbitration;
4. An agreement to perform an act which the party has not power lawfully to perform when required to do so;
5. An agreement to procure the act or consent of the wife of the contracting party, or of any other third person; or
6. An agreement, the terms of which are not sufficiently certain to make the precise act which is to be done clearly ascertainable.

CROSS REFERENCE

What parties can not have specific performance, see section 1640.

What parties can not be compelled to perform.

SEC. 1639. WHAT PARTIES CAN NOT BE COMPELLED TO PERFORM.—Specific performance can not be enforced against a party to a contract in any of the following cases:

1. If he has not received an adequate consideration for the contract;
2. If it is not, as to him, just and reasonable;
3. If his assent was obtained by the misrepresentation, concealment, circumvention, or unfair practices of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled; or
4. If his assent was given under the influence of mistake, misapprehension, or surprise, except that where the contract provides for compensation in case of mistake, a mistake within the scope of such provision may be compensated for, and the contract specifically enforced in other respects, if proper to be so enforced.

What parties can not have specific performance in their favor.

SEC. 1640. WHAT PARTIES CAN NOT HAVE SPECIFIC PERFORMANCE IN THEIR FAVOR.—Specific performance can not be enforced in favor of a party who has not fully and fairly performed all the conditions precedent on his part to the obligation of the other party, except where his failure to perform is only partial, and either entirely immaterial, or capable of being fully compensated, in which case specific performance may be compelled, upon full compensation being made for the default.

CROSS REFERENCE

What obligations can not be specifically enforced, see section 1638.

Revision of contracts.

REVISION OF CONTRACTS

What may be revised.

SEC. 1641. WHEN CONTRACT MAY BE REVISED.—When, through fraud or a mutual mistake of the parties, or a mistake of one party, which the other at the time knew or suspected, a written contract does not truly express the intention of the parties, it may be revised on the application of a party aggrieved, so as to express that intention, so far as it can be done without prejudice to rights acquired by third persons, in good faith and for value.

CROSS REFERENCES

Ante, p. 1198.

Contract disregarded where not expressing intent through fraud or mistake, see section 551.

Post, p. 1337.

Revised to express intention, see section 1643.

Presumption as to intent of parties.

SEC. 1642. PRESUMPTION AS TO INTENT OF PARTIES.—For the purpose of revising a contract, it must be presumed that all the parties thereto intended to make an equitable and conscientious agreement.

SEC. 1643. PRINCIPLES OF REVISION.—In revising a written instrument, the court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

Principles of revision.

SEC. 1644. ENFORCEMENT OF REVISED CONTRACT.—A contract may be first revised and then specifically enforced.

Enforcement of revised contract.

RESCISSION OF CONTRACTS

Rescission of contracts.

SEC. 1645. WHEN RESCISSION MAY BE ADJUDGED.—The rescission of a written contract may be adjudged, on the application of a party aggrieved:

When rescission may be adjudged.

1. In any of the cases mentioned in section 581; or
2. Where the contract is unlawful, for causes not apparent upon its face, and the parties were not equally in fault; or
3. When the public interest will be prejudiced by permitting it to stand.

CROSS REFERENCES

Cancellation of instruments, see sections 1648 et seq.

Rescission of contracts by party thereto, see section 581.

Rescission, how affected, see section 583.

Anie, p. 1201.

Anie, p. 1202.

SEC. 1646. RESCISSION FOR MISTAKE.—Rescission can not be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

Rescission for mistake.

CROSS REFERENCES

Mistake, see sections 506 et seq.

Placing party in statu quo, see section 583.

Anie, p. 1193.

Anie, p. 1202.

SEC. 1647. COURT MAY REQUIRE PARTY RESCINDING TO DO EQUITY.—On adjudging the rescission of a contract, the court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

Court may require party rescinding to do equity.

CANCELLATION OF INSTRUMENTS

Cancellation of instruments.

SEC. 1648. WHEN CANCELLATION MAY BE ORDERED.—A written instrument, in respect to which there is a reasonable apprehension that if left outstanding it may cause serious injury to a person against whom it is void or voidable, may, upon his application, be so adjudged, and ordered to be delivered up or canceled.

When may be ordered.

CROSS REFERENCES

Cancellation and alteration of instruments by parties thereto, see sections 584 et seq.

Rescission of contracts, see sections 580 et seq. and 1645 et seq.

Anie, p. 1202.

Anie, p. 1201.

SEC. 1649. INSTRUMENTS OBVIOUSLY VOID.—An instrument, the invalidity of which is apparent upon its face or upon the face of another instrument which is necessary to the use of the former in evidence, is not to be deemed capable of causing injury, within the provisions of section 1648.

Instruments obviously void.

SEC. 1650. CANCELLATION IN PART.—Where an instrument is evidence of different rights or obligations, it may be canceled in part, and allowed to stand for the residue.

Cancellation in part.

Reissuance, etc., of lost private documents, etc.

SEC. 1651. REISSUANCE, AND SO FORTH, OF LOST PRIVATE DOCUMENTS OR INSTRUMENTS.—An action may be maintained by any person interested in any private document or instrument in writing, which has been lost, destroyed, or damaged by conflagration or other public calamity, to prove, establish, compel the reissuance, reexecution, and reacknowledgment of such document or instrument. If such document or instrument be a negotiable instrument, the court must compel the person in whose favor it is drawn to give a bond executed by himself and two sufficient sureties to indemnify the person reissuing, reexecuting, or reacknowledging the same against any lawful claim thereon.

Preventive relief.

PREVENTIVE RELIEF

How granted.

SEC. 1652. PREVENTIVE RELIEF, HOW GRANTED.—Preventive relief is granted by injunction, preliminary or final.

Injunctions regulated by Code Civil Procedure.

SEC. 1653. INJUNCTIONS REGULATED BY CODE CIVIL PROCEDURE.—Injunctions are regulated by the Code of Civil Procedure.

SPECIAL RELATIONS OF DEBTOR AND CREDITOR.

CHAPTER 74.—SPECIAL RELATIONS OF DEBTOR AND CREDITOR

General principles.

GENERAL PRINCIPLES

Who is a debtor.

SEC. 1654. WHO IS A DEBTOR.—A debtor, within the meaning of this chapter, is one who, by reason of an existing obligation, is or may become liable to pay money to another, whether such liability is certain or contingent.

Who is a creditor.

SEC. 1655. WHO IS A CREDITOR.—A creditor, within the meaning of this chapter, is one in whose favor an obligation¹ exists, by reason of which he is, or may become, entitled to the payment of money.

Contracts of debtor are valid.

SEC. 1656. CONTRACTS OF DEBTOR ARE VALID.—In the absence of fraud, every contract of a debtor is valid against all his creditors, existing or subsequent, who have not acquired a lien on the property affected by such contract.

Payments in preference.

SEC. 1657. PAYMENTS IN PREFERENCE.—A debtor may pay one creditor in preference to another, or may give to one creditor security for the payment of his demand in preference to another.

CROSS REFERENCE

Post, p. 1341.

Preferring creditor, see section 1670 (1).

Relative rights of different creditors.

SEC. 1658. RELATIVE RIGHTS OF DIFFERENT CREDITORS.—Where a creditor is entitled to resort to each of several funds for the satisfaction of his claim, and another person has an interest in, or is entitled as a creditor to resort to some, but not all of them, the latter may require the former to seek satisfaction from those funds to which the latter has no such claim, so far as it can be done without impairing the right of the former to complete satisfaction, and without doing injustice to third persons.

CROSS REFERENCE

Ante, p. 1298.

Order of resort to different funds, see section 1325.

Fraudulent instruments and transfers.

FRAUDULENT INSTRUMENTS AND TRANSFERS

Transfers, etc., with intent to defraud creditors.

SEC. 1659. TRANSFERS, ETC., WITH INTENT TO DEFRAUD CREDITORS.—Every transfer of property or charge thereon made, every obligation incurred, and every judicial proceeding taken, with intent to delay or defraud any creditor or other person of his demands, is void against all creditors¹ of the debtor, and their successors in interest,

¹ So in original.

and against any person upon whom the estate of the debtor devolves in trust for the benefit of others than the debtor.

SEC. 1660. TRANSFERS PRESUMED FRAUDULENT.—Every transfer of personal property, other than a thing in action, or a ship of cargo at sea or in a foreign port, and every lien thereon, other than a mortgage, when allowed by law, and a contract of bottomry or respondentia, is conclusively presumed if made by a person having at the time the possession or control of the property, and not accompanied by an immediate delivery, and followed by an actual and continued change of possession of the things transferred, to be fraudulent, and therefore void, against those who are his creditors while he remains in possession, and the successors in interest of such creditors, and against any persons on whom his estate devolves in trust for the benefit of others than himself, and against purchasers or encumbrancers in good faith subsequent to the transfer: *Provided, however,* That the provisions of this section shall not apply or extend to any sale, transfer, assignment, or mortgage made under the direction or order of a court of competent jurisdiction or by any executor, administrator, guardian, receiver, or other officer or person acting in the regular and proper discharge of official duty or in the discharge of any trust imposed upon him by law, nor to any transfer or assignment, statutory or otherwise, made for the benefit of creditors, generally, nor to any sale, transfer, assignment, or mortgage of any property exempt from execution.

Transfers presumed fraudulent.

Provido.
When not applicable.

CROSS REFERENCE

Chattel mortgage, when void as to creditors and purchasers, see section 1356. *Ante*, p. 1302.

SEC. 1661. CREDITOR'S RIGHT MUST BE JUDICIALLY ASCERTAINED.—A creditor can avoid the act or obligation of his debtor for fraud only where the fraud obstructs the enforcement, by legal process, of his right to take the property affected by the transfer or obligation.

Creditor's right must be judicially ascertained.

ASSIGNMENTS FOR BENEFIT OF CREDITORS

SEC. 1662. WHEN DEBTOR MAY EXECUTE ASSIGNMENT.—An insolvent debtor may in good faith execute an assignment of property in trust for the satisfaction of his creditors, in conformity to the provisions of this subchapter; subject, however, to the provisions of this code relative to trusts and fraudulent transfers, and to the restrictions imposed by law upon assignments by special partnerships, or by other specific classes or persons.

Assignment for benefit of creditors.

When debtor may execute.

CROSS REFERENCE

Partner can not assign, see section 1103 (1).

Ante, p. 1272.

SEC. 1663. FORM OF ASSIGNMENT.—Every such assignment shall contain a list of the names of the creditors of the assignor, and their places of residence and amounts of their respective demands, and the amounts and nature of any security therefor; and shall, subject to the other provisions of this subchapter, be made to the marshal of the Canal Zone.

Form of.

CROSS REFERENCE

Form of assignment, see section 1671.

Post, p. 1341.

SEC. 1664. CUSTODY OF PROPERTY; CREDITORS' MEETING AND NOTICE THEREOF; ELECTION OF ASSIGNEE.—The marshal shall forthwith take possession of all the property so assigned to him, and keep the same till delivered by him, as hereinafter provided. When the assignment has been made, as hereinbefore provided, the marshal shall

Custody of property.

Creditors' meeting. immediately, by mail, notify the creditors named in the assignment, at their places of residence as given therein, to meet at his office on a day and hour to be appointed by him, not less than eight or more than ten days from the date of the delivery of the assignment to him, for the purpose of electing one or more assignees, as they may determine, in the place and stead of the said marshal in the premises.

Notice. He shall also publish a notice of such meeting, and the purpose thereof, at least once before such meeting, in some newspaper of general circulation in the Canal Zone. The notice so to be mailed shall also contain a statement of the amount of the demand of the creditor, and the amount and nature of any security therefor, as set forth in the assignment; and if any creditor shall not find the amount of his claim to be correctly so stated, he may file with said marshal, at or before such meeting, a statement, under oath, of his demand, and such statement shall, for the purpose of voting as hereinafter provided, be accepted by said marshal as correct; and when no such statement is filed, the statement of amount as set forth in the assignment shall be accepted by the marshal as correct.

No creditor having a mortgage or pledge of property of the debtor, or lien thereon, for securing the payment of a debt owing to him from the debtor, shall be allowed to vote any part of his claim at such meeting of creditors, unless he shall have first conveyed, released, or delivered up his said security to said marshal for the benefit of all creditors of said assignor.

At such meeting the marshal shall preside, and a majority in amount of demands present or represented by proxy shall control all questions and decisions. The creditors may adjourn such meeting from time to time, and may vote on all questions either in person or by proxy signed and acknowledged before any officer authorized to take acknowledgments, and filed with the marshal.

Election of assignee. At such a meeting, or any adjournment thereof, the creditors may elect one or more assignees from their own number, in the place and stead of the marshal, and the person or persons so elected shall afterwards be the assignee or assignees under the provisions of this subchapter; and the marshal, by transfer in writing, acknowledged as required by section 1671, shall at once assign to such elected assignee or assignees, upon the trusts in this subchapter provided, all the property so assigned to him, and deliver possession thereof.

Post, p. 1341.

All recitals in such assignment by said marshal of notices of such meeting, and the holding thereof, and of the due election of such assignee or assignees, shall be prima facie proof of the facts recited.

Marshal's fees.

SEC. 1665. MARSHAL'S FEES.—The marshal shall, before the delivery of such assignment, be paid the expenses incurred by him, and fees in such amount as would by law be collectible if the property assigned had been levied upon and safely kept under attachment.

Powers and duties of elected assignee.

SEC. 1666. POWERS AND DUTIES OF ELECTED ASSIGNEE.—Thereupon, and after the record of such last-named assignment, as in this subchapter provided, such elected assignee or assignees shall take, and hold, and dispose of all such property and its proceeds, upon the trusts and conditions and for the purposes in this subchapter provided.

CROSS REFERENCES

Post, p. 1343.

Assignee can not act until bond and inventory filed, see section 1679.

Post, p. 1344.

Commissions and expenses of assignee, see section 1682.

Insolvency defined.

SEC. 1667. INSOLVENCY, WHAT.—A debtor is insolvent, within the meaning of this subchapter, when he is unable to pay his debts from his own means as they become due.

CROSS REFERENCE

Insolvency defined, see section 671.

Ante, p. 1221.

SEC. 1668. CERTAIN TRANSFERS NOT AFFECTED.—The provisions of this subchapter do not prevent a person residing in any state or country from making there, in good faith, and without intent to evade the laws of the Canal Zone, a transfer of property situated within it; but such person can not make a general assignment of property situated in the Canal Zone for the satisfaction of all his creditors, except as in this subchapter provided; nor do the provisions of this subchapter affect the power of a person, although insolvent, and whether residing within or without the Canal Zone, to transfer property in the Canal Zone, in good faith to a particular creditor, or creditors, or to some other person or persons in trust for such particular creditor or creditors for the purpose of paying or securing the whole or part of a debt owing to such creditor or creditors, whether in his or their own right or otherwise.

Certain transfers not affected.

SEC. 1669. WHAT DEBTS MAY BE SECURED.—An assignment for the benefit of creditors may provide for any subsisting liability of the assignor which he might lawfully pay, whether absolute or contingent.

What debts may be secured.

SEC. 1670. ASSIGNMENT WHEN VOID.—An assignment for the benefit of creditors is void against any creditor of the assignor not assenting thereto, in the following cases:

Assignment when void.

First. If it give a preference of one debt or class of debts over another.

Second. If it tend to coerce any creditor to release or compromise his demand.

Third. If it provide for the payment of any claim known to the assignor to be false or fraudulent; or for the payment of more upon any claim than is known to be justly due from the assignor.

Fourth. If it reserve any interest in the assigned property, or in any part thereof, to the assignor, or for his benefit, before all his existing debts are paid.

Fifth. If it confer upon the assignee any power which, if exercised, might prevent or delay the immediate conversion of the assigned property to the purposes of the trust.

Sixth. If it exempt him from liability for neglect of duty or misconduct.

CROSS REFERENCES

Preferences by special partnership, see section 1138.
Preferences to creditors, see section 1657.

Ante, p. 1277.

Ante, p. 1338.

SEC. 1671. ASSIGNMENT TO BE IN WRITING.—An assignment for the benefit of creditors must be in writing, subscribed by the assignor, or by his agent thereto authorized in writing, and the transfer by the marshal must also be in writing, subscribed by the marshal in his official capacity. Both such assignment and such transfer must be acknowledged, or proved and certified, in the mode prescribed by chapter 22 of this code, and be recorded as required by section 1676.

Assignment to be in writing.

Ante, p. 1164.
Post, p. 1342.

CROSS REFERENCES

Form of assignment, see section 1663.
Recording of assignment, see sections 1672 and 1676.

Ante, p. 1339.

Post, p. 1342.

SEC. 1672. COMPLIANCE WITH PROVISIONS OF LAST SECTION NECESSARY TO VALIDITY OF ASSIGNMENT.—Unless the provisions of section 1671 are complied with, an assignment for the benefit of creditors is void against every creditor of the assignor not assenting thereto.

Compliance with provisions of last section necessary to validity of assignment.

CROSS REFERENCE

Ante, p. 1341.

Recording of assignments, see sections 1671 and 1676.

Assignee takes, subject to rights of third parties.

SEC. 1673. ASSIGNEE TAKES, SUBJECT TO RIGHTS OF THIRD PARTIES.—An assignee for the benefit of creditors is not to be regarded as a purchaser for value, and has no greater rights than his assignor had, in respect to things in action transferred by the assignment.

Inventory required.

SEC. 1674. INVENTORY REQUIRED.—Within twenty days after an assignment is made for the benefit of creditors, the assignor must make and file, in the manner prescribed by section 1676, a full and true inventory, showing:

1. All the creditors of the assignor;
2. The place of residence of each creditor, if known to the assignor, or if not known, that fact must be stated;
3. The sum owing to each creditor and the nature of each debt or liability, whether arising on written security, account, or otherwise;
4. The true consideration of the liability in each case, and the place where it arose;
5. Every existing judgment, mortgage, or other security for the payment of any debt or liability of the assignor;
6. All property of the assignor at the date of the assignment, which is exempt by law from execution; and
7. All of the assignor's property at the date of the assignment, of every kind, not so exempt, and the encumbrances existing thereon, and all vouchers and securities relating thereto, and the value of such property according to the best knowledge of the assignor.

Affidavit of assignor to be filed with inventory.

SEC. 1675. AFFIDAVIT OF ASSIGNOR TO BE FILED WITH INVENTORY.—An affidavit must be made by every assignor executing an assignment for the benefit of creditors, to be annexed to and filed with the inventory mentioned in section 1674, to the effect that the same is in all respects just and true according to the best of such assignor's knowledge and belief.

If the assignor neglects or refuses to make and file such inventory and affidavit within said twenty days, the assignment shall not, for that reason, be affected in any way, but in that event the assignee or assignees elected by the creditors shall within twenty days thereafter make and file in the office of the registrar of property, a verified inventory of all assets received by them; and such assignee or assignees may at any time, or from time to time, after the transfer to them by the marshal, by petition to the district court, cause the assignor, by order or citation to appear before said court, or a commissioner or referee to be appointed by it, at a time and place to be designated in the order or citation, to be examined touching the matters mentioned in section 1674, and any other matters relative to the assignment, and to have with him all books of account, vouchers, and papers relating to the assigned property; and such court may by its order require the surrender to such assignee or assignees of such books, vouchers, and papers to be by them retained until their trust is fully completed and performed.

Recording assignment and filing inventory.

SEC. 1676. RECORDING ASSIGNMENT AND FILING INVENTORY.—An assignment for the benefit of creditors must be recorded, and the inventory required by section 1674 filed with the registrar of property.

CROSS REFERENCE

Ante, p. 1341.

Recording of assignment, see sections 1671 and 1672.

When assignment void.

SEC. 1677. ASSIGNMENT, WHEN VOID.—An assignment for the benefit of creditors is void against creditors of the assignor and against purchasers and encumbrancers in good faith and for value unless it

is recorded as provided in this subchapter, and unless either the inventory required by section 1674, or the inventory required of the assignee or assignees by section 1675 is filed in the manner provided in this subchapter and within the time designated.

Ante, p. 1342.

SEC. 1678. BOND OF ASSIGNEES.—No bond shall be given by the marshal, but he shall be liable on his official bond for the care and custody of the property while in his possession. Within forty days after date of the transfer by the marshal, the assignee must enter into a bond in such amount as may be fixed by the district judge, with sufficient sureties to be approved by such judge, and conditioned for the faithful discharge of the trust and the due accounting for all moneys received by the assignee, which bond must be filed in the same office with the inventory; and any assignee failing to comply with the provisions of this section may be removed by the above-named court on petition of the assignor or any creditor, and his successor appointed by such court.

Bond of assignees.

SEC. 1679. CONDITIONS OF DISPOSAL AND CONVERSION; PUBLICATION OF NOTICE BY ASSIGNEE; DIVIDENDS; RIGHTS OF MORTGAGEE.—Until a verified inventory has been made and filed, either by the assignor or assignee, as required by the provisions of this subchapter, and the assignee has given the bond required by section 1678, such assignee has no authority to dispose of the property of the estate, or any part of it (except in the case of perishable property, which in his discretion he may dispose of at any time and receive the proceeds of sale thereof); nor has he power to convert the property, or the proceeds of any sale of perishable property, to the purposes of the trust.

Conditions of disposal and conversion.

Within ten days after the filing of his bond, the assignee must commence the publication (and such publication shall continue at least once a week for four weeks), in some newspaper of general circulation in the Canal Zone, of a notice to creditors of the assignor, stating the fact and date of the assignment, and requiring all persons having claims against the assignor to exhibit them, with the necessary vouchers, and verified by the oath of the creditor, to the assignee, at his place of residence or business, to be specified in the notice; and he shall also, within ten days after the first publication of said notice, mail a copy of such notice to each creditor whose name is given in the instrument of assignment, at the address therein given. After such notice is given, a copy thereof, with affidavit of due publication and mailing, must be filed with the registrar of property with whom the inventory has been filed, which affidavit shall be *prima facie* evidence of the facts stated therein.

Publication of notice by assignee.

At any time, or from time to time, after the expiration of thirty days from the first publication of said notice (provided the same shall also have been mailed as in this section provided), the assignee may, in his discretion, declare and pay dividends to the creditors whose claims have been presented and allowed. No dividend already declared shall be disturbed by reason of claims being subsequently presented and allowed; but the creditor presenting such claim shall be entitled to a dividend equal to the per cent already declared and paid, before any further dividend is made: *Provided, however*, That there be assets sufficient for that purpose: *And provided*, That the failure to present such claim shall not have resulted from his own neglect, and he shall attach to such claim a statement, under oath, showing fully why the same was not before presented.

Dividends.

Subsequent presentation of claims.

Provisos.
Sufficient assets.
Conditions.

When a creditor has a mortgage or pledge of property of the debtor, or a lien thereon, for securing the payment of a debt owing to him from the debtor, and shall not have conveyed, released, or delivered up such security to the marshal, as provided for by section 1664, he shall be admitted as a creditor only for the balance of the

Ante, p. 1340.

debt after deducting the value of such mortgage, pledge, or lien, to be ascertained by agreement between him and the assignee, or by a sale thereof, to be made in such manner as the district court shall direct; or the creditor may release or convey his claim to the assignee upon such property, and be admitted to prove his whole debt.

If the value of the property exceeds the sum for which it is so held as security, the assignee may release to the creditor the debtor's right of redemption thereon on receiving such excess; or he may sell the property, subject to the claim of the creditor thereon; and in either case the assignee and creditor, respectively, shall execute all writings necessary or proper to consummate the transaction. If the property is not sold or released, and delivered up, the creditor shall not be allowed to prove any part of his debt.

Accounting of assignee.

SEC. 1680. ACCOUNTING OF ASSIGNEE.—After six months from the date of an assignment for the benefit of creditors, the assignee may be required, on the petition of any creditor, to account before the district court.

Property exempt.

SEC. 1681. PROPERTY EXEMPT.—Property exempt from execution and insurance upon the life of the assignor, do not pass to the assignee by a general assignment for the benefit of creditors unless the instrument specially mentions them and declares an intention that they should pass thereby.

Commissions of assignee.

SEC. 1682. COMMISSIONS OF ASSIGNEES.—The elected assignee or assignees for the benefit of creditors shall be entitled to a reasonable commission on assignments, to be fixed by the court. Such assignee or assignees shall also be entitled to all necessary expenses in the management of their trust.

CROSS REFERENCE

Ante, p. 1340.

Commissions and expenses of marshal, see section 1665.

Assignees protected for acts done in good faith.

SEC. 1683. ASSIGNEES PROTECTED FOR ACTS DONE IN GOOD FAITH.—An assignee for the benefit of creditors is not to be held liable for his acts, done in good faith in the execution of the trust, merely for the reason that the assignment is afterward adjudged void.

Assent of creditor necessary to modification of assignment.

SEC. 1684. ASSENT OF CREDITOR NECESSARY TO MODIFICATION OF ASSIGNMENT.—An assignment for the benefit of creditors which has been executed and recorded so as to transfer the property to the marshal, or a transfer by the marshal to the elected assignee or assignees which has been executed and recorded, can not afterwards be modified or canceled by the parties without the consent of the assignor and of every creditor affected thereby.

NUISANCE.

CHAPTER 75.—NUISANCE

General principles.

GENERAL PRINCIPLES

Definition.

SEC. 1685. NUISANCE, WHAT.—Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, pay¹, stream, canal, or basin, or any public park, square, street, or highway is a nuisance.

CROSS REFERENCE

See, also, Criminal Code, sections 251 and 252; and Act Canal Commission No. 9, Sept. 2, 1904, section 2.

Public nuisance.

SEC. 1686. PUBLIC NUISANCE.—A public nuisance is one which affects at the same time an entire community or neighborhood, or

any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

CROSS REFERENCES

See, also, Criminal Code, sections 251 and 252.
 Abating public nuisance, see sections 1694 and 1695.
 Public nuisance, see sections 1690 et seq.

SEC. 1687. PRIVATE NUISANCE.—Every nuisance not included in the definition of section 1686 is private. Private nuisance.

CROSS REFERENCE

Private nuisance, see section 1696. Anie, p. 1344.

SEC. 1688. WHAT IS NOT DEEMED A NUISANCE.—Nothing which is done or maintained under the express authority of law can be deemed a nuisance. What is not deemed nuisance.

SEC. 1689. ABATEMENT DOES NOT PRECLUDE ACTION.—The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence. Abatement of, not to preclude action thereon.

PUBLIC NUISANCES

Public nuisances.

SEC. 1690. LAPSE OF TIME DOES NOT LEGALIZE.—No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right. Lapse of time does not legalize.

CROSS REFERENCE

Public nuisance, defined, see section 1686. Anie, p. 1344.

SEC. 1691. REMEDIES AGAINST PUBLIC NUISANCE.—The remedies against a public nuisance are: Remedies against.

1. Information;
2. A civil action;
3. Abatement.

SEC. 1692. REMEDY REGULATED, HOW.—The remedy by information is regulated by the Criminal Code. How regulated.

CROSS REFERENCE

See Criminal Code, sections 251 and 252.

SEC. 1693. REMEDIES FOR PUBLIC NUISANCE.—A private person may maintain an action for a public nuisance, if it is specially injurious to himself, but not otherwise. Remedies for public nuisance.

SEC. 1694. HOW ABATED.—A public nuisance may be abated by any public body or officer authorized thereto by law. How abated.

PRIVATE NUISANCES

SEC. 1696. REMEDIES FOR PRIVATE NUISANCE.—The remedy against a private nuisance is a civil action. Remedies for private nuisance.

CHAPTER 76.—MAXIMS OF JURISPRUDENCE

MAXIMS OF JURISPRUDENCE.

SEC. 1697. The maxims of jurisprudence hereinafter set forth are intended not to qualify any of the foregoing provisions of this code, but to aid in their just application. Application.

SEC. 1698. When the reason of a rule ceases, so should the rule itself.

SEC. 1699. Where the reason is the same, the rule should be the same.

SEC. 1700. One must not change his purpose to the injury of another.

SEC. 1701. Anyone may waive the advantage of a law intended solely for his benefit. But a law established for a public reason cannot be contravened by a private agreement.

SEC. 1702. One must so use his own rights as not to infringe upon the rights of another.

SEC. 1703. He who consents to an act is not wronged by it.

SEC. 1704. Acquiescence in error takes away the right of objecting to it.

SEC. 1705. No one can take advantage of his own wrong.

SEC. 1706. He who has fraudulently dispossessed himself of a thing may be treated as if he still had possession.

SEC. 1707. He who can and does not forbid that which is done on his behalf is deemed to have bidden it.

SEC. 1708. No one should suffer by the act of another.

SEC. 1709. He who takes the benefit must bear the burden.

SEC. 1710. One who grants a thing is presumed to grant also whatever is essential to its use.

SEC. 1711. For every wrong there is a remedy.

SEC. 1712. Between those who are equally in the right or equally in the wrong, the law does not interpose.

SEC. 1713. Between rights otherwise equal, the earliest is preferred.

SEC. 1714. No man is responsible for that which no man can control.

SEC. 1715. The law helps the vigilant, before those who sleep on their rights.

SEC. 1716. The law respects form less than substance.

SEC. 1717. That which ought to have been done is to be regarded as done, in favor of him to whom, and against him from whom, performance is due.

SEC. 1718. That which does not appear to exist is to be regarded as if it did not exist.

SEC. 1719. The law never requires impossibilities.

SEC. 1720. The law neither does nor requires idle acts.

SEC. 1721. The law disregards trifles.

SEC. 1722. Particular expressions qualify those which are general.

SEC. 1723. Contemporaneous exposition is in general the best.

SEC. 1724. The greater contains the less.

SEC. 1725. Superfluity does not vitiate.

SEC. 1726. That is certain which can be made certain.

SEC. 1727. Time does not confirm a void act.

SEC. 1728. The incident follows the principal, and not the principal the incident.

SEC. 1729. An interpretation which gives effect is preferred to one which makes void.

SEC. 1730. Interpretation must be reasonable.

SEC. 1731. Where one of two innocent persons must suffer by the act of a third, he, by whose negligence it happened, must be the sufferer.

REPEALS.

CHAPTER 77.—REPEALS

Codes, orders, etc., designated.

SEC. 1732. REPEAL OF EXISTING LAWS.—The following codes, laws, executive orders, and parts thereof, are hereby repealed:

The Civil Code of the Republic of Panama and Amendatory Laws, the Commercial Code of the Republic of Panama, and all other laws, not heretofore repealed, which were continued in force in the Canal Zone by the Executive Order of May 9, 1904;

Sections 410 to 415, inclusive, of the Criminal Code of the Canal Zone, enacted by the Isthmian Canal Commission September 3, 1904;

Executive Order of August 20, 1910, "Prescribing method for married women to convey or mortgage real estate, and authorizing certain officers to administer oaths;"

Executive Order of February 2, 1911, "To provide a method of executing and recording deeds, and to repeal the Executive Order dated March 12, 1907, effective April 15, 1907, relating to the same subject;"

And all other acts, ordinances, orders, and parts thereof, in conflict herewith.

Approved, February 27, 1933.

Executive Order No. 1239.

Executive Order No. 1295.

[CHAPTER 129.]

JOINT RESOLUTION

Establishing the United States Georgia Bicentennial Commission, and for other purposes.

February 27, 1933.
[S. J. Res. 223.]

[Pub. Res., No. 69.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a commission, to be known as the United States Georgia Bicentennial Commission, for the purpose of participation by the United States in the observance of the two-hundredth anniversary of the founding of the Georgia colony, such commission to be composed of twenty-one commissioners, as follows: Nine persons to be appointed by the President of the United States, six Senators to be appointed by the President of the Senate, and six Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. The members of the commission shall serve without compensation and shall select a chairman from among their number.

United States Georgia Bicentennial Commission.
Establishment, purpose, etc.

Composition.

No compensation, etc.

Approved, February 27, 1933.

[CHAPTER 130.]

AN ACT

To authorize the payment of taxes and assessments on family dwelling houses in the District of Columbia in quarterly installments, and for other purposes.

February 28, 1933.
[H. R. 14392.]
[Public, No. 377.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each fiscal year, commencing with the fiscal year ending June 30, 1934, the assessor of the District of Columbia shall send to the owner of each family dwelling house occupied by such owner upon written application therefor an itemized statement of the taxes payable with respect to such dwelling house not less than thirty days prior to the time when the first installment of real-estate taxes for such fiscal year becomes due and payable. Such statement shall include all real-estate taxes which are due and payable in such fiscal year and all installments of special assessments which have been levied, charged, or assessed prior to, and are due and payable in, such fiscal year, with respect to the family dwelling house occupied by the owner. Such taxes and assessments shall be payable, at the election of the taxpayer, in four equal installments, in the months of September, December, March, and June, and no interest shall be payable with respect to any such installment unless it is unpaid after the time it is due. Any real-estate tax or special assessment or any installment thereof with respect to any family dwelling house occupied by the owner thereof not included in such statement shall not be due or payable during the fiscal year for which the statement is sent; and

Family dwelling houses, D. C.
Quarterly payment of taxes, etc., on.

Statement of taxes, furnished on request.

Contents of.

Payments; when to be made; interest provisions.

any such tax or assessment or any installment thereof otherwise chargeable, assessable, or payable during such fiscal year shall be included in the statement for the next succeeding fiscal year.

Extension author-
ized.

SEC. 2. The collector of taxes of the District of Columbia shall extend the time for the payment of real-estate taxes and special assessments payable after January 1, 1933, on any family dwelling house occupied by the owner thereof, or any installment of such taxes or assessments, for not more than ninety days, if written application for such extension is filed with the collector before such taxes or installment thereof are due. Such extension shall be granted only if, in the judgment of the collector of taxes, satisfactory evidence is presented by the owner that, through unemployment or other emergency, the owner is unable to make such payment. No such application shall be granted unless the application is accompanied by the payment, to the collector, of interest at the rate of 6 per centum per annum on the amount of the taxes or assessments or installments thereof for the time of the extension applied for. In any case in which the amount of the tax or assessment or installment due is paid prior to the expiration of the period of the extension there shall be deducted from the amount payable an amount equal to such part of the interest payable with respect thereto as represents the unexpired portion of the period of the extension.

When may be
granted.

Interest due.

Deduction of pay-
ment made before ex-
piration of extension.

Restriction on sales
for delinquent taxes.

SEC. 3. After the date of enactment of this Act no family dwelling house occupied by the owner thereof shall be sold for delinquent personal or real-estate taxes or special assessments unless notice has been personally served upon such owner or sent by registered mail, addressed to him at such dwelling house not less than thirty days prior to the date of such sale.

Sale not valid if re-
sult of error, etc.

SEC. 4. No sale for delinquent personal or real-estate taxes or special assessments with respect to a family dwelling house owned by the occupier thereof shall be valid if such sale is in consequence of an error or omission in the computation of the amount of taxes due thereon.

Taxes for second half,
fiscal year 1933.
Statement furnished
owner on request if
made by March 15,
1933.

SEC. 5. In the case of taxes with respect to any family dwelling house occupied by the owner thereof due and payable during the second half of the fiscal year ending June 30, 1933, the assessor shall send an itemized statement of such taxes to the owner upon request made by the owner and filed with the assessor not later than midnight, March 15, 1933. Such statement shall include all real-estate taxes or installments thereof due and payable during the second half of such fiscal year and all installments of special assessments which have been assessed, charged, or levied prior to, and are due and payable in, the second half of such fiscal year, with respect to the family dwelling house occupied by the owner. Such taxes and assessments or installments thereof shall be payable in the month of April, 1933, or at the election of the taxpayer in two equal installments, in the months of April and June, 1933, and no interest shall be payable with respect to any such installment unless it is unpaid until after the time it is due. Such statement shall also show all arrears in taxes, special assessments, or installments thereof, with respect to the family dwelling house of such owner, due and payable prior to the last half of the fiscal year ending June 30, 1933, and all unredeemed certificates of sale issued with respect to the sale of such family dwelling house for delinquent taxes or assessments, together with total amount for which each such unredeemed certificate was issued and the name and address of the holder thereof as of record in the office of the assessor.

Time and division of
payment.

Interest.

Contents of state-
ment.

Provisions of demit-
telle and ownership.

SEC. 6. This Act shall be deemed as applying only to such occupant and owner as shall have filed with the assessor of the District of

Columbia an affidavit as to domicile and ownership. The form of the affidavit shall be prepared by the assessor of the District of Columbia, and shall show the beginning of domicile, the time when ownership began, the street number, the number of the square and lot, and all trusts, if any, against the property.

Affidavit.

Approved, February 28, 1933.

[CHAPTER 131.]

AN ACT

To repeal obsolete statutes, and to improve the United States Code.

February 28, 1933.
[H. R. 7121.]
[Public, No. 378.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following obsolete sections of the Revised Statutes are hereby repealed:

United States Code.
Designated obsolete
sections, repealed.

| REVISED STATUTES | U. S. CODE |
|------------------|--------------------|
| R. S. 89..... | Title 2, sec. 136 |
| R. S. 340..... | Title 15, sec. 180 |
| R. S. 972..... | Title 28, sec. 820 |
| R. S. 2458..... | Title 16, sec. 591 |
| R. S. 2459..... | Title 16, sec. 592 |
| R. S. 2461..... | Title 16, sec. 595 |
| R. S. 2462..... | Title 16, sec. 596 |
| R. S. 2628..... | Title 19, sec. 41 |
| R. S. 2644..... | Title 19, sec. 46 |
| R. S. 2645..... | Title 19, sec. 47 |
| R. S. 2938..... | Title 19, sec. 378 |
| R. S. 3297..... | Title 26, sec. 421 |
| R. S. 3911..... | Title 39, sec. 296 |
| R. S. 3912..... | Title 39, sec. 297 |
| R. S. 3972..... | Title 39, sec. 490 |
| R. S. 3973..... | Title 39, sec. 491 |
| R. S. 3999..... | Title 39, sec. 521 |
| R. S. 4056..... | Title 39, sec. 788 |
| R. S. 4316..... | Title 46, sec. 256 |
| R. S. 4317..... | Title 46, sec. 257 |
| R. S. 4334..... | Title 46, sec. 287 |
| R. S. 4340..... | Title 46, sec. 281 |
| R. S. 4341..... | Title 46, sec. 282 |
| R. S. 4342..... | Title 46, sec. 283 |
| R. S. 4343..... | Title 46, sec. 284 |
| R. S. 4344..... | Title 46, sec. 285 |
| R. S. 4345..... | Title 46, sec. 286 |
| R. S. 4371..... | Title 46, sec. 317 |

SEC. 2. Rights or liabilities existing under the foregoing statutes on the date of the enactment of this Act shall not be affected thereby.

Existing rights, etc.,
not affected.

Approved, February 28, 1933.

[CHAPTER 132.]

AN ACT

February 28, 1933.
[H. R. 12769.]
[Public, No. 379.]

To provide an additional authorization for the acquisition of land in the vicinity of Camp Bullis, Texas.

Camp Bullis, Tex.
Additional sum authorized for acquisition of land.
Vol. 45, p. 1073; Vol. 46, p. 442.
Post, p. 1614.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the sum of \$15,000 authorized by the Act of January 12, 1929, to be appropriated for the acquisition by the Secretary of War in the vicinity of and for use in connection with the present military reservation at Camp Bullis, Texas, and which was appropriated in the War Department Appropriation Act for the fiscal year 1931, there is authorized to be appropriated for the same purpose, to meet the judgment in condemnation proceedings, an additional sum of not to exceed \$6,400, together with such amount as may be necessary to pay interest.

Approved, February 28, 1933.

[CHAPTER 133.]

AN ACT

February 28, 1933.
[H. R. 13655.]
[Public, No. 380.]

To amend the Act of May 10, 1928, entitled "An Act to provide for the times and places for holding court for the eastern district of North Carolina" (45 Stat. 495).

North Carolina eastern judicial district.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of May 10, 1928, entitled "An Act to provide for the times and places for holding court for the eastern district of North Carolina" (45 Stat. 495), is hereby amended to read as follows:

Terms of court for, modified.
Vol. 45, p. 495, amended.

"That the terms of the District Court for the Eastern District of North Carolina shall be held at Durham on the first Mondays in March and September; at Raleigh a one-week civil term on the second Mondays in March and September, and a criminal term only on the second Monday after the fourth Monday in April and October; at Fayetteville on the third Mondays in March and September; at Elizabeth City on the fourth Monday in March and the first Monday in October; at Washington on the first Monday in April and the fourth Monday in September; at New Bern on the second Mondays in April and October; at Wilson on the third Mondays in April and October; and at Wilmington a two-week term on the fourth Mondays in April and October: *Provided*, That this Act shall take effect on July 1, 1928: *And provided further*, That at Wilson and Durham it shall be made incumbent upon each place to provide suitable facilities for holding the courts."

Provisos.
Effective, July 1, 1928.
Court rooms required at Wilson and Durham.

Approved, February 28, 1933.

[CHAPTER 134.]

AN ACT

February 28, 1933.
[H. R. 14562.]
[Public, No. 381.]

Making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1934, and for other purposes.

Legislative appropriations for fiscal year 1934.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch of the Government for the fiscal year ending June 30, 1934, namely:

SENATE

SALARIES AND MILEAGE OF SENATORS

For compensation of Senators, \$864,000.

For mileage of Senators, \$38,250.

For compensation of officers, clerks, messengers, and others:

OFFICE OF THE VICE PRESIDENT

Salaries: Secretary to the Vice President, \$4,620; clerk, \$2,400; assistant clerks—one \$2,280, one \$2,160; in all, not to exceed \$10,505.

CHAPLAIN

Chaplain of the Senate, \$1,680.

OFFICE OF THE SECRETARY

Salaries: Secretary of the Senate, including compensation as disbursing officer of salaries of Senators and of contingent fund of the Senate, \$8,000; chief clerk, who shall perform the duties of reading clerk, \$5,500 and \$1,000 additional so long as the position is held by the present incumbent; financial clerk, \$5,000 and \$1,000 additional so long as the position is held by the present incumbent; assistant financial clerk, \$4,200; minute and Journal clerk, \$4,500 and \$1,000 additional so long as the position is held by the present incumbent; principal clerk, \$3,600; legislative clerk, enrolling clerk, and printing clerk, at \$3,540 each; chief bookkeeper, \$3,600; librarian, \$3,360; executive clerk, and assistant Journal clerk, at \$3,180 each; first assistant librarian, and keeper of stationery, at \$3,120 each; assistant librarian, and assistant keeper of stationery, at \$2,400 each; clerks—one, at \$2,880 and \$300 additional so long as the position is held by the present incumbent, three at \$2,880 each, two at \$2,640 each, one at \$2,400, four at \$2,040 each, two at \$1,740 each; messenger in library, \$1,380; special officer, \$2,460; assistant in library, \$1,740; laborers—one at \$1,620, five at \$1,380 each, one in secretary's office, \$1,680; in all, not to exceed \$106,060.

DOCUMENT ROOM

Salaries: Superintendent, \$3,960; first assistant, \$3,360; second assistant, \$2,400; four assistants, at \$1,860 each; skilled laborer, \$1,380; in all, not to exceed \$16,995.

COMMITTEE EMPLOYEES

Clerks and messengers to the following committees: Agriculture and Forestry—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,580; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Appropriations—clerk, \$7,000 and \$1,000 additional so long as the position is held by the present incumbent; assistant clerk, \$4,200; assistant clerk, \$3,900; three assistant clerks at \$3,000 each; two assistant clerks at \$2,220 each; messenger, \$1,800. To Audit and Control the Contingent Expenses of the Senate—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,500. Banking and Currency—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,400; assistant clerk, \$2,220. Civil Service—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Claims—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,580; two assistant clerks at

Senate.

Senators.

Compensation.

Mileage.

Officers, clerks, messengers, etc.

Vice President's office.

Secretary to, and clerks.

Chaplain.

Secretary's office.

Secretary, assistant, clerks, etc.

Document room.

Superintendent, etc.

Committee employees.

Clerks and messengers to designated committees.

\$2,220 each. Commerce—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,580; assistant clerk, \$2,400; assistant clerk, \$2,220. Conference Majority of the Senate—clerk, \$3,900; assistant clerk, \$2,880; two assistant clerks at \$2,580 each; assistant clerk, \$2,220. Conference Minority of the Senate—clerk, \$3,900; assistant clerk, \$2,880; two assistant clerks at \$2,580 each; assistant clerk, \$2,220. District of Columbia—clerk, \$3,900; two assistant clerks at \$2,880 each; assistant clerk, \$2,220; additional clerk, \$1,800. Education and Labor—clerk, \$3,900; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800. Enrolled Bills—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Expenditures in the Executive Departments—clerk, \$3,900; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800. Finance—clerk, \$4,200; special assistant to the committee, \$3,600; assistant clerk, \$2,880; assistant clerk, \$2,700; assistant clerk, \$2,400; two assistant clerks at \$2,220 each; two experts (one for majority and one for the minority) at \$3,600 each; messenger, \$1,800. Foreign Relations—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800; messenger, \$1,800. Immigration—clerk, \$3,900; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800. Indian Affairs—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Interoceanic Canals—clerk, \$3,900; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800. Interstate Commerce—clerk, \$3,900; assistant clerk, \$2,880; two assistant clerks at \$2,580 each; assistant clerk at \$2,220. Irrigation and Reclamation—clerk, \$3,900; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800. Judiciary—clerk, \$3,900; assistant clerk, \$2,880; two assistant clerks at \$2,580 each; assistant clerk, \$2,220. Library—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Manufactures—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Military Affairs—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,580; assistant clerk, \$2,400; two assistant clerks at \$2,220 each. Mines and Mining—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Naval Affairs—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,400; two assistant clerks at \$2,220 each. Patents—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Pensions—clerk, \$3,900; assistant clerk, \$2,580; four assistant clerks at \$2,220 each. Post Offices and Post Roads—clerk, \$3,900; assistant clerk, \$2,880; three assistant clerks at \$2,220 each; additional clerk, \$1,800. Printing—clerk, \$3,900; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800. Privileges and Elections—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Public Buildings and Grounds—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Public Lands and Surveys—clerk, \$3,900; assistant clerk, \$2,880; assistant clerk, \$2,580; two assistant clerks at \$2,220 each. Revision of the Laws—clerk, \$3,900; assistant clerk, \$2,400; assistant clerk, \$2,220; additional clerk, \$1,800. Rules—clerk, \$3,900, and \$200 toward the preparation biennially of the Senate Manual under the direction of the Committee on Rules; assistant clerk, \$2,880; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800. Territories and Insular Possessions—clerk, \$3,900; assistant clerk, \$2,580; assistant clerk, \$2,220; additional clerk, \$1,800; in all, not to exceed \$441,190.

CLERICAL ASSISTANCE TO SENATORS

Clerical assistance to Senators.

Clerical assistance to Senators who are not chairmen of the committees specifically provided for herein, as follows: Seventy clerks at \$3,900 each; seventy assistant clerks at \$2,400 each; and seventy assistant clerks at \$2,220 each; such clerks and assistant clerks shall be ex officio clerks and assistant clerks of any committee of which their Senator is chairman; seventy additional clerks at \$1,800 each, one for each Senator having no more than one clerk and two assistant clerks for himself or for the committee of which he is chairman; messenger, \$1,800; in all not to exceed, \$663,850.

Allowance to Senators not chairmen of specified committees.

Authority as committee clerks.

Additional clerks.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

Office of Sergeant at Arms, etc.

Sergeant at Arms and Doorkeeper, secretaries, etc.

Messengers, etc.

Salaries: Sergeant at Arms and Doorkeeper, \$8,000; two secretaries (one for the majority and one for the minority), at \$5,400 each; two assistant secretaries (one for the majority and one for the minority), at \$4,320 each; Deputy Sergeant at Arms and storekeeper, \$4,440; clerks—one, \$2,640, three at \$1,800 each; messengers—three (acting as assistant doorkeepers, including one for the minority), at \$2,400 each, thirty (including two for minority), at \$1,740 each, four, at \$1,620 each, one at card door, \$2,400, and \$480 additional so long as the position is held by the present incumbent; two special messengers, at \$1,800 each; clerk on journal work for Congressional Record, to be selected by the official reporters, \$3,360; upholsterer and locksmith, \$2,400; cabinetmaker, \$2,040; three carpenters, at \$2,040 each; janitor, \$2,040; six skilled laborers, at \$1,680 each; laborer in charge of private passage, \$1,680; three female attendants in charge of ladies' retiring rooms, at \$1,500 each; three attendants to women's toilet rooms, Senate Office Building, at \$1,500 each; telephone operators—chief, \$2,460, eleven, at \$1,560 each; laborer in charge of Senate toilet rooms in old library space, \$1,200; press gallery—superintendent, \$3,660; assistant superintendent, \$2,520; messengers for service to press correspondents—one, \$1,740, one, \$1,440; laborers—three, at \$1,320 each; twenty-five, at \$1,260 each; special employees—six, at \$1,000 each; twenty-one pages for the Senate Chamber, at the rate of \$4 per day each, during the sessions, \$13,937; in all, not to exceed \$216,691.

Laborers, etc.

Pages.

Police, Senate Office Building.

Police force for Senate Office Building under the Sergeant at Arms: Special officer, \$1,740; sixteen privates at \$1,620 each; in all, not to exceed \$25,355.

POST OFFICE

Post Office.

Postmaster, assistant, etc.

Salaries: Postmaster, \$3,060; assistant postmaster, \$2,880; chief clerk, \$2,460; wagon master, \$2,040; twenty mail carriers, at \$1,620 each; in all, not to exceed \$39,270.

FOLDING ROOM

Folding Room.

Foreman, etc.

Salaries: Foreman, \$2,460; assistant, \$2,160; clerk, \$1,740; folders—chief, \$2,040, fourteen at \$1,440 each; in all, not to exceed \$26,180.

The provisions of the Legislative Pay Act of 1929 are hereby amended so as to correspond with the changes made by this Act in the designations and rates of salary of certain positions under the Senate. This paragraph shall be effective from and after March 16, 1933.

Vol. 46, p. 32.

Contingent expenses.

CONTINGENT EXPENSES OF THE SENATE

| | |
|---|--|
| Stationery. | For stationery for Senators and the President of the Senate, including \$7,360 for stationery for committees and officers of the Senate, \$16,000. |
| Postage stamps. | Postage stamps: For office of Secretary, \$250; office of Sergeant at Arms, \$100; in all, \$350. |
| Vehicles. | For maintaining, exchanging, and equipping motor vehicles for carrying the mails and for official use of the offices of the Secretary and Sergeant at Arms, \$7,780. |
| Vice President's automobile. | For driving, maintenance, and operation of an automobile for the Vice president, \$3,840. |
| Folding, etc. | For materials for folding, \$1,500. For folding speeches and pamphlets, at a rate not exceeding \$1 per thousand, \$10,000. |
| Fuel, oil, advertising, etc. | For fuel, oil, cotton waste, and advertising, exclusive of labor, \$2,000. |
| Furniture, etc. | For the purchase of furniture, \$5,000. For materials for furniture and repairs of same, exclusive of labor, \$3,000. For services in cleaning, repairing, and varnishing furniture, \$1,850. |
| Packing boxes. | For packing boxes, \$970. |
| Document warehouse. | For rent of warehouse for storage of public documents, \$2,000. |
| Miscellaneous items. | For miscellaneous items, exclusive of labor, \$97,345. |
| Inquiries and investigations. | For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers of committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding 25 cents per hundred words, \$144,455: <i>Provided</i> , That except in the case of the Joint Committee on Internal Revenue Taxation no part of this appropriation shall be expended for services, personal, professional, or otherwise, in excess of the rate of \$3,600 per annum: <i>Provided further</i> , That no part of this appropriation shall be expended for per diem and subsistence expenses except in accordance with the provisions of the Subsistence Expense Act of 1926, approved June 3, 1926, as amended. |
| <i>Provisos.</i> Salary restriction. | |
| Per diem and subsistence. Vol. 44, p. 688. U. S. C., Supp. VI, p. 47. | |
| Reporting debates, etc. | For reporting the debates and proceedings of the Senate, payable in equal monthly installments, \$55,312. |
| Senate kitchens and restaurants, etc. | For repairs, improvements, equipment, and supplies for Senate kitchens and restaurants, Capitol Building and Senate Office Building, including personal and other services, to be expended from the contingent fund of the Senate, under the supervision of the Committee on Rules, United States Senate, \$47,288, \$10,000 of which shall be immediately available. |

House of Representatives.

HOUSE OF REPRESENTATIVES

Members.

SALARIES AND MILEAGE OF MEMBERS

| | |
|--|---|
| Pay of Members, Delegates, and Resident Commissioners. | For compensation of Members of the House of Representatives, Delegates from Territories, the Resident Commissioner from Puerto Rico, and the Resident Commissioners from the Philippine Islands, \$3,963,750. |
| Mileage. | For mileage of Representatives and Delegates and expenses of Resident Commissioners, \$131,250. |
| Officers, clerks, messengers, etc. | For compensation of officers, clerks, messengers, and others: |

OFFICE OF THE SPEAKER

Speaker's office.

Salaries: Secretary to the Speaker, \$4,620; Parliamentarian, \$4,500, and for preparing Digest of the Rules, \$1,000 per annum; Assistant Parliamentarian, \$2,760; clerk to Speaker, \$2,400; clerk to Speaker, \$1,440; messenger to Speaker's table, \$1,740; messenger to Speaker, \$1,680; in all not to exceed \$18,462.

Secretary, parliamentarian, etc.

CHAPLAIN

Chaplain of the House of Representatives, \$1,680

Chaplain.

OFFICE OF THE CLERK

Clerk's office.

Salaries: Clerk of the House of Representatives, including compensation as disbursing officer of the contingent fund, \$8,000; Journal clerk, two reading clerks, and tally clerk, at \$5,000 each; enrolling clerk, \$4,000; disbursing clerk, \$3,960; file clerk, \$3,780; chief bill clerk, \$3,540; assistant enrolling clerk, \$3,180; assistant to disbursing clerk, \$3,120; stationery clerk, \$2,880; librarian, \$2,760; assistant librarian, and assistant file clerk, at \$2,520 each; assistant Journal clerk, and assistant librarian, at \$2,460 each; clerks—one \$2,460, three at \$2,340 each; bookkeeper, and assistant in disbursing office, at \$2,160 each; four assistants to chief bill clerk at \$2,100 each; stenographer to the Clerk, \$1,980; assistant in stationery room, \$1,740; three messengers at \$1,680 each; stenographer to Journal clerk, \$1,560; laborers—three at \$1,440 each, nine at \$1,260 each; telephone operators—assistant chief, \$1,620, twenty-one at \$1,560 each; substitute telephone operator, when required, at \$4 per day, \$1,460; property custodian and superintendent of furniture and repair shop, who shall be a skilled cabinetmaker or upholsterer and experienced in the construction and purchase of furniture, \$3,960; two assistant custodians at \$3,360 each; locksmith and typewriter repairer, \$1,860; messenger and clock repairer, \$1,740; operation, maintenance, and repair of motor vehicles, \$1,200; in all not to exceed \$151,057.

Clerk of the House, clerks, etc.

COMMITTEE EMPLOYEES

Committee employes.

Clerks, messengers, and janitors to the following committees: Accounts—clerk, \$3,300; assistant clerk, \$2,460; janitor, \$1,560. Agriculture—clerk, \$3,300; assistant clerk, \$2,460; janitor, \$1,560. Appropriations—clerk, \$7,000 and \$1,000 additional so long as the position is held by the present incumbent; assistant clerk, \$5,000 and \$1,000 additional so long as the position is held by the present incumbent; three assistant clerks at \$3,900 each; assistant clerk, \$3,600; two assistant clerks as ¹ \$3,300 each; messenger, \$1,680. Banking and Currency—clerk, \$2,760; assistant clerk, \$1,740; janitor, \$1,260. Census—clerk, \$2,760; janitor, \$1,260. Civil Service—clerk, \$2,760; janitor, \$1,260. Claims—clerk, \$3,300; assistant clerk, \$1,740; janitor, \$1,260. Coinage, Weights, and Measures—clerk, \$2,760; janitor, \$1,260. Disposition of Useless Executive Papers—clerk, \$2,760. District of Columbia—clerk, \$3,300; assistant clerk, \$2,460; janitor, \$1,260. Education—clerk, \$2,760. Election of President, Vice President, and Representatives in Congress—clerk, \$2,760. Elections Numbered 1—clerk, \$2,760; janitor, \$1,260. Elections Numbered 2—clerk, \$2,760; janitor, \$1,260. Elections Numbered 3—clerk, \$2,760; janitor, \$1,260. Enrolled Bills—clerk, \$2,760; janitor, \$1,260. Expenditures in Executive Departments—clerk, \$3,300; janitor, \$1,260. Flood Control—clerk, \$2,760; janitor, \$1,260. Foreign

Clerks, messengers, and janitors.

¹ So in original.

Affairs—clerk, \$3,300; assistant clerk, \$2,460; janitor, \$1,260. Immigration and Naturalization—clerk, \$3,300; janitor, \$1,260. Indian Affairs—clerk, \$3,300; assistant clerk, \$2,460; janitor, \$1,260. Insular Affairs—clerk, \$2,760; janitor, \$1,260. Interstate and Foreign Commerce—clerk, \$3,900; additional clerk, \$2,640; assistant clerk, \$2,100; janitor, \$1,560. Irrigation and Reclamation—clerk, \$2,760; janitor, \$1,260. Invalid Pensions—clerk, \$3,300; assistant clerk, \$2,880; expert examiner, \$2,700; stenographer, \$2,640; janitor, \$1,500. Judiciary—clerk, \$3,900; assistant clerk, \$2,160; assistant clerk, \$1,980; janitor, \$1,500. Labor—clerk, \$2,760; janitor, \$1,260. Library—clerk, \$2,760; janitor, \$1,260. Merchant Marine, Radio, and Fisheries—clerk, \$2,760; janitor, \$1,260. Military Affairs—clerk, \$3,300; assistant clerk, \$2,100; janitor, \$1,560. Mines and Mining—clerk, \$2,760; janitor, \$1,260. Naval Affairs—clerk, \$3,300; assistant clerk, \$2,100; janitor, \$1,560. Patents—clerk, \$2,760; janitor, \$1,260. Pensions—clerk, \$3,300; assistant clerk, \$2,160; janitor, \$1,260. Post Office and Post Roads—clerk, \$3,300; assistant clerk, \$2,100; janitor, \$1,560. Printing—clerk, \$2,760; janitor, \$1,560. Public Buildings and Grounds—clerk, \$3,300; assistant clerk, \$1,740; janitor, \$1,260. Public Lands—clerk, \$2,760; assistant clerk, \$1,740; janitor, \$1,260. Revision of the Laws—clerk, \$3,300; janitor, \$1,260. Rivers and Harbors—clerk, \$3,300; assistant clerk, \$2,460; janitor, \$1,560. Roads—clerk, \$2,760; assistant clerk, \$1,740; janitor, \$1,260. Rules—clerk, \$3,300; assistant clerk, \$2,100; janitor, \$1,260. Territories—clerk, \$2,760; janitor, \$1,260. War Claims—clerk, \$3,300; assistant clerk, \$1,740; janitor, \$1,260. Ways and Means—clerk, \$4,620; assistant clerk and stenographer, \$2,640; assistant clerk, \$2,580; clerk for minority, \$3,180; janitors—one, \$1,560; one, \$1,260. World War Veterans' Legislation—clerk, \$3,300; assistant clerk, \$2,460; in all not to exceed, \$271,334.

Clerks subject to Clerk of the House after close of Congress.

Proviso.
Committee on Accounts excepted.

Janitors.
Appointment, duties, etc.

Subject to removal, etc.

Appropriations in the foregoing paragraph shall not be available for the payment of any clerk or assistant clerk to a committee who does not, after the termination of the Congress during which he was appointed, perform his duties under the direction of the Clerk of the House: *Provided*, That the foregoing shall not apply to the Committee on Accounts.

Janitors under the foregoing shall be appointed by the chairmen, respectively, of said committees, and shall perform under the direction of the Doorkeeper all of the duties heretofore required of messengers detailed to said committees by the doorkeeper, and shall be subject to removal by the Doorkeeper at any time after the termination of the Congress during which they were appointed.

Office of Sergeant at Arms.

OFFICE OF SERGEANT AT ARMS

Sergeant at Arms, Deputy, cashier, etc.

Salaries: Sergeant at Arms, \$8,000; Deputy Sergeant at Arms, \$3,180; cashier, \$4,920; two bookkeepers at \$3,360 each; Deputy Sergeant at Arms in charge of pairs, pair clerk and messenger, and assistant cashier, at \$2,820 each; stenographer and typewriter, \$600; skilled laborer, \$1,380; hire of automobile, \$600; in all not to exceed \$31,139.

Police, House Office Building.

Police force, House Office Building, under the Sergeant at Arms: Lieutenant, \$1,740; sergeant, \$1,680; thirty-one privates at \$1,620 each; in all not to exceed, \$49,170.

Doorkeeper's office.

OFFICE OF DOORKEEPER

Doorkeeper, special employee, etc.

Salaries: Doorkeeper, \$6,000; special employee, \$2,820; superintendent of House press gallery, \$3,660; assistant to the superintendent

of the House press gallery, \$2,520; chief janitor, \$2,700; messengers—seventeen at \$1,740 each, fourteen on soldiers' roll at \$1,740 each; laborers—seventeen at \$1,260 each, two (cloakroom) at \$1,380 each, one (cloakroom) \$1,260, and seven (cloakroom) at \$1,140 each; three female attendants in ladies' retiring rooms at \$1,680 each; attendant for the ladies' reception room, \$1,440; superintendent of folding room, \$3,180; foreman of folding room, \$2,640; chief clerk to superintendent of folding room, \$2,460; three clerks at \$2,160 each; janitor, \$1,260; laborer, \$1,260; thirty-one folders at \$1,440 each; shipping clerk, \$1,740; two drivers at \$1,380 each; two chief pages at \$1,980 each; two telephone pages at \$1,680 each; two floor managers of telephones (one for the minority) at \$3,180 each; two assistant floor managers in charge of telephones (one for the minority) at \$2,100 each; forty-one pages, during the session, including ten pages for duty at the entrances to the Hall of the House, at \$4 per day each, \$27,210; press-gallery page, \$1,920; superintendent of document room (Elmer A. Lewis), \$3,960; assistant superintendent of document room, \$2,760 and \$420 additional so long as the position is held by the present incumbent; clerk, \$2,320; assistant clerk, \$2,160; eight assistants at \$1,860 each; janitor, \$1,440; messenger to pressroom, \$1,560; maintenance and repair of folding room motor truck, \$500; in all not to exceed, \$236,033.

Messengers.

Folding room.

Pages, etc.

Document room.

SPECIAL AND MINORITY EMPLOYEES

Minority employees: For the minority employees authorized and named in the House Resolutions Numbered 51 and 53 of December 11, 1931: Two at \$5,000 each, four at \$2,820 each; in all, not to exceed \$19,507.

Special and minority employees.

Minority employees.

Special employees: Assistant foreman of the folding room, authorized in the resolution of September 30, 1913, \$1,980; laborer, authorized and named in the resolution of April 28, 1914, \$1,380; laborer, authorized and named in the resolution of December 19, 1901, \$1,380; clerk, under the direction of the Clerk of the House, named in the resolution of February 13, 1923, \$3,060; in all, not to exceed \$7,150.

Special employees.

Successors to any of the employees provided for in the two preceding paragraphs may be named by the House of Representatives at any time.

Appointment of successors.

Office of majority floor leader: Legislative clerk, \$3,960; clerk, \$3,180; assistant clerk, \$2,100; for official expenses of the majority leader, as authorized by House Resolution Numbered 101, Seventy-first Congress, adopted December 18, 1929, \$2,000; in all not to exceed, \$10,470.

Majority floor leader.

Conference minority: Clerk, \$3,180; legislative clerk, \$3,060; assistant clerk, \$2,100; janitor, \$1,560; in all not to exceed, \$9,075. The foregoing employees to be appointed by the minority leader.

Conference minority.

Two messengers, one in the majority caucus room and one in the minority caucus room, to be appointed by the majority and minority whips, respectively, at \$1,740 each; in all not to exceed, \$3,190.

Caucus rooms, messengers.

POST OFFICE

Salaries: Postmaster, \$5,000; Assistant Postmaster, \$2,880; registry and money-order clerk, \$2,100; forty-one messengers (including one to superintend transportation of mails) at \$1,740 each; substitute messengers and extra services of regular employees, when required, at the rate of not to exceed \$145 per month each, \$1,240; laborer, \$1,260; in all not to exceed, \$76,835.

Post office.

Postmaster, assistant, etc.

Motor vehicles.

For the purchase, exchange, maintenance, and repair of motor vehicles for carrying the mails, \$3,400.

OFFICIAL REPORTERS OF DEBATES

Official reporters, etc.

Salaries: Seven official reporters of the proceedings and debates of the House at \$7,500 each; clerk, \$3,360; six expert transcribers at \$1,740 each; janitor, \$1,440; in all not to exceed, \$62,095.

COMMITTEE STENOGRAPHERS

Stenographers to committees.

Salaries: Four stenographers to committees, at \$7,000 each; janitor, \$1,440; in all not to exceed \$26,987.

"During the session" to mean 181 days.

Whenever the words "during the session" occur in the foregoing paragraphs they shall be construed to mean the one hundred and eighty-one days from January 1 to June 30, 1934, both inclusive.

CLERK HIRE, MEMBERS AND DELEGATES

Clerk hire of Members, etc.

For clerk hire necessarily employed by each Member, Delegate, and Resident Commissioner, in the discharge of his official and representative duties, in accordance with the Act entitled "An Act to fix the compensation of officers and employees of the legislative branch of the Government," approved June 20, 1929, \$2,016,665.

Vol. 46, p. 33.
U. S. C., Supp. VI,
p. 8.

Contingent expenses.

CONTINGENT EXPENSES OF THE HOUSE

Furniture, etc.

For furniture, and materials for repairs of the same, including not to exceed \$22,500 for labor, tools, and machinery for furniture repair shops, \$35,000.

Packing boxes.

For packing boxes, \$2,500.

Miscellaneous items.

For miscellaneous items, exclusive of salaries and labor unless specifically ordered by the House of Representatives, including reimbursement to the official stenographers to committees for the amounts actually and necessarily paid out by them for transcribing hearings, and including materials for folding, \$65,000.

Committee reports of hearings.

For stenographic reports of hearings of committees other than special and select committees, \$25,000.

Special and select committees.

For expenses of special and select committees authorized by the House, \$40,000.

Expenditures restricted.

No part of the appropriations contained herein for the contingent expenses of the House of Representatives shall be used to defray the expenses of any committee consisting of more than four persons (not more than two from the House and not more than two from the Senate), nor to defray the expenses of any other person except the Sergeant at Arms of the House or a representative of his office, to attend the funeral rites and/or burial of any person who at the time of his or her death is a Representative, a Delegate from a Territory, or a Resident Commissioner from Puerto Rico or the Philippine Islands.

Telegraph and telephone service.

For telegraph and telephone service, exclusive of personal services, \$90,000.

Stationery.

For stationery for Representatives, Delegates, and Resident Commissioners, including \$4,400 for stationery for the use of the committees and officers of the House, \$44,000.

Emergency room.

For medical supplies, equipment, and contingent expenses for the emergency room and for the attending physician and his assistants, including an allowance of not to exceed \$30 per month each to three assistants as provided by the House resolutions adopted July 1, 1930, and January 20, 1932, \$2,500.

For postage stamps: Postmaster, \$250; Clerk, \$450; Sergeant at Arms, \$300; Doorkeeper, \$150; in all, \$1,150.

For folding speeches and pamphlets, at a rate not exceeding \$1 per thousand, \$8,000.

For preparation and editing of the laws as authorized by the Act approved May 29, 1928 (U. S. C., Supp. VI, title 1, sec. 59), \$5,500, to be expended under the direction of the Committee on Revision of the Laws.

For assistants in compiling lists of reports to be made to Congress by public officials; compiling copy and revising proofs for the House portion of the Official Register; preparing and indexing the statistical reports of the Clerk of the House; compiling the telephone and Members' directories; preparing and indexing the daily calendars of business; preparing the official statement of Members' voting records; preparing lists of congressional nominees and statistical summary of elections; preparing and indexing questions of order printed in the Appendix to the Journal pursuant to House Rule III; for recording and filing statements of political committees and candidates for election to the House of Representatives pursuant to the Federal Corrupt Practices Act, 1925 (U. S. C., title 2, secs. 241-256); and for such other assistance as the Clerk of the House may deem necessary and proper in the conduct of the business of his office, \$5,000: *Provided*, That no part of this appropriation shall be used to augment the annual salary of any employee of the House of Representatives.

For the procurement of a portrait of Honorable John Nance Garner, Speaker of the House of Representatives, \$2,500, to be immediately available and to be disbursed by the Clerk of the House under the direction of the Speaker of the Seventy-second Congress.

CAPITOL POLICE

Salaries: Captain, \$2,460; three lieutenants at \$1,740 each; two special officers at \$1,740 each; three sergeants at \$1,680 each; forty-four privates at \$1,620 each; one-half of said privates to be selected by the Sergeant at Arms of the Senate and one-half by the Sergeant at Arms of the House; in all not to exceed, \$80,190.

For purchasing and supplying uniforms and motor cycles to Capitol police, and for contingent expenses, \$7,750.

One-half of the foregoing amounts under "Capitol police" shall be disbursed by the Secretary of the Senate and one-half by the Clerk of the House.

JOINT COMMITTEE ON PRINTING

Salaries: Clerk, \$4,000 and \$800 additional so long as the position is held by the present incumbent; inspector under section 20 of the Act approved January 12, 1895 (U. S. C., title 44, section 49), \$2,820; assistant clerk and stenographer, \$2,400; for expenses of compiling, preparing, and indexing the Congressional Directory, \$1,600; in all not to exceed, \$10,785, one-half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House.

OFFICE OF LEGISLATIVE COUNSEL

For salaries and expenses of maintenance of the office of Legislative Counsel, as authorized by law, \$70,000, of which \$35,000 shall be disbursed by the Secretary of the Senate and \$35,000 by the Clerk of the House of Representatives.

Postage stamps.

Folding.

United States Code. Preparation, etc. Vol. 45, p. 1038. U. S. C., Supp. VI, p. 3.

Clerical assistance to Clerk of the House. Specified objects, etc.

Recording, etc., political statements. Vol. 43, p. 1071. U. S. C., p. 15.

Portrait. Use restricted.

Portrait of Speaker John Nance Garner.

Immediately available.

Capitol police.

Pay.

Uniforms, etc.

Division of disbursement.

Joint Committee on Printing.

Clerks, etc.

Vol. 28, p. 603. U. S. C., p. 1418.

Congressional Directory.

Office of Legislative Counsel.

Salaries, etc.

Statement of appropriations.

Preparing, second session of Seventy-second Congress.

STATEMENT OF APPROPRIATIONS

For preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives of the statements for the second session of the Seventy-second Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriation bills, as required by law, \$3,330, to be paid to the persons designated by the chairman of such committees to do the work.

Architect of the Capitol.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

Architect, assistant, and office personnel.

Salaries: For the Architect of the Capitol, Assistant Architect of the Capitol, and other personal services at rates of pay provided by law; and the Assistant Architect of the Capitol shall act as Architect of the Capitol during the absence or disability of that official or whenever there is no Architect; \$44,500.

Capitol buildings and grounds.

CAPITOL BUILDINGS AND GROUNDS

Maintenance, repairs, etc.

Capitol Buildings: For necessary expenditures for the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including minor improvements, maintenance, repair, equipment, supplies, material, fuel, oil, waste, and appurtenances; furnishings and office equipment; personal and other services; cleaning and repairing works of art; maintenance, and driving of motor-propelled passenger-carrying office vehicle; pay of superintendent of meters, and \$300 additional for the maintenance of an automobile for his use, who shall inspect all gas and electric meters of the Government in the District of Columbia without additional compensation; and not exceeding \$300 for the purchase of technical and necessary reference books, periodicals, and city directory; \$230,000.

Travel allowance.

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of \$2,000.

Improving grounds.

Capitol Grounds: For care and improvement of grounds surrounding the Capitol, Senate and House Office Buildings; Capitol power plant; personal and other services; care of trees; planting; fertilizers; repairs to pavements, walks, and roadways; purchase of waterproof wearing apparel; maintenance of signal lights; and for snow removal by hire of men and equipment or under contract without compliance with sections 3709 (U. S. C., title 41, sec. 5) and 3744 (U. S. C., title 40,¹ sec. 16) of the Revised Statutes; \$100,000.

Snow removal.
R. S., secs. 3709, 3744,
pp. 733, 738.
U. S. C., pp. 1309, 1310.

Capitol garages.
Maintenance, repairs, etc.
Subway, Capitol and Senate Office Buildings.

Capitol garages: For maintenance, repairs, alterations, personal and other services, and all necessary incidental expenses, \$7,540.

Subway transportation, Capitol and Senate Office Buildings: For repairs, rebuilding, and maintenance of the subway cars connecting the Senate Office Building with the Senate wing of the United States Capitol and for personal and other services, including maintenance of the track and electrical equipment connected therewith, \$1,950.

Senate Office Building.
Maintenance, etc.

Senate Office Building: For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment and for labor and material incident thereto and repairs thereof; and for personal and other services for the care and operation of the Senate

¹ So in original.

Office Building, under the direction and supervision of the Senate Committee on Rules, acting through the Architect of the Capitol, who shall be its executive agent, \$215,000, and \$1,000 shall be immediately available.

House Office Building: For maintenance, including miscellaneous items, and for all necessary services, \$277,950.

House Office Building.
Maintenance, etc.
Balance for construction, etc., covered in.

The sum of \$220,000 of the unexpended balances in the appropriations available for construction and furnishing of the new House Office Building shall be covered into the Treasury.

Capitol power plant: For lighting, heating, and power for the Capitol, Senate and House Office Buildings, Supreme Court Building, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Capitol garages, folding and storage rooms of the Senate, Government Printing Office, and Washington City post office; personal and other services, engineering instruments, fuel, oil, materials, labor, advertising, and purchase of waterproof wearing apparel in connection with the maintenance and operation of the heating, lighting, and power plant, \$312,835.

Capitol power plant.
Maintenance, etc.

For the installation of duplicate steam lines to new buildings; clean-water intake screens and auxiliaries and high-tension switching equipment, including all necessary work in connection with such installation, and for all labor, materials, travel expenses, and subsistence therefor; and without regard to section 35 of the Public Buildings Act, approved June 25, 1910, as amended, or the Classification Act of 1923, as amended, for employment of all necessary personnel, including architectural, engineering, and professional services and other assistants, and for all other expenses incident thereto, the unexpended balance of the appropriation for this purpose for the fiscal year 1933 is continued available during the fiscal year 1934.

Duplicate steam lines to new buildings.
Installation, etc.

Vol. 36, p. 699.
U. S. C., p. 1303.
Vol. 46, p. 1003.
U. S. C., Supp. VI, p. 31.
Technical services.

The appropriations under the control of the Architect of the Capitol may be expended without reference to section 4 of the Act approved June 17, 1910 (U. S. C., title 41, sec. 7), concerning purchases for executive departments.

Purchases independent of Supply Committee.
Vol. 36, p. 531.
U. S. C., p. 1309.

The Government Printing Office and the Washington City post office shall reimburse the Capitol power plant for heat, light, and power furnished during the fiscal year 1934 and the amounts so reimbursed shall be covered into the Treasury.

Reimbursement for current, etc., to designated buildings.

LIBRARY BUILDING AND GROUNDS

Library building and grounds.

Salaries: For chief engineer and all personal services at rates of pay provided by law, \$42,830.

Operating force.

For trees, shrubs, plants, fertilizers, and skilled labor for the grounds of Library of Congress, \$1,000.

Trees, plants, etc.

For necessary expenditures for the Library Building under the jurisdiction of the Architect of the Capitol, including minor improvements, maintenance, repair, equipment, supplies, material, and appurtenances, and personal and other services in connection with the mechanical and structural maintenance of such building, \$17,750.

Maintenance, repairs, etc.

For furniture, including partitions, screens, shelving, and electrical work pertaining thereto and repairs thereof, \$10,000.

Furniture, etc.

For completion of the addition to the Library of Congress building under the provisions of the Act entitled "An Act to provide for the construction and equipment of an annex to the Library of Congress," approved June 13, 1930 (46 Stat., p. 583), \$325,000, to be immediately available and to remain available until expended.

Library annex.
Completion, equipment, etc.
Vol. 46, p. 583.

Botanic Garden.

BOTANIC GARDEN

Director, and personnel.

Proviso.
Quarters, etc., allowed director.Vol. 45, p. 193.
U. S. C., p. 30.

Maintenance, repairs, etc.

Salaries: For the director and other personal services, \$85,000; all under the direction of the Joint Committee on the Library: *Provided*, That the quarters, heat, light, fuel, and telephone service heretofore furnished for the director's use in the Botanic Garden shall not be regarded as a part of his salary or compensation, and such allowances may continue to be so furnished without deduction from his salary or compensation notwithstanding the provisions of section 3 of the Act of March 5, 1928 (U. S. C., title 5, sec. 678), or any other law.

Maintenance, operation, repairs, and improvements: For all necessary expenses incident to maintaining, operating, repairing, and improving the Botanic Garden, and the nurseries, buildings, grounds, and equipment pertaining thereto, including procuring fertilizers, soils, tools, trees, shrubs, plants, and seeds; materials and miscellaneous supplies, including rubber boots and aprons when required for use by employees in connection with their work; not to exceed \$25 for emergency medical supplies; disposition of waste; traveling expenses of the director and his assistants not to exceed \$500; street-car fares not exceeding \$25; office equipment and contingent expenses; the prevention and eradication of insect and other pests and plant diseases by purchase of materials and procurement of personal services by contract without regard to the provisions of any other Act; repair, maintenance, and operation of motor trucks and passenger motor vehicle; purchase of botanical books, periodicals, and books of reference, not to exceed \$100; repairs and improvements to director's residence; and all other necessary expenses; all under the direction of the Joint Committee on the Library; \$28,725.

Minor purchases without advertising.
R. S., sec. 3709, p. 733.
U. S. C., p. 1309.

The sum of \$100 may be expended at any one time by the Botanic Garden for the purchase of plants, trees, shrubs, and other nursery stock, without reference to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5).

Congressional distribution of shrubbery, etc., discontinued.

No part of the appropriations contained herein for the Botanic Garden shall be used for the distribution, by congressional allotment, of trees, plants, shrubs, or other nursery stock.

Library of Congress.

LIBRARY OF CONGRESS

SALARIES

Librarian, and personnel.

For the Librarian, Chief Assistant Librarian, and other personal services, \$773,360.

Register of Copyrights, etc.

For the Register of Copyrights, assistant register, and other personal services, \$228,600.

Legislative Reference Service.

LEGISLATIVE REFERENCE SERVICE

Personnel for designated work.

To enable the Librarian of Congress to employ competent persons to gather, classify, and make available, in translations, indexes, digests, compilations, and bulletins, and otherwise, data for or bearing upon legislation, and to render such data serviceable to Congress and committees and Members thereof, including not to exceed \$5,700 for employees engaged on piecework and work by the day or hour at rates to be fixed by the Librarian, \$68,365.

Card indexes.

DISTRIBUTION OF CARD INDEXES

Distribution, etc.

For the distribution of card indexes and other publications of the Library, including personal services, freight charges (not exceeding \$500), expressage, postage, traveling expenses connected with

such distribution, expenses of attendance at meetings when incurred on the written authority and direction of the Librarian, and including not to exceed \$53,625 for employees engaged in piecework and work by the day or hour and for extra special services of regular employees at rates to be fixed by the Librarian; in all, \$165,265.

TEMPORARY SERVICES

For special and temporary service, including extra special services of regular employees, at rates to be fixed by the Librarian, \$2,750.

Temporary services.

INDEX TO STATE LEGISLATION

To enable the Librarian of Congress to prepare an index to the legislation of the several States, together with a supplemental digest of the more important legislation, as authorized and directed by the Act entitled "An Act providing for the preparation of a biennial index to State legislation," approved February 10, 1927 (U. S. C., Supp. V, title 2, secs. 164, 165), including personal and other services within and without the District of Columbia including not to exceed \$2,500 for special and temporary service at rates to be fixed by the Librarian, travel, necessary material and apparatus, and for printing and binding the indexes and digests of State legislation for official distribution only, and other printing and binding incident to the work of compilation, stationery, and incidentals, \$30,915, and in addition the unexpended balance of the appropriation for this purpose for the fiscal year 1933 is reappropriated for the fiscal year 1934.

State legislation.

Preparing index and digest of.

Vol. 44, p. 1066.
U. S. C., Supp. VI,
p. 10.

Balance reappropriated.
Public Laws, 1st sess.,
p. 394.

SUNDAY OPENING

To enable the Library of Congress to be kept open for reference use on Sundays and on holidays within the discretion of the Librarian, including the extra services of employees and the services of additional employees under the Librarian, at rates to be fixed by the Librarian, \$18,000.

Sunday opening, etc.

Expenses.

UNION CATALOGUES

To continue the development and maintenance of the Union Catalogues, including personal services within and without the District of Columbia (and not to exceed \$1,400 for special and temporary service, including extra special services of regular employees, at rates to be fixed by the Librarian), travel, necessary material and apparatus, stationery, photostat supplies, and incidentals, \$18,335.

Union catalogues.

Development, maintenance, etc.

INCREASE OF THE LIBRARY

For purchase of books, miscellaneous periodicals and newspapers, and all other material for the increase of the Library, including payment in advance for subscription books and society publications, and for freight, commissions, and traveling expenses, including expenses of attendance at meetings when incurred on the written authority and direction of the Librarian in the interest of collections, and all other expenses incidental to the acquisition of books, miscellaneous periodicals and newspapers, and all other material for the increase of the Library, by purchase, gift, bequest, or exchange, to continue available during the fiscal year 1935, \$100,000.

Increase of the Library.

Purchase of books, etc.

For the purchase of books and for periodicals for the law library, including payment for legal society publications and for freight, commissions, and all other expenses incidental to the acquisition of law books, \$50,000.

Law books, etc.

Reference books for Supreme Court.

For purchase of new books of reference for the Supreme Court, to be a part of the Library of Congress, and purchased by the Marshal of the Supreme Court, under the direction of the Chief Justice, \$2,500.

Books for adult blind. Vol. 46, p. 1487. U. S. C., Supp. VI, p. 9.

To enable the Librarian of Congress to carry out the provisions of the Act entitled "An Act to provide books for the adult blind," approved March 3, 1931 (U. S. C., Supp. V, title 2, sec. 135a), \$90,000.

PRINTING AND BINDING

Printing and binding.

For miscellaneous printing and binding for the Library of Congress, including the Copyright Office, and the binding, rebinding, and repairing of library books, and for the Library Building \$200,000.

Catalogue of Title Entries.

For the publication of the Catalogue of Title Entries of the Copyright Office, \$45,000.

Catalogue cards.

For the printing of catalogue cards, \$120,000.

CONTINGENT EXPENSES OF THE LIBRARY

Contingent expenses.

For miscellaneous and contingent expenses, stationery, supplies, stock, and materials directly purchased, miscellaneous traveling expenses, postage, transportation, incidental expenses connected with the administration of the Library and Copyright Office, including not exceeding \$500 for expenses of attendance at meetings when incurred on the written authority and direction of the Librarian, \$9,000.

Attendance at meetings.

Photoduplicating expenses.

For paper, chemicals, and miscellaneous supplies necessary for the operation of the photoduplicating machines of the Library and the making of photoduplicate prints, \$5,000.

Library Building.

LIBRARY BUILDING

Superintendent, etc.

Salaries: For the superintendent, disbursing officer, and other personal services, in accordance with the Classification Act of 1923, as amended, \$151,145.

Sunday, etc., opening.

For extra services of employees and additional employees under the Librarian to provide for the opening of the Library Building on Sundays and on legal holidays, at rates to be fixed by the Librarian, \$4,000.

Temporary, etc., services.

For special and temporary services in connection with the custody, care, and maintenance of the Library Building, including extra special services of regular employees at the discretion of the Librarian, at rates to be fixed by the Librarian, \$500.

Incidentals.

For mail, delivery, and telephone services, rubber boots, rubber coats, and other special clothing for workmen, uniforms for guards, stationery, miscellaneous supplies, and all other incidental expenses in connection with the custody and maintenance of the Library Building, \$7,000.

Trust Fund Board, expenses.

For any expense of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the board, \$500.

Government Printing Office.

GOVERNMENT PRINTING OFFICE

Printing and binding.

To provide the Public Printer with a working capital for the following purposes for the execution of printing, binding, lithographing, mapping, engraving, and other authorized work of the Government Printing Office for the various branches of the Government: For salaries of Public Printer and Deputy Public Printer; for salaries, compensation, or wages of all necessary officers and

Public Printer, Deputy, etc.

employees additional to those herein appropriated for, including employees necessary to handle waste paper and condemned material for sale; to enable the Public Printer to comply with the provisions of law granting holidays and half holidays and Executive orders granting holidays and half holidays with pay to employees; rents, fuel, gas, heat, electric current, gas and electric fixtures; bicycle, motor-propelled vehicles for the carriage of printing and printing supplies, and the maintenance, repair, and operation of the same, to be used only for official purposes, including operation, repair, and maintenance of motor-propelled passenger-carrying vehicles for official use of the officers of the Government Printing Office when in writing ordered by the Public Printer; freight, expressage, telegraph, and telephone service, furniture, typewriters, and carpets; traveling expenses; stationery, postage, and advertising; directories, technical books, newspapers and magazines, and books of reference (not exceeding \$500); adding and numbering machines, time stamps, and other machines of similar character; rubber boots, coats, and gloves; machinery (not exceeding \$300,000); equipment, and for repairs to machinery, implements, and buildings, and for minor alterations to buildings; for construction of a one-story fireproof extension to the Government Printing Office on lots 813, 814, 828, square 624, District of Columbia, not to exceed \$25,500, to be paid from the working capital fund for the Government Printing Office; necessary equipment, maintenance, and supplies for the emergency room for the use of all employees in the Government Printing Office who may be taken suddenly ill or receive injury while on duty; other necessary contingent and miscellaneous items authorized by the Public Printer; for expenses authorized in writing by the Joint Committee on Printing for the inspection of printing and binding equipment, material, and supplies and Government printing plants in the District of Columbia or elsewhere (not exceeding \$1,000); for salaries and expenses of preparing the semimonthly and session indexes of the Congressional Record under the direction of the Joint Committee on Printing (chief indexer at \$3,480, one cataloguer at \$3,180, two cataloguers at \$2,460 each, and one cataloguer at \$2,100); and for all the necessary labor, paper, materials, and equipment needed in the prosecution and delivery and mailing of the work; in all, \$1,750,000, and in addition thereto the sums resulting during the fiscal year 1934 from the application during such fiscal year to the Government Printing Office (except the appropriation herein made for "Salaries, Office of Superintendent of Documents") of the provisions of law relating to the legislative furlough, compensation reductions, and reduced differential for night work, to the extent of not to exceed \$1,000,000, shall be credited to the working capital for the fiscal year 1934 and shall be available for such fiscal year for the purposes of this paragraph; to which shall be charged the printing and binding authorized to be done for Congress, the printing and binding for use of the Government Printing Office, and printing and binding (not exceeding \$2,000) for official use of the Architect of the Capitol when authorized by the Secretary of the Senate; in all to an amount not exceeding this sum: *Provided*, That \$450,000 of the foregoing sum of \$1,750,000 shall be immediately available, and, together with the unexpended balance of the working capital for the fiscal year 1933, shall be subject to obligation for printing and binding for Congress in the fiscal year 1933 notwithstanding the provisions of section 302 of the Legislative Appropriation Act for the fiscal year 1933 (47 Stat. 407).

Holidays, etc.

Contingent expenses.

Machinery, etc.

Emergency room.

Inspection, etc., expenses.

Indexes, Congressional Record.

Provisos.
 Sums available.
Ante, p. 397.

Printing restrictions
 waived.

Ante, p. 407.

Authority for Congressional work.

Printing and binding for Congress chargeable to the foregoing appropriation, when recommended to be done by the Committee on Printing of either House, shall be so recommended in a report containing an approximate estimate of the cost thereof, together with a statement from the Public Printer of estimated approximate cost of work previously ordered by Congress within the fiscal year for which this appropriation is made.

Payment for work ordered by departments, etc.

During the fiscal year 1934 any executive department or independent establishment of the Government ordering printing and binding from the Government Printing Office shall pay promptly by check to the Public Printer upon his written request, either in advance or upon completion of the work, all or part of the estimated or actual cost thereof, as the case may be, and bills rendered by the Public Printer in accordance herewith shall not be subject to audit or certification in advance of payment: *Provided*, That proper adjustments on the basis of the actual cost of delivered work paid for in advance shall be made monthly or quarterly and as may be agreed upon by the Public Printer and the department or establishment concerned. All sums paid to the Public Printer for work that he is authorized by law to do shall be deposited to the credit on the books of the Treasury Department, of the appropriation made for the working capital of the Government Printing Office, for the year in which the work is done, and be subject to requisition by the Public Printer.

Proviso.
Adjustment of accounts.

Sums paid for work, credited to working capital.

Estimates for departments, etc., to be incorporated in a single item.

All amounts in the Budget for the fiscal year 1935 for printing and binding for any department or establishment, so far as the Bureau of the Budget may deem practicable, shall be incorporated in a single item for printing and binding for such department or establishment and be eliminated as a part of any estimate for any other purpose. And if any amounts for printing and binding are included as a part of any estimates for any other purposes, such amounts shall be set forth in detail in a note immediately following the general estimate for printing and binding: *Provided*, That the foregoing requirements shall not apply to work to be executed at the Bureau of Engraving and Printing.

Proviso.
Engraving and Printing Bureau excepted.

Restriction on paying detailed employees.

No part of any money appropriated in this Act shall be paid to any person employed in the Government Printing Office while detailed for or performing service in any other executive branch of the public service of the United States unless such detail be authorized by law.

Office of Superintendent of Documents.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

Superintendent, and personnel.

For the Superintendent of Documents, assistant superintendent, and other personal services in accordance with the Classification Act of 1923, as amended, and compensation of employees paid by the hour who shall be subject to the provisions of the Act entitled "An Act to regulate and fix rates of pay for employees and officers of the Government Printing Office," approved June 7, 1924 (U. S. C., title 44, sec. 40), \$502,000: *Provided*, That for the purpose of conforming to section 3 of this Act this appropriation shall be considered a separate appropriation unit.

Vol. 46, p. 1003.
U. S. C., Supp. VI,
p. 31.
Vol. 43, p. 658.
U. S. C., p. 1417.
Proviso.
Item a separate unit.

Contingent expenses.

For furniture and fixtures, typewriters, carpets, labor-saving machines and accessories, time stamps, adding and numbering machines, awnings, curtains, books of reference; directories, books, miscellaneous office and desk supplies, paper, twine, glue, envelopes, postage, car fares, soap, towels, disinfectants, and ice; drayage, express, freight, telephone and telegraph service; traveling expenses (not to exceed \$200); repairs to buildings, elevators, and machinery; preserving sanitary condition of building; light, heat, and power; stationery and office printing, including blanks, price lists, and

bibliographies, \$100,000; for catalogues and indexes, not exceeding \$34,800; for supplying books to depository libraries, \$76,000; in all, \$210,800: *Provided*, That no part of this sum shall be used to supply to depository libraries any documents, books, or other printed matter not requested by such libraries, and the requests therefor shall be subject to approval by the Superintendent of Documents.

Proviso.
Supplying depository libraries restricted.

In order to keep the expenditures for printing and binding for the fiscal year 1934 within or under the appropriations for such fiscal year, the heads of the various executive departments and independent establishments are authorized to discontinue the printing of annual or special reports under their respective jurisdictions: *Provided*, That where the printing of such reports is discontinued the original copy thereof shall be kept on file in the offices of the heads of the respective departments or independent establishments for public inspection.

Printing reports of departments.

Proviso.
Originals to be kept for inspection.

Purchases may be made from the foregoing appropriation under the "Government Printing Office," as provided for in the Printing Act approved January 12, 1895, and without reference to section 4 of the Act approved June 17, 1910 (U. S. C., title 41, sec. 7), concerning purchases for executive departments.

Purchases independent of supply committee.
Vol. 28, p. 601; Vol. 36, p. 531.
U. S. C., p. 1309.

SEC. 2. No part of the funds herein appropriated shall be used for the maintenance or care of private vehicles.

Private vehicle restriction.

SEC. 3. In expending appropriations or portions of appropriations, contained in this Act, for the payment for personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, the average of the salaries of the total number of persons under any grade in the Botanic Garden, the Library of Congress, or the Government Printing Office, shall not at any time exceed the average of the compensation rates specified for the grade by such Act, as amended: *Provided*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, (2) to require the reduction in salary of any person whose compensation was fixed as of July 1, 1924, in accordance with the rules of section 6 of such Act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade in the same or a different bureau, office, or other appropriation unit, (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923, as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated.

Average salaries in designated offices not to be exceeded.
Vol. 46, p. 1003.
U. S. C., Supp. VI, p. 31.

Proviso.
Not applicable to clerical-mechanical service.
Vol. 42, p. 1490.
U. S. C., p. 65.

Transfers to another position without reduction.

Higher salary rates allowed.

If only one position in a grade.

Approved, February 28, 1933.

[CHAPTER 135.]

AN ACT

Authorizing the Secretary of War to convey certain properties to the county of Arlington, State of Virginia, in order to connect Lee Boulevard with the Arlington Memorial Bridge, and for other purposes.

February 28, 1933.
[S. 5339.]
[Public, No. 382.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide a connection between the Lee Boulevard and the Arlington Memorial Bridge, the Secretary of War is hereby authorized to convey to the county of Arlington, State of Virginia, for highway purposes only, all the right, title, and interest of the United States in and to a strip of land through the southerly portion of the Fort Myer Military Reservation necessary for the construction of a connec-

Arlington Memorial Bridge.
Conveyance of land to Arlington County, Va., to provide connection with Lee Boulevard.

Width. Condition. tion from the Lee Boulevard to the Arlington Memorial Bridge, consisting of a right of way not more than one hundred feet in width, said deed of conveyance to contain a restriction against the construction of buildings, fences, or other structures within one hundred and ten feet of the center line of said right of way.

Additional conveyance authorized. SEC. 2. The Secretary of War is hereby further authorized to convey to the said county of Arlington for highway purposes only all the right, title, and interest of the United States in and to a strip of land for a continuous right of way approximately sixty feet in width within and adjacent to the southerly boundary of the Arlington Reservation from the intersection of said reservation line with the northerly line of the right of way to be conveyed under section 1 to the east line of McKinley Street.

Description of. SEC. 3. The lands to be so conveyed are approximately as shown on plat numbered 104.2-166 in the files of the National Capital Park and Planning Commission.

Reversion in time of emergency. SEC. 4. The deeds of conveyance shall contain a reservation reserving to the United States the right to resume possession and occupy said tracts of land, or any portion thereof, whenever in the judgment of the President an emergency exists that requires the use and appropriation of the same for the public defense, and also a further reservation that the title hereby conveyed shall revert to the United States and all rights hereby granted shall cease and be forfeited, unless the said county of Arlington shall construct the said highway and assume the obligations herein provided within three years from the date of the enactment of this Act.

Highway construction, etc., by Arlington County. SEC. 5. Upon the consummation of the conveyance herein authorized to the county of Arlington, State of Virginia, the jurisdiction of the United States over said lands, subject to the conditions and reservations in said deed provided, shall immediately cease and determine and revert in the State of Virginia.

Jurisdiction over conveyances. SEC. 6. That if at any time the lands herein authorized to be conveyed to the said county of Arlington, State of Virginia, shall cease to be used for the purposes herein specified, the title in and jurisdiction over the same shall revert to the Government of the United States.

Reversion for non-user.

Approved, February 28, 1933.

[CHAPTER 136.]

AN ACT

February 28, 1933.
[H. R. 7432.]
[Public, No. 383.]

To authorize the Interstate Commerce Commission to delegate certain of its powers.

Interstate Commerce Act, amended.
Vol. 24, p. 386; Vol. 41, p. 492, amended.
U. S. C., p. 1666, amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Interstate Commerce Act, as amended (U. S. C., title 49, sec. 17), is amended by adding at the end thereof a new paragraph to read as follows:

Delegation of functions, etc., by commissioners authorized.

“(6) The commission is hereby authorized by its order to assign or refer any portion of its work, business, or functions arising under this or any other Act of Congress or referred to it by Congress, or either branch thereof, to an individual commissioner, or to a board composed of an employee or employees of the commission, to be designated by such order, for action thereon, and by its order at any time to amend, modify, supplement, or rescind any such assignment or reference: *Provided, however,* That this authority shall not extend to investigations instituted upon the commission’s own motion nor, without the consent of the parties thereto, to contested proceedings

Provisos.
Limitation.

involving the taking of testimony at public hearings. All such orders shall take effect forthwith and remain in effect until otherwise ordered by the commission. In case of the absence or inability for any other reason to act of any such individual commissioner or employee designated to serve upon any such board, the chairman of the commission may designate another commissioner or employee, as the case may be, to serve temporarily until the commission shall otherwise order. In conformity with and subject to the order or orders of the commission in the premises, any such individual commissioner, or board acting by a majority thereof, shall have power and authority to hear and determine, order, certify, report, or otherwise act as to any of said work, business, or functions so assigned or referred to him or it for action by the commission and in respect thereof shall have all the jurisdiction and powers now or then conferred by law upon the commission and be subject to the same duties and obligations. Any order, decision, or report made or other action taken by any such individual commissioner or board in respect of any matters so assigned or referred shall have the same force and effect, and may be made, evidenced, and enforced in the same manner as if made or taken by the commission. Any party affected by any order, decision, or report of any such individual commissioner or board may file a petition for reconsideration or for rehearing by the commission or a division thereof and every such petition shall be passed upon by the commission or a division thereof. Any action by a division upon such a petition shall itself be subject to reconsideration by the commission, as provided in section 16a of this Act (U. S. C., title 49, sec. 16a), and in paragraph (4) of this section. The commission may, as provided in paragraph (1) of this section, make and amend rules for the conduct of proceedings before such individual commissioner or board and for the rehearing of such action before a division of the commission or the commission. The secretary and seal of the commission shall be the secretary and seal of such individual commissioner or board."

Effect of commission orders.

Temporary appointments.

Powers, duties, etc.

Orders, etc., of individual commissioner.

Petition for reconsideration or rehearing.

Vol. 34, p. 592.
U. S. C., p. 1666.

General rules, etc.

Secretary and seal.

Approved, February 28, 1933.

[CHAPTER 137.]

AN ACT

To amend chapter 231 of the Act of May 22, 1896, 29 Stat. 133, section 546, title 34, U. S. C.

February 28, 1933.
[H. R. 13026.]
[Public, No. 384.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 231 of the Act of May 22, 1896, 29 Stat. 133 (section 546, title 34, U. S. C.), be, and the same is hereby, amended to read as follows:

"SEC. 546. LOAN OR GIFT OF CONDEMNED OR OBSOLETE PROPERTY.—The Secretary of the Navy is hereby authorized, in his discretion, to lend or give to soldiers' monument associations, posts of the Grand Army of the Republic, posts of the American Legion, and other recognized war veteran associations, State museums and incorporated museums operated and maintained for educational purpose only, whose charter denies them the right to operate for profit, and municipal corporations condemned or obsolete ordnance, guns, projectiles, books, manuscripts, works of art, drawings, plans, models, and other condemned or obsolete material which may not be needed in the service of the Navy Department. Such loan or gift shall be made subject to rules and regulations covering the same, and the Government shall be at no expense in connection with any such loan or gift."

Loan or gift of condemned or obsolete naval property.
Vol. 29, p. 133; Vol. 45, p. 773, amended.
U. S. C., p. 1124.

List of organizations which may receive.

Regulations, etc.

Approved, February 28, 1933.

[CHAPTER 138.]

AN ACT

February 28, 1933.
[H. R. 13750.]
[Public, No. 385.]

To regulate the bringing of actions for damages against the District of Columbia, and for other purposes.

District of Columbia. Actions against, for unliquidated damages.

Notice within six months.

Proviso. Police reports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no action shall be maintained against the District of Columbia for unliquidated damages to person or property unless the claimant within six months after the injury or damage was sustained, he, his agent, or attorney gave notice in writing to the Commissioners of the District of Columbia of the approximate time, place, cause, and circumstances of such injury or damage: *Provided, however,* That a report in writing by the Metropolitan police department, in regular course of duty, shall be regarded as a sufficient notice under the above provision.

Approved, February 28, 1933.

[CHAPTER 139.]

AN ACT

February 28, 1933.
[H. R. 14204.]
[Public, No. 386.]

To amend section 653 of the Code of Law for the District of Columbia.

District of Columbia Code amendment. Vol. 31, p. 1292; Vol. 37, p. 17, amended. Taxation of insurance companies.

Rate on net premium receipts.

Payment.

Agents' license fees.

Penalty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provision of section 653 of the Act of Congress, approved March 3, 1901, entitled "An Act to establish a Code of Law for the District of Columbia", as amended by the Act of Congress approved August 15, 1911, which said provision reads: "Every such company or association shall pay to the collector of taxes for the District of Columbia a sum of money, as tax, equal to 1 per centum of all moneys received from members of policy or certificate holders within the District of Columbia, said tax to be paid on or before the 1st day of March of each year on the amount of such income for the year ending December 31st next preceding;" is hereby amended to read:

"Every such company or association shall pay to the collector of taxes for the District of Columbia a sum of money as taxes equal to 1½ per centum of its net premium receipts from business done in the District of Columbia, said taxes to be paid before the 1st day of March of each year on the amount of such income for the year ending December 31st next preceding, in lieu of all other taxes, except taxes upon real estate and any license fees provided for in sections 654 and 655; and upon the failure of any company to pay said taxes before March 1st, as aforesaid, the license of said company shall be revoked and a penalty of 8 per centum per month shall be charged against said company which, together with said taxes, shall be collected before said company shall be allowed to resume business;"

Approved, February 28, 1933.

[CHAPTER 140.]

JOINT RESOLUTION

February 28, 1933.
[H. J. Res. 583.]
[Pub. Res., No. 60.]

To provide for a change of site of the Federal building to be constructed at Binghamton, New York.

Binghamton, N. Y. Exchange of Federal building site at, authorized.

Vol. 46, p. 1587, amended.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to cause the new Federal building at Binghamton, New York (authorized by the Second Deficiency Act, fiscal year 1931, approved March 4, 1931 (46 Stat. 1587)), to be erected on the Government-owned site located on the

north side of Henry Street and extending northwardly between Washington and State Streets, in lieu of on the site of the present post-office building. For such purpose, the Secretary is authorized and directed to (a) cancel the existing contract or contracts for the erection of such new building and make a settlement with the contractor for damages sustained by him as the result of such cancellation, or (b) effect a modification of such contract or contracts to provide for construction of the new building on the Henry Street site, and allow reasonable additional compensation for any damages or increased costs occasioned the contractor by the change to such new site.

SEC. 2. The Secretary of the Treasury is further authorized and directed to purchase additional land necessary to permit the construction of such new building on the Henry Street site.

SEC. 3. All obligations incurred and/or expenditures made in carrying out the provisions of this joint resolution shall be limited to the amount made available and fixed by existing law for the demolition of the old building and construction of such new building, and shall not be in excess of such amount.

SEC. 4. After occupancy of the new building constructed pursuant to this joint resolution, no rented postal station shall be maintained within 2,000 feet of such building.

SEC. 5. The Act entitled "An Act to authorize the sale of the Government property acquired for a post-office site in Binghamton, New York," approved May 13, 1930 (46 Stat. 273), is amended to read as follows:

"That the Secretary of the Treasury is authorized and directed to transfer by the usual quitclaim deed to the city of Binghamton, New York, the southerly triangular portion (measuring approximately fifty-nine and eighty-four one-hundredths feet on Washington Street and one hundred and fifty-nine and seventy-five one-hundredths feet on Henry Street), or such portion thereof as the Secretary may deem practicable, for the purpose of straightening out said Henry Street, of the Government property acquired for a post-office site in such city, fronting on the north side of Henry Street and extending northwardly between Washington and State Streets."

Approved, February 28, 1933.

[CHAPTER 144.]

AN ACT

Making appropriations for the Departments of State and Justice and for the Judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1934, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State and Justice and for the Judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1934, namely:

TITLE I.—DEPARTMENT OF STATE

OFFICE OF THE SECRETARY OF STATE

Salaries: For Secretary of State, Under Secretary of State, \$10,000; and other personal services in the District of Columbia, including temporary employees, and not to exceed \$6,500 for employees engaged on piecework at rates to be fixed by the Secretary

Purchase of addition to new site.

Limit of cost.

No rented postal station in vicinity.

Sale of post-office site. Vol. 46, p. 273, amended.

Transfer by quitclaim deed of portion to city for street purposes.

March 1, 1933. [H. R. 14363.] [Public, No. 387.]

Appropriations for Departments of State and Justice, the Judiciary, and Departments of Commerce and Labor.

Department of State.

Secretary, Under Secretary, and office personnel. Temporary and piecework employees.

Provisos.
Salaries limited to average rates under Classification Act.

Vol. 42, p. 1488; Vol. 45, p. 776; Vol. 46, p. 1003.

U. S. C., p. 65; Supp. VI, p. 31.

Exceptions.

Restriction not applicable to clerical-mechanical service.

No reduction in fixed salaries.

Vol. 42, p. 1490. U. S. C., p. 60.

Transfers to another position without reduction.

Higher salary rates permitted.

If only one position in a grade.

of State, \$1,683,449: *Provided*, That in expending appropriations or portions of appropriations, contained in this Act, for the payment for personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, with the exception of the four Assistant Secretaries of State and the legal adviser of the Department of State, the Assistant to the Attorney General and six Assistant Attorneys General, the Assistant Secretaries of Commerce, the Assistant Secretary and the Second Assistant Secretary of Labor, the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriation unit shall not at any time exceed the average of the compensation rates specified for the grade by such Act, as amended: *Provided*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed as of July 1, 1924, in accordance with the rules of section 6 of such Act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade in the same or a different bureau, office, or other appropriation unit, or (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923, as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated.

CONTINGENT EXPENSES, DEPARTMENT OF STATE

Contingent expenses of department.

For contingent and miscellaneous expenses, including stationery, furniture, fixtures; typewriters, adding machines, and other labor-saving devices, including their exchange, not exceeding \$10,000; repairs and materials for repairs; purchase and exchange of books, maps, and periodicals, domestic and foreign, and when authorized by the Secretary of State for dues for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members, not exceeding \$15,880; newspapers not exceeding \$1,500; maintenance, repair, and storage of motor-propelled vehicles, to be used only for official purposes (one for the Secretary of State and two for dispatching mail, and one motorcycle for the general use of the department); automobile mail wagons, including storage, repair, and exchange of same; street-car fare not exceeding \$150; traveling expenses; refund of fees erroneously charged and paid for the issue of passports to persons who are exempted from the payment of such fee by section 1 of the Act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921, approved June 4, 1920 (U. S. C., Supp. V, title 22, sec. 214a); the examination of estimates of appropriations in the field; and other miscellaneous items not included in the foregoing; \$77,000.

Vehicles.

Refund of erroneous passport fees.

Vol. 41, p. 750; Vol. 44, p. 887. U. S. C., Supp. VI, p. 367.

PRINTING AND BINDING

Printing and binding.

For all printing and binding in the Department of State, including all of its bureaus, offices, institutions, and services located in Washington, District of Columbia, and elsewhere, \$185,000.

Passport agencies.

PASSPORT AGENCIES

Salaries and expenses.

Provisos.
Temporary employees.

For salaries and expenses of maintenance, traveling expenses not to exceed \$500, and rent outside the District of Columbia, for not to exceed five passport agencies, \$62,705: *Provided*, That not to exceed \$15,000 shall be available for salaries of temporary employees.

COLLECTING AND EDITING OFFICIAL PAPERS OF TERRITORIES OF THE UNITED STATES

Official papers of Territories.

For the expenses of collecting, editing, copying, and arranging for publication the official papers of the Territories of the United States, including personal services in the District of Columbia and elsewhere, printing and binding, and contingent and traveling expenses, as provided by the Act approved February 28, 1929 (45 Stat., p. 1412), \$9,158, together with the unexpended balances of the appropriations made available for this purpose in the State Department Appropriation Act for the fiscal year 1933.

Collecting, etc., for publication.

Vol. 45, p. 1412.
Balance available.
Act, p. 476.

FOREIGN INTERCOURSE

Foreign intercourse.

AMBASSADORS AND MINISTERS

Ambassadors extraordinary and plenipotentiary to Argentina, Brazil, Chile, Cuba, France, Germany, Great Britain, Italy, Japan, Mexico, Peru, Poland, Spain, and Turkey, at \$17,500 each;

Ambassadors.

Ambassador extraordinary and plenipotentiary to Belgium and envoy extraordinary and minister plenipotentiary to Luxemburg, \$17,500;

Envoys extraordinary and ministers plenipotentiary to China and the Netherlands, at \$12,000 each;

Ministers.
China and Netherlands.
Other countries.

Envoys extraordinary and ministers plenipotentiary to Albania, Austria, Bolivia, Bulgaria, Czechoslovakia, Colombia, Costa Rica, Denmark, Dominican Republic, Dominion of Canada, Ecuador, Egypt, Finland, Greece, Guatemala, Haiti, Honduras, Hungary, Irish Free State, Liberia, Nicaragua, Norway, Panama, Paraguay, Persia, Portugal, Rumania, Salvador, Siam, Union of South Africa, Sweden, Switzerland, Uruguay, Venezuela, and Yugoslavia, at \$10,000 each; and to Estonia, Latvia, and Lithuania, \$10,000;

In all, not to exceed \$558,000;

Provided, That no salary herein appropriated shall be paid to any official receiving any other salary from the United States Government.

Provided.
Salary restriction.

SALARIES OF FOREIGN SERVICE OFFICERS

Foreign Service officers.

For salaries of Foreign Service officers as provided in the Act approved February 23, 1931 (U. S. C., Supp. V, title 22, secs. 3, 3a), \$2,882,000.

Salaries.
Vol. 46, p. 1207.
U. S. C., Supp. VI,
p. 361.

For salaries of Foreign Service officers or vice consuls while acting as *chargés d'affaires ad interim* or while in charge of a consulate general or consulate during the absence of the principal officer, \$18,333.

Chargés d'affaires,
etc.

To pay the salaries of ambassadors, ministers, consuls, vice consuls, and other officers of the United States for the period actually and necessarily occupied in receiving instructions and in making transits to and from their posts, and while awaiting recognition and authority to act in pursuance with the provisions of section 1740 of the Revised Statutes (U. S. C., title 22, sec. 121), \$13,750.

Instruction and
transit pay.
R. S., sec. 1740, p.
309.
U. S. C., p. 650.

ALLOWANCE TO WIDOWS OR HEIRS OF FOREIGN SERVICE OFFICERS WHO DIE ABROAD

For payment under the provisions of section 1749 of the Revised Statutes (U. S. C., title 22, sec. 130) to the widows or heirs at law of Diplomatic, Consular, and Foreign Service officers of the United States dying in foreign countries in the discharge of their duties, \$1,000.

Allowances, officers
dying abroad.
R. S., sec. 1749, p. 311.
U. S. C., p. 650.

Foreign Service retirement, etc., fund.

FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

Federal contribution. Vol. 46, p. 1211. U. S. C., Supp. VI, p. 363.

For financing the liability of the United States, created by the Act approved February 23, 1931 (U. S. C., Supp. V, title 22, sec. 21), \$292,700, which amount shall be placed to the credit of the "Foreign Service retirement and disability fund."

TRANSPORTATION OF FOREIGN SERVICE OFFICERS

Transportation, etc., expenses.

To pay the traveling expenses of Diplomatic, Consular, and Foreign Service officers, and other employees of the Foreign Service, including Foreign Service inspectors and officers and employees of the United States Court for China, and under such regulations as the Secretary of State may prescribe, of their families and expenses of transportation of effects, in going to and returning from their posts, including not to exceed \$25,000 incurred in connection with leaves of absence, and of the preparation and transportation of the remains of those officers and said employees of the Foreign Service, who have died or may die abroad or in transit while in the discharge of their official duties, to their former homes in this country or to a place not more distant for interment and for the ordinary expenses of such interment, \$410,000: *Provided*, That this appropriation shall be available also for the authorized expenses of the judge and district attorney of the United States Court for China while attending sessions of the court at other cities than Shanghai, and for the authorized subsistence expenses of Consular and Foreign Service officers while on temporary detail under commission.

Leaves of absence. Bringing home remains of officers, etc., dying abroad.

Proviso. Expenses, United States Court for China.

RENT, HEAT, FUEL, AND LIGHT, FOREIGN SERVICE

Rent, heat, fuel, and light.

United States Court for China.

Tokyo, ground rent. Vol. 46, p. 818. U. S. C., Supp. VI, p. 20.

Provisos. Advance payment for rent. Lenses authorized.

Allowance for quarters limited.

Custodial, etc., services. Restriction on expenses; exception.

For rent, heat, fuel, and light for the Foreign Service and the United States Court for China for offices and grounds, including annual ground rent of the embassy at Tokyo, Japan, for the year ending March 15, 1934, and, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, title 5, sec. 118a), for living quarters and not to exceed \$439,236 for allowances for living quarters, including heat, fuel, and light, \$1,328,000: *Provided*, That payment for rent may be made in advance: *Provided further*, That the Secretary of State may enter into leases for such offices, grounds, and living quarters for periods not exceeding ten years: *Provided further*, That no part of this appropriation shall be used for allowances for living quarters, including heat, fuel, and light in an amount exceeding \$720 for any ambassador, minister, or Foreign Service officer: *Provided further*, That under this appropriation and the appropriation herein for "Contingent expenses, Foreign Service", not more than \$3,000 shall be expended for custodial service, heat, fuel, and light in any Government-owned building used for residence or residence and office purposes for an ambassador or minister, and not more than \$1,700 for such purposes in the case of any other Foreign Service officer, except that at any post at which the expenditures for such purposes for the fiscal year 1933 were in excess of the limitation of \$3,000 in this last proviso in the case of an ambassador or minister there may be expended during the fiscal year 1934 an amount equal to the sum so authorized to be expended during the fiscal year 1933, but in no event to exceed \$5,000; and during the incumbency of a chargé d'affaires the limitation on such expenditures shall be the same as for the occupancy of the principal officer.

SALARIES OF CLERKS IN THE FOREIGN SERVICE

For salaries of clerks in the Foreign Service, as provided in the Act approved February 23, 1931 (U. S. C., Supp. V, title 22, sec. 23a), including salaries during transit to and from homes in the United States upon the beginning and after termination of service, \$2,242,438.

Clerks in the Foreign Service.
Vol. 46, p. 1207.
U. S. C., Supp. VI, p. 364.

CONTINGENT EXPENSES, FOREIGN SERVICE

For stationery; blanks; record and other books; seals; presses; flags; signs; repairs, including minor alterations; repairs, supervision, preservation, and maintenance of Government-owned diplomatic and consular properties in foreign countries, and properties acquired under the Act approved May 7, 1926, as amended (U. S. C., Supp. V, title 22, secs. 291, 296), and including also custodial service, water, materials, supplies, tools, seeds, plants, shrubs, and similar objects; newspapers (foreign and domestic); freight; postage; telegrams; advertising; ice and drinking water for office purposes; hire of motor-propelled or horse-drawn passenger-carrying vehicles, and purchase, maintenance, operation, and hire of other passenger-carrying vehicles; uniforms; furniture, household furniture and furnishings, except as provided by the Act of May 7, 1926, as amended, for Government-owned or rented buildings when in the judgment of the Secretary of State it would be in the public interest to do so, not to exceed \$75,000; typewriters and exchange of same; messenger service; operation, maintenance, and rental of launch for embassy in Turkey, not exceeding \$3,500; compensation of kavasses, guards, dragomans, porters, interpreters, translators, Chinese writers, and supervisors of construction; compensation of agents and employees of and rent and other expenses for dispatch agencies at London, New York, San Francisco, Seattle, and New Orleans; traveling expenses, including attendance at trade and other conferences or congresses under orders of the Secretary of State as authorized by the Act approved February 23, 1931 (U. S. C., Supp. V, title 22, sec. 16); loss by exchange; payment in advance of telephone and other similar services and rent of dispatch agencies; expenses of vice consulates and consular agencies for any of the foregoing objects; cost, not exceeding \$350 per annum each, of the tuition of Foreign Service officers assigned for the study of the languages of Asia and eastern Europe; and such other miscellaneous expenses as the President may deem necessary; \$1,382,000: *Provided*, That no part of this appropriation shall be expended for salaries or wages of persons not American citizens performing clerical services (except interpreters, translators, and messengers), whether officially designated as clerks or not, in any foreign mission.

Contingent expenses, missions.

Government buildings abroad.
Vol. 44, p. 403; Vol. 45, p. 971.
U. S. C., Supp. VI, p. 368.

Furniture, etc.

Dispatch agencies.
Attendance at meetings.

Vol. 46, p. 1209.
U. S. C., Supp. VI, p. 362.

Proviso.
No payment for clerical services to persons not citizens.

RELIEF AND PROTECTION OF AMERICAN SEAMEN

For relief, protection, and burial of American seamen in foreign countries, in the Panama Canal Zone, and in the Philippine Islands, and shipwrecked American seamen in the Territory of Alaska, in the Hawaiian Islands, in Puerto Rico, and in the Virgin Islands, \$5,000.

Relief, etc., of American seamen.

RESCUING SHIPWRECKED AMERICAN SEAMEN

For expenses which may be incurred in the acknowledgment of the services of masters and crews of foreign vessels in rescuing American seamen or citizens from shipwreck or other catastrophe at sea, \$1,000.

Life-saving testimonials.

EMERGENCIES ARISING IN THE DIPLOMATIC AND CONSULAR SERVICE

Emergencies.

Neutrality Act, ex-
penses.
R. S., sec. 291, p. 49.
U. S. C., p. 982.

To enable the President to meet unforeseen emergencies arising in the Diplomatic and Consular Service, and to extend the commercial and other interests of the United States and to meet the necessary expenses attendant upon the execution of the Neutrality Act, to be expended pursuant to the requirement of section 291 of the Revised Statutes (U. S. C., title 31, sec. 107), \$130,000.

CONTRIBUTIONS, QUOTAS, AND SO FORTH

International contri-
butions, quotas, etc.

For payment of the annual contributions, quotas, and/or expenses, including loss by exchange, in discharge of the obligations of the United States in connection with international commissions, congresses, bureaus, and other objects, as follows: Cape Spartel and Tangier Light, Coast of Morocco, \$825; International Bureau of Weights and Measures, \$4,342.50; International Bureau for Publication of Customs Tariffs, \$1,400; Pan American Union, quota, \$167,576.40, printing and binding, \$20,000, in all, \$187,576.40; International Bureau of Permanent Court of Arbitration, \$2,000; Bureau of Interparliamentary Union for Promotion of International Arbitration, \$7,500; International Institute of Agriculture at Rome, Italy, \$5,400; Pan American Sanitary Bureau, \$30,024.11; International Office of Public Health, \$3,015.79; International Radiotelegraphic Convention, \$7,527; Government of Panama, \$250,000; International Hydrographic Bureau, \$5,790; Foreign Hospital at Capetown, \$50; International Trade-Mark Registration Bureau, \$14,330.20; International Bureau for Protection of Industrial Property, \$1,350; Gorgas Memorial Laboratory, \$50,000, of which \$5,000 shall be immediately available; American International Institute for the Protection of Childhood, \$2,000; International Statistical Bureau at The Hague, \$2,000; International Map of the World on the Millionth Scale, \$50; International Technical Committee of Aerial Legal Experts, \$250; and Convention Relating to Liquor Traffic in Africa, \$55; in all, \$575,486.

INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND MEXICO

Mexican Boundary
Commission.
Vol. 24, p. 1011; Vol.
26, p. 1512; Vol. 34, p.
2593.

Vol. 46, p. 1162.
Ante, p. 480.

R. S., sec. 3709, p.
733.
U. S. C., p. 1309.

Proriso.
Balance available.
Ante, p. 480.

For expenses of meeting the obligations of the United States under the treaties of 1884, 1889, 1905, and 1906 between the United States and Mexico, and of compliance with public resolutions approved March 3, 1927, and February 14, 1931, and the Act making appropriations for the Department of State for the fiscal year 1933, including operation of gauging stations where necessary and their equipment; personal services and rent in the District of Columbia and elsewhere; fees for professional services at rates and in amounts to be determined by the Secretary of State; travel expenses, including transportation of effects; printing and binding; subscriptions to foreign and domestic newspapers and periodicals; purchase, exchange, maintenance, repair, and operation of motor-propelled, passenger and freight carrying vehicles; drilling and testing of dam sites, by contract if deemed necessary without regard to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5); equipment and such other miscellaneous expenses as the Secretary of State may deem proper, \$120,000: *Provided*, That the unexpended balance in the appropriation for the International Boundary Commission, United States and Mexico, American Section, contained in the Act making appropriations for the Department of State for the fiscal year 1933 is continued available until June 30, 1934.

INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA
AND ALASKA AND CANADA

To enable the President to perform the obligations of the United States under the treaty between the United States and Great Britain in respect of Canada, signed February 24, 1925; for salaries and expenses, including the salary of the commissioner and salaries of the necessary engineers, clerks, and other employees for duty at the seat of government and in the field; cost of office equipment and supplies; necessary traveling expenses; commutation of subsistence to employees while on field duty, not to exceed \$4 per day each; for payment for timber necessarily cut in keeping the boundary line clear, not to exceed \$500; and for all other necessary and reasonable expenses incurred by the United States in maintaining an effective demarcation of the international boundary line between the United States and Canada and Alaska and Canada under the terms of the treaty aforesaid, including the completion of such remaining work as may be required under the award of the Alaskan Boundary Tribunal and existing treaties between the United States and Great Britain, to be disbursed under the direction of the Secretary of State, \$40,000.

Boundary treaty of 1925, United States and Great Britain. Expenses under. Vol. 44, p. 2102.

Maintenance of established lines.

WATERWAYS TREATY, UNITED STATES AND GREAT BRITAIN: INTERNATIONAL
JOINT COMMISSION, UNITED STATES AND GREAT BRITAIN

For salaries and expenses, including salaries of commissioners and salaries of clerks and other employees appointed by the commissioners on the part of the United States, with the approval solely of the Secretary of State; for necessary traveling expenses, and for expenses incident to holding hearings and conferences at such places in Canada and in the United States as shall be determined by the commission or by the American commissioners to be necessary, including travel expense and compensation of necessary witnesses, making necessary transcript of testimony and proceedings; for cost of law books, books of reference and periodicals, office equipment and supplies; and for one-half of all reasonable and necessary joint expenses of the International Joint Commission incurred under the terms of the treaty between the United States and Great Britain concerning the use of boundary waters between the United States and Canada, and for other purposes, signed January 11, 1909, \$30,400, to be disbursed under the direction of the Secretary of State: *Provided*, That traveling expenses of the commissioners, secretary, and necessary employees shall be allowed in accordance with the provisions of the Subsistence Expense Act of 1926, as amended (U. S. C., Supp. VI, title 5, ch. 16).

International Joint Commission, United States and Great Britain. Salaries, expenses, etc.

Vol. 38, p. 2448.

Provisions.
Travel expenses. Vol. 44, p. 688.
U. S. C., Supp. VI, p. 47.

Special and technical investigations.

Personal services.

For an additional amount for necessary special or technical investigations in connection with matters which fall within the scope of the jurisdiction of the International Joint Commission, including personal services in the District of Columbia or elsewhere, traveling expenses, procurement of technical and scientific equipment, and the purchase, exchange, hire, maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles, \$77,000, to be disbursed under the direction of the Secretary of State, who is authorized to transfer to any department or independent establishment of the Government, with the consent of the head thereof, any part of this amount for direct expenditure by such department or establishment for the purposes of this appropriation.

INTERNATIONAL FISHERIES COMMISSION

International Hal-
but Fisheries Commis-
sion.
Share of expenses.
Post, p. 1872.

For the share of the United States of the expenses of the International Fisheries Commission, under the convention between the United States and Great Britain, concluded May 9, 1930, including salaries of two members and other employees of the commission, traveling expenses, charter of vessels, purchase of books, periodicals, furniture, and scientific instruments, contingent expenses, rent in the District of Columbia, and such other expenses in the United States and elsewhere as the Secretary of State may deem proper, to be disbursed under the direction of the Secretary of State, \$31,500.

International Radio-
telegraph Convention.

INTERNATIONAL RADIOTELEGRAPH CONFERENCE, MADRID, SPAIN

Participation at
Madrid, Spain.
Balance available.
Ante, p. 483.

The unexpended balance of the appropriation "International Radiotelegraph Conference, Madrid, Spain, 1933", shall be available for any North American radio conference or conferences, growing out of the Madrid conference, to be held in Mexico City or elsewhere, including personal services without reference to the Classification Act of 1923, as amended, in the District of Columbia and elsewhere; stenographic reporting and translating services by contract if deemed necessary without regard to the provisions of section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5); rent; traveling expenses; purchase of necessary books and documents; official cards; newspapers and periodicals; printing and binding; entertainment; and such other expenses as may be authorized by the Secretary of State, to be immediately available and to remain available until June 30, 1934.

R. S., sec. 3709, p. 733.
U. S. C., p. 1309.

Judicial.

JUDICIAL

United States Court
for China.

UNITED STATES COURT FOR CHINA

Salaries and expenses.

For salaries of the judge, district attorney, and other officers and employees of the court; court expenses, including reference law books, ice, and drinking water for office purposes; \$32,000.

PRISONS FOR AMERICAN CONVICTS

Consular prisons, etc.

For expenses of maintaining in China, the former Ottoman Empire, Egypt, Ethiopia, Morocco, and Muscat institutions for incarcerating American convicts and persons declared insane by the United States Court for China or any consular court; wages of prison keepers; rent of quarters for prisons; ice and drinking water for prison purposes; and for the expenses of keeping, feeding, and transportation of prisoners and persons declared insane by the United States Court for China or any consular court in China, the former Ottoman Empire, Egypt, Ethiopia, Morocco, and Muscat, so much as may be necessary; \$6,600.

Keepers, quarters,
etc.

Countries designated.

BRINGING HOME PERSONS CHARGED WITH CRIME

Bringing home crim-
inals.
R. S., sec. 5275, p.
1022.
U. S. C., p. 511.

For every expenditure requisite for or incident to the bringing home from foreign countries of persons charged with crime as authorized by section 5275 of the Revised Statutes (U. S. C., title 18, sec. 659), \$2,000.

GENERAL PROVISIONS

Minor purchases,
etc., without advertis-
ing.

Section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5) shall not apply to any purchase or service rendered payable from

the foregoing appropriations when the aggregate amount involved does not exceed \$100 or when the purchase or service relates to the packing of personal and household effects of Diplomatic, Consular, and Foreign Service officers and clerks for foreign shipment.

R. S., sec. 3709, p. 733.
U. S. C., p. 1309.

No portion of the sums appropriated in Title I of this Act shall, unless expressly authorized, be expended for rent or rental allowances in the District of Columbia or elsewhere in the United States.

Rental restriction.

Wherever the Secretary of State, in his discretion, procures information on behalf of corporations, firms, and individuals, the expense of cablegrams and telephone service involved may be charged against the respective appropriations for the service utilized; and reimbursement therefor shall be required from those for whom the information was procured and, when made, be credited to the appropriation under which the expenditure was charged.

Expense, securing information for corporations, etc.

TITLE II.—DEPARTMENT OF JUSTICE

Department of Justice.

OFFICE OF THE ATTORNEY GENERAL

Salaries: For the Attorney General, Solicitor General, Assistant to the Attorney General, and other personal services in the District of Columbia, including the Solicitors of the Treasury, Commerce, and Labor Departments, and the office forces of the Solicitors of the Treasury, Commerce, and Labor Departments; \$1,134,000.

Attorney General,
Solicitor General,
Assistant to Attorney General, etc.
Solicitors, etc.

For the purchase of law books, books of reference, and periodicals, including the exchange thereof, for the Department of Justice, \$7,500: *Provided*, That not to exceed \$2 per volume shall be paid for the current and future volumes of the United States Code, Annotated.

Law books, etc.

Proviso.
Price limit for United States Code, annotated.

CONTINGENT EXPENSES, DEPARTMENT OF JUSTICE

For stationery, furniture and repairs, floor coverings not exceeding \$1,500, file holders and cases; miscellaneous expenditures, including telegraphing and telephones, postage, labor, typewriters and adding machines and the exchange thereof and repairs thereto, street-car fares not exceeding \$300, newspapers, press clippings, and other necessities ordered by the Attorney General; official transportation, including the repair, maintenance, and operation of six motor-driven passenger cars, two for the Attorney General, one for general use of the department, two for the Bureau of Investigation, and one for the Bureau of Prohibition for investigative work, delivery truck, and motor cycle, to be used only for official purposes, and purchase and repair of bicycles, \$85,000: *Provided*, That this appropriation may be reimbursed for expenditures in connection with cars herein authorized for the Bureau of Investigation and Bureau of Prohibition from the appropriations for the expenses of said bureaus when approved in writing by the Attorney General.

Department, contingent expenses.

Proviso.
Reimbursement for car expenses.

For rent of buildings and parts of buildings in the District of Columbia, \$122,000, if space can not be assigned by the Public Buildings Commission in buildings under the control of that commission.

Rent, D. C.

For printing and binding for the Department of Justice and the courts of the United States, \$300,000.

Printing and binding.

For traveling and other miscellaneous and emergency expenses, authorized and approved by the Attorney General, to be expended at his discretion, \$10,000.

Travel, miscellaneous, etc., expenses.

Miscellaneous.

MISCELLANEOUS OBJECTS, DEPARTMENT OF JUSTICE

Conduct of customs cases.
Assistant Attorney General, special attorneys, etc.

Conduct of customs cases: Assistant Attorney General, special attorneys and counselors at law in the conduct of customs cases, to be employed and their compensation fixed by the Attorney General; necessary clerical assistance and other employees at the seat of government and elsewhere, to be employed and their compensation fixed by the Attorney General, including experts at such rates of compensation as may be authorized or approved by the Attorney General; supplies, Supreme Court Reports and Digests, and Federal Reporter and Digests, traveling, and other miscellaneous and incidental expenses, to be expended under the direction of the Attorney General; in all, \$101,500.

Defending suits in claims.

Defending suits in claims against the United States: For necessary expenses incurred in the examination of witnesses, procuring evidence, employment of experts at such rates of compensation as may be authorized or approved by the Attorney General, and such other expenses as may be necessary in defending suits in the Court of Claims, including Indian depredation claims, to be expended under the direction of the Attorney General, \$60,000.

Indian depredation claims.

Detection and prosecution of crimes.

Protection of the President.

Detection and prosecution of crimes: For the detection and prosecution of crimes against the United States; for the protection of the person of the President of the United States; the acquisition, collection, classification, and preservation of identification and other records and their exchange with the duly authorized officials of the Federal Government, of States, cities, and other institutions; for such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; hire, maintenance, upkeep, and operation of motor-propelled passenger-carrying vehicles when necessary; firearms and ammunition, such stationery, supplies, and equipment for use at the seat of government or elsewhere as the Attorney General may direct, including not to exceed \$13,000 for taxicab hire to be used exclusively for the purposes set forth in this paragraph and to be expended under the direction of the Attorney General; traveling expenses; payment of rewards when specifically authorized by the Attorney General for information leading to the apprehension of fugitives from justice, and including not to exceed \$493,154 for personal services in the District of Columbia; \$2,589,500.

Services in the District.

Examination of judicial offices.

Examination of judicial offices: For the investigation of the official acts, records, and accounts of marshals, attorneys, clerks of the United States courts and Territorial courts, probation officers, and United States commissioners, for which purpose all the official papers, records, and dockets of said officers, without exception, shall be examined by the agents of the Attorney General at any time; and also, when requested by the presiding judge, the official acts, records, and accounts of referees and trustees of such courts; for copying, in the District of Columbia or elsewhere, reports of examiners at folio rates; traveling expenses; and including not to exceed \$125,529 for personal services in the District of Columbia; in all, \$196,000; to be expended under the direction of the Attorney General.

Investigating official acts, records, etc., of court officers.

Services in the District.

Enforcement of antitrust laws.

Enforcement of antitrust laws: For the enforcement of antitrust laws, including experts at such rates of compensation as may be authorized or approved by the Attorney General, including not to exceed \$39,069 for personal services in the District of Columbia, \$153,633.

SALARIES AND EXPENSES, BUREAU OF PRISONS

Salaries and expenses: For salaries and expenses in connection with the supervision of the maintenance and care of United States prisoners, including not to exceed \$179,163 for personal services in the District of Columbia and elsewhere, traveling expenses, and expenses of attendance at meetings concerned with the work of such bureau when authorized by the Attorney General; \$204,000.

Bureau of Prisons.

Salaries and expenses.

Vol. 46, p. 325.

BUREAU OF PROHIBITION

Salaries and expenses: For expenses to enforce and administer the applicable provisions of the National Prohibition Act, as amended and supplemented (U. S. C., title 27), and internal revenue laws, pursuant to the Act of March 3, 1927 (U. S. C., Supp. V, title 5, secs. 281-281e), and the Act of May 27, 1930 (U. S. C., Supp. V, title 27, secs. 144-192), including the employment of executive officers, attorneys, agents, inspectors, investigators, supervisors, clerks, messengers, and other personnel, in the District of Columbia and elsewhere, to be appointed as authorized by law; the securing of evidence of violations of the Acts; the cost of chemical analysis made by other than employees of the United States and expenses incident to the giving of testimony in relation thereto; the purchase of stationery, supplies, equipment, mechanical devices, newspapers, and periodicals not to exceed \$350, books, including law books and books of reference, and such other expenditures as may be necessary in the District of Columbia and the several field offices; costs incurred in the seizure, storage, and disposition of liquor and property seized under the National Prohibition Act, including seizures made under the internal revenue laws if a violation of the National Prohibition Act is involved and disposition is made under section 3460, Revised Statutes (U. S. C., title 26, sec. 1193); costs incurred in the seizure, storage, and disposition of any vehicle and team or automobile, boat, air or water craft, or any other conveyance, seized pursuant to section 26, Title II, of the National Prohibition Act, when the proceeds of sale are insufficient therefor or where there is no sale; purchase of passenger-carrying motor vehicles at a total cost of not to exceed \$50,000, including the value of any vehicles exchanged, and the hire, maintenance, repair, and operation of motor-propelled or horse-drawn passenger-carrying vehicles for official use in field work; and for rental of quarters; in all, \$8,440,000, of which amount not to exceed \$336,453 may be expended for personal services in the District of Columbia: *Provided*, That no part of this appropriation shall be used for or in connection with "wire tapping" to procure evidence of violations of the National Prohibition Act, as amended and supplemented: *Provided further*, That no funds hereby appropriated shall be used for the purchase of intoxicating liquors which are consumed by the investigator or anyone with him, nor to pay informers, nor for the purchase of evidence except that the Director of Prohibition may authorize the payments of rewards for information of major violations of the law.

Prohibition Bureau.

Salaries and expenses.
Vol. 41, p. 305; Vol. 42, p. 222; Vol. 44, p. 1381; Vol. 46, p. 427.
U. S. C., p. 853; Supp. VI, pp. 24, 595, 596.

Securing evidence.

Supplies, etc.

Seizures, etc.

Proceedings.

R. S., sec. 3460, p. 685.
U. S. C., p. 846.

Vol. 41, p. 315.
U. S. C., p. 858.

Services in the District.
Provision.
"Wire tapping" forbidden.

Restriction on securing evidence.

JUDICIAL

Judicial.

UNITED STATES SUPREME COURT

United States Supreme Court.

Salaries of Justices.
All other officers, etc.

Salaries: For the Chief Justice and eight Associate Justices; reporter of the court; and all other officers and employees, whose compensation shall be fixed by the court, except as otherwise provided by law, and who may be employed and assigned by the Chief Justice to any office or work of the court, including an additional

assistant to the reporter of the court, if the court deems one necessary, to enable the reporter to expedite the publication of its reports; \$279,173.

Printing and binding.

Printing and binding: For printing and binding for the Supreme Court of the United States, \$21,000, to be expended as required without allotment by quarters, and to be executed by such printer as the court may designate.

Miscellaneous expenses.

Miscellaneous expenses: For miscellaneous expenses of the Supreme Court of the United States, including rent of office for the reporter in Washington, to be expended as the Chief Justice may direct, \$15,000.

Judges.

SALARIES AND EXPENSES OF JUDGES

Circuit and district.

Salaries of judges: For forty circuit judges; one hundred and fifty-one district judges (including two in the Territory of Hawaii, one in the Territory of Puerto Rico, and four in the Territory of Alaska); and judges retired under section 260 of the Judicial Code, as amended, and section 518 of the Tariff Act of 1930, and general appraiser retired under section 518 of the Tariff Act of 1922; in all, \$2,217,417: *Provided*, That this appropriation shall be available for the salaries of all United States justices and circuit and district judges lawfully entitled thereto whether active or retired.

Retired.
Vol. 40, p. 1157.
U. S. C., p. 908.
Customs Court.
Vol. 42, p. 972; Vol.
46, p. 737.
Proviso.
Availability.

Expenses of judges.

Expenses of judges: For expenses of circuit and district judges of the United States and the judges of the district courts of the United States in Alaska, Puerto Rico, and Hawaii, as provided by law, \$111,000.

Court of Customs and Patent Appeals.

COURT OF CUSTOMS AND PATENT APPEALS

Salaries.

Salaries: Presiding judge and four associate judges and all other officers and employees of the court, \$84,300.

Expenses.

General expenses: For books and periodicals, including their exchange; stationery, supplies, traveling expenses; drugs, chemicals, cleansers, furniture; and for such other miscellaneous expenses as may be approved by the presiding judge; \$4,500.

Printing, etc.

For printing and binding, \$6,000.

Customs Court.

UNITED STATES CUSTOMS COURT

Judges; other officers, etc.

Salaries: Presiding judge and eight judges; and all other officers and employees of the court; \$209,300.

Expenses.

General expenses: For books and periodicals, including their exchange; stationery, supplies, traveling expenses; and for such other miscellaneous expenses as may be approved by the presiding judge, \$15,700.

Printing, etc.

For printing and binding, \$2,000.

Court of Claims.

COURT OF CLAIMS

Salaries.

Salaries: Chief justice and four judges; chief clerk at not exceeding \$6,500; auditor at not exceeding \$5,000; and all other officers and employees of the court, \$102,000.

Commissioners, salaries, etc.

Salaries and expenses of commissioners: For salaries of five commissioners at \$7,500 each, and for travel expenses, compensation of stenographers authorized by the court, and for stenographic and other fees and charges necessary in the taking of testimony and in the performance of the duties as authorized by the Act entitled "An Act amending section 2 and repealing section 3 of the Act approved February 24, 1925 (U. S. C., title 28, secs. 269, 270), entitled 'An Act to authorize the appointment of commissioners by the Court of Claims and to prescribe their powers and compensation', and for

Vol. 43, p. 964; Vol.
46, p. 799.
U. S. C., Supp. VI,
p. 614.

other purposes", approved June 23, 1930 (U. S. C., Supp. V, title 28, sec. 270), \$52,000.

General expenses: For printing and binding, \$30,000.

For stationery, court library, repairs, fuel, electric light, electric elevator, and other miscellaneous expenses, \$6,000.

For necessary repairs, furnishings, and improvements to the Court of Claims buildings, to be expended under the supervision of the Architect of the Capitol, \$4,500.

The Court of Claims is authorized and directed to prescribe a graduated schedule of charges to be made and collected for certified copies of its decisions and findings of fact. The minimum charge to be prescribed for any such copy shall not be less than 25 cents.

TERRITORIAL COURTS

HAWAII: For salaries of the chief justice and two associate justices, and for judges of the circuit courts, \$81,167.

MARSHALS, DISTRICT ATTORNEYS, CLERKS, AND OTHER EXPENSES OF UNITED STATES COURTS

Salaries and expenses of marshals, and so forth: For salaries, fees, and expenses of United States marshals and their deputies, including services rendered in behalf of the United States or otherwise, services in Alaska in collecting evidence for the United States when so specially directed by the Attorney General, traveling expenses, and maintenance, alteration, repair, and operation of motor-propelled passenger-carrying vehicles used in connection with the transaction of the official business of the United States marshals, \$3,935,500.

Salaries and expenses of district attorneys, and so forth: For salaries, traveling, and other expenses of United States district attorneys and their regular assistants, clerks, and other employees, including the office expenses of United States district attorneys in Alaska, and for salaries of regularly appointed clerks to United States district attorneys for services rendered during vacancy in the office of the United States district attorney, \$3,049,020.

Salaries and expenses of special attorneys, and so forth: For compensation and traveling expenses of special attorneys and assistants to the Attorney General and to United States district attorneys employed by the Attorney General to aid in special cases, and for payment of foreign counsel employed by the Attorney General in special cases, \$336,717: *Provided*, That the amount paid as compensation out of the funds herein appropriated to any person employed hereunder shall not exceed \$10,000.

Salaries and expenses, clerks of courts: For salaries of clerks of United States circuit courts of appeals and United States district courts, their deputies, and other assistants, travel expenses pursuant to the subsistence expense Act of 1926, as amended (U. S. C., Supp. VI, title 5, secs. 821-833), and other expenses of conducting their respective offices, \$1,856,580.

Fees of commissioners: For fees of the United States commissioners and other committing magistrates acting under section 1014, Revised Statutes (U. S. C., title 18, sec. 591), \$550,000: *Provided*, That the statutory fees of United States commissioners for services rendered after June 30, 1933, shall be applicable and payable only when an account therefor is rendered by the commissioner within one year after the rendition of such services.

Fees of jurors and witnesses: For mileage and per diems of jurors; for mileage and per diems of witnesses and for per diems in lieu of subsistence; and for payment of the expenses of witnesses, as provided by section 850, Revised Statutes (U. S. C., title 28, sec. 604),

General expenses.

Repairs to buildings.

Certified copies of decisions.
Graduated scale of charges to be prescribed.

Territorial courts.

Hawaii.

United States courts.

Marshals.
Salaries, etc.

Alaska.
Traveling expenses, etc.

District attorneys.
Salaries, etc.

Special assistants.

Foreign counsel.

Proviso.
Compensation limitation.

Clerks of courts, etc.
Salaries, etc.

Travel expenses.
Vol. 44, p. 688.
U. S. C., Supp. VI, p. 47.

Commissioners, etc.
R. S., sec. 1014, p. 189.
U. S. C., p. 506.
Proviso.
Accounts for services to be rendered within year.

Jurors and witnesses.
Mileage and per diem.
R. S., sec. 850, p. 160.
U. S. C., p. 927.

- including the expenses, mileage, and per diems of witnesses on behalf of the Government before the United States Customs Court, such payments to be made on the certification of the attorney for the United States and to be conclusive as provided by section 846, Revised Statutes (U. S. C., title 28, sec. 577), \$3,135,000; *Provided*, That not to exceed \$10,000 of this amount shall be available for such compensation and expenses of witnesses or informants as may be authorized or approved by the Attorney General, which approval shall be conclusive: *Provided further*, That no part of the sum herein appropriated shall be used to pay any witness more than one attendance fee for any one calendar day.
- Rent.** Rent: For rent of rooms for the United States courts and judicial officers, \$73,500.
- Bailiffs, criers, etc.** Salaries and expenses of bailiffs, etc.: For bailiffs, not exceeding three bailiffs in each court, except in the southern district of New York and the northern district of Illinois¹; meals and lodging for jurors in United States cases, and of bailiffs in attendance upon the same, when ordered by the court, and meals and lodging for jurors in Alaska, as provided by section 193, Title II, of the Act of June 6, 1900 (U. S. C., title 28, Secs. 9, 557-570, 595, 596), and compensation for jury commissioners, \$5 per day, not exceeding three days for any one term of court, \$253,000: *Provided*, That no per diem shall be paid to any bailiff unless the court is actually in session and the judge present and presiding or present in chambers.
- Miscellaneous.** Miscellaneous expenses: For such miscellaneous expenses as may be authorized or approved by the Attorney General, for the United States courts and their officers, including experts at such rates of compensation as may be authorized or approved by the Attorney General, including also so much as may be necessary in the discretion of the Attorney General for such expenses in the District of Alaska and in courts other than Federal courts, and including traveling expenses pursuant to the Subsistence Expense Act of 1926, as amended (U. S. C., Supp. VI, title 5, ch. 16), \$884,000: *Provided*, That the maximum salary paid to any law clerk to any circuit judge shall not exceed \$2,400 per annum.
- Supplies, etc.** Supplies: For supplies, including the exchange of typewriting and adding machines, for the United States courts and judicial officers, including firearms and ammunition therefor, to be expended under the direction of the Attorney General, \$85,000.
- Law books for judicial officers.** Law books: For the purchase of law books, including the exchange thereof, for United States judges, district attorneys, and other judicial officers, including the libraries of the ten United States circuit courts of appeals, for the purchase of the Federal Reporter and continuations thereto as issued, to be expended under the direction of the Attorney General, \$75,000: *Provided*, That such books shall in all cases be transmitted to their successors in office; all books purchased thereunder to be marked plainly, "The property of the United States": *Provided further*. That not to exceed \$2 per volume shall be paid for the current and future volumes of the United States Code, Annotated.

PENAL AND CORRECTIONAL INSTITUTIONS

Penal, etc., institutions.

Services, supplies, etc.

For all services, supplies, materials, and equipment in connection with or incident to the subsistence and care of inmates and maintenance and upkeep of Federal penal and correctional institutions, including farm and other operations not otherwise specifically provided for in the discretion of the Attorney General; gratuities for inmates at release, provided such gratuities shall be furnished to

¹ So in original.

inmates sentenced for terms of imprisonment of not less than six months, and transportation to the place of conviction or bona fide residence at the time of conviction or to such other place within the United States as may be authorized by the Attorney General; expenses of interment or transporting remains of deceased inmates to their homes in the United States; maintenance and repair of passenger-carrying vehicles; traveling expenses of institution officials and employees when traveling on official duty, including expenses of attendance at meetings concerned with the work of the several institutions when authorized by the Attorney General, and including expenses incurred in pursuing and identifying escaped inmates; traveling expenses of members of advisory boards authorized by law incurred in the discharge of their official duties; rewards for the capture of escaped inmates; newspapers, books, and periodicals; firearms and ammunition; tobacco for inmates; and the purchase and exchange of farm products and livestock, when authorized by the Attorney General: *Provided*, That any part of the appropriations under this heading used for payment of salaries of personnel employed in the operation of prison commissaries shall be reimbursed from commissary earnings, and such reimbursement shall be in addition to the amounts appropriated herein.

Prison industries working capital fund: Prison industries working capital fund, 1933 and prior years, is reappropriated and made available for the fiscal year 1934, including payment of obligations incurred in prior years; and the said working capital fund and all receipts credited thereto may be used as a revolving fund for the fiscal year 1934, for the purposes authorized by the Act entitled "An Act to provide for the diversification of employment of Federal prisoners for their training and schooling in trades and occupations, and for other purposes," approved May 27, 1930 (U. S. C., Supp. V, title 18, secs. 744d, 744e, 744f): *Provided*, That no part of this appropriation shall be used for the procurement and/or installation in any Federal correctional or penal institution of machinery for the manufacture of metal furniture and/or metal office equipment: *Provided*, That \$400,000 of the prison industries working capital fund shall, on or before June 30, 1933, be covered into the Treasury of the United States to the credit of "Miscellaneous receipts": *Provided further*, That no part of the prison industries working capital fund, during the fiscal year ending June 30, 1934, shall be used for the purchase of yarn from private industry for the manufacture of cotton duck.

Medical and hospital service: For medical relief for, and incident to the care and maintenance of, inmates of penal and correctional institutions, including personal services in the District of Columbia and elsewhere, medical, surgical, and hospital supplies, materials, equipment, and appliances, together with appliances necessary for patients, \$426,000, which amount, in the discretion of the Attorney General, may be transferred to the Public Health Service for direct expenditure under the laws, appropriations, and regulations governing the Public Health Service: *Provided*, That of this appropriation not to exceed \$105,000 may be expended for the hospital for defective delinquents.

United States penitentiary, Leavenworth, Kansas: For the United States penitentiary at Leavenworth, Kansas, including not to exceed \$623,500 for salaries and wages of all officers and employees, \$1,468,000.

For construction and repair of buildings, including the purchase and installation of machinery and equipment, and all expenses inci-

Proviso.
Prison commissaries.

Prison industries working capital fund.
Reappropriation.
Vol. 46, p. 1377.
Anie, p. 493.

Receipts credited to revolving fund.
Vol. 46, p. 391.
U. S. C., Supp. VI, p. 248.

Proviso.
Use for manufacture of metal furniture, etc., forbidden.

Sum covered in.

Yarn for cotton duck.

Medical and hospital service.

Public Health Service details.

Proviso.
Defective delinquents.

Penitentiaries.
Leavenworth, Kans.
Maintenance.

Building construction, etc.

dent thereto, to be expended so as to give the maximum amount of employment to inmates of the institution, \$5,400.

Atlanta, Ga.
Maintenance.

United States penitentiary, Atlanta, Georgia: For the United States penitentiary at Atlanta, Georgia, including not to exceed \$376,350 for salaries and wages of all officers and employees, \$920,000.

McNeil Island,
Wash.
Maintenance.

United States penitentiary, McNeil Island, Washington: For the United States penitentiary at McNeil Island, Washington, including not to exceed \$200,000, for salaries and wages of all officers and employees, \$406,400.

Building construc-
tion, etc.

For construction and repair of buildings, including the purchase and installation of machinery and equipment, and all expenses incident thereto, and including \$36,000 for development of water system, the ultimate cost of which shall not exceed \$85,000, to be expended so as to give the maximum amount of employment to inmates of the institution, the sum of \$36,000 is made available from the unexpended balance of the appropriation "Federal jails, construction", contained in the Act making appropriations for the Department of Justice for the fiscal year 1932.

Sum available.
Vol. 46, p. 1328.

Northeastern Peni-
tentiary.
Maintenance.

United States Northeastern Penitentiary: For the United States penitentiary in the Northeast, including not to exceed \$222,400 for salaries and wages of all officers and employees, \$493,000.

Industrial Institu-
tion for Women.
Maintenance.

Federal Industrial Institution for Women, Alderson, West Virginia: For the Federal Industrial Institution for Women at Alderson, West Virginia, including not to exceed \$125,448 for salaries and wages of all officers and employees, \$285,700.

Industrial Reforma-
tory.
Maintenance.

United States Industrial Reformatory, Chillicothe, Ohio: For the United States Industrial Reformatory at Chillicothe, Ohio, including not to exceed \$260,358 for salaries and wages of all officers and employees, \$543,000.

Construction, etc.
Sum available.
Vol. 46, p. 1328.

Construction: The sum of \$40,000 is made available from the unexpended balance of the appropriation "Federal jails, construction", contained in the Act making appropriations for the Department of Justice for the fiscal year 1932, for completing the remodeling and construction of the necessary buildings and appurtenances, purchase of mechanical equipment, and other expenses incident to the construction of buildings in accordance with the provisions of "An Act for the establishment of a United States Industrial Reformatory," approved January 7, 1925 (U. S. C., title 18, sec. 832), to be expended under the direction and upon the written order of the Attorney General, or his authorized representative, by contract or purchase of material and hire of labor and services and utilization of labor of United States prisoners, as the Attorney General may direct, to be immediately available and to remain available until expended: *Provided*, That the Secretary of the Treasury, if in his discretion it would be impracticable to cause the plans, drawings, designs, specifications, and estimates for the remodeling and construction of the necessary buildings to be prepared in the Office of the Supervising Architect of the Treasury Department, and the work of remodeling and constructing the said buildings to be supervised by the field force of said office, may contract for all or any portion of such work to be performed by such suitable person or firm as he may select.

Vol. 43, p. 724.
U. S. C., p. 520.

Proviso.
Outside architects,
etc., authorized.

Southwestern Re-
formatory.
Maintenance.

United States Southwestern Reformatory: For the United States Southwestern Reformatory, including not to exceed \$169,210 for salaries and wages of all officers and employees, \$263,000.

Hospital for defective
delinquents.
Maintenance.
Ambulance.

United States Hospital for Defective Delinquents: For the United States Hospital for Defective Delinquents, including not to exceed \$112,530 for salaries and wages of all officers and employees and not to exceed \$2,000 for the purchase of an ambulance, \$311,500.

For completing the United States Hospital for Defective Delinquents, including the cost of purchasing a site, remodeling, constructing, and equipping the necessary buildings thereon, purchase of mechanical equipment, and all other expenses incident thereto, as authorized by the Act entitled "An Act to establish a hospital for defective delinquents," approved May 13, 1930 (U. S. C., Supp. V, title 18, secs. 871, 872, 880), to be expended under the direction and upon the written order of the Attorney General, by contract or purchase of material and hire of labor and services and utilization of labor of United States prisoners, as the Attorney General may direct, the sum of \$145,000 is made immediately available from the unexpended balance of the appropriation "Federal jails, construction", contained in the Act making appropriations for the Department of Justice for the fiscal year 1932, to remain available until expended.

Completion of construction, etc.
Vol. 46, p. 270.
U. S. C., Supp. VI, pp. 252, 253.

Sum available.
Vol. 46, p. 1328.

Federal jails: For maintenance and operation of Federal jails, including not to exceed \$411,201 for salaries and wages of all officers and employees, \$600,000.

Federal jails.
Maintenance, etc.

Prison camps: For the construction and repair of buildings at prison camps, the purchase and installation of machinery and equipment, and all necessary expenses incident thereto, and for the maintenance of United States prisoners at prison camps, including the maintenance, alteration, repair, and operation of a motor-propelled passenger-carrying bus, to be expended so as to give the maximum amount of employment to prisoners, \$346,000: *Provided*, That reimbursements from this appropriation made to the War or other departments for supplies or subsistence shall be at the net contract or invoice price notwithstanding the provisions of any other Act.

Prison camps.
Construction, maintenance, etc.

Proviso.
Repayment basis.

Federal Correctional Camp, Eustis, Virginia: For the Federal Correctional Camp at Eustis, Virginia, including not to exceed \$103,901 for salaries and wages of all officers and employees, \$236,000.

Correctional, etc., camps.
Eustis, Va.

Federal Reformatory Camp, Petersburg, Virginia: For the Federal Reformatory Camp at Petersburg, Virginia, including not to exceed \$100,251 for salaries and wages of all officers and employees, \$232,000.

Petersburg, Va.

National Training School for Boys, Washington, District of Columbia: For the National Training School for Boys, Washington, District of Columbia, including expenses of a suitable attendant to accompany the remains of deceased inmates to their homes for burial; and including not to exceed \$110,000 for salaries and wages of all officers and employees; \$218,000.

National Training School for Boys, D. C.
Maintenance.

Probation system, United States courts: For salaries and expenses of probation officers, as authorized by the Act entitled "An Act to amend the Act of March 4, 1925, chapter 521, and for other purposes," approved June 6, 1930 (U. S. C., Supp. V, title 18, sec. 726), \$434,543: *Provided*, That not to exceed \$90,000 of this appropriation may be expended for traveling expenses: *Provided further*, That no part of the appropriation herein made shall be used to pay any probation officer a salary in excess of \$2,600 per annum: *Provided further*, That no part of this or any other appropriation in this Act shall be used to defray the salary or expenses of any probation officer who does not comply with the official orders, regulations, and probation standards promulgated by the Attorney General.

Probation system.
Maintenance, etc.
Vol. 43, p. 1259; Vol. 46, p. 503.
U. S. C., p. 516;
Supp. VI, p. 247.
Provisos.
Travel expenses.
Salary limitation.

Conditions imposed.

Support of prisoners: For support of United States prisoners, in non-Federal institutions and in the Territory of Alaska, including necessary clothing and medical aid, discharge gratuities provided by law and transportation to place of conviction or place of bona fide residence in the United States, or such other place within the United States as may be authorized by the Attorney General; and including

Support of prisoners.

Rent, etc.
Vol. 46, p. 326.
U. S. C., Supp. VI,
p. 246.

rent, repair, alteration, and maintenance of buildings and the maintenance of prisoners therein, occupied under authority of sections 4 and 5 of the Act of May 14, 1930 (U. S. C., Supp. V, title 18, sec. 696); support of prisoners becoming insane during imprisonment, and who continue insane after expiration of sentence, who have no friends to whom they can be sent; shipping remains of deceased prisoners to their friends or relatives in the United States, and interment of deceased prisoners whose remains are unclaimed; expenses incurred in identifying, pursuing, and returning escaped prisoners and for rewards for their recapture; and for repairs, betterments, and improvements of United States jails, including sidewalks, \$3,088,000.

Additional sums for
objects specified.

In addition to the appropriations herein made for "Salaries and expenses, clerks of courts", "Salaries and expenses of district attorneys, and so forth", and "Enforcement of antitrust laws", the sum of \$175,000 of the unexpended balance of the appropriation "Federal jails, construction", contained in the Act making appropriations for the Department of Justice for the fiscal year 1932, is hereby made available for the fiscal year 1934 for the purposes enumerated in such appropriations, and in such amounts as the Attorney General, in writing, may designate.

Vol. 46, p. 1328.

Department of Com-
merce.

TITLE III.—DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

Secretary, Assistant,
and other personnel.

Salaries: Secretary of Commerce, Assistant Secretary, and other personal services in the District of Columbia, including the chief clerk and superintendent, who shall be chief executive officer of the department and who may be designated by the Secretary of Commerce to sign official papers and documents during the temporary absence of the Secretary and the Assistant Secretary of the department, \$279,590.

CONTINGENT EXPENSES, DEPARTMENT OF COMMERCE

Contingent and mis-
cellaneous expenses.

For contingent and miscellaneous expenses of the offices and bureaus of the department, except the Patent Office, including those for which appropriations for contingent and miscellaneous expenses are specifically made, including professional and scientific books, law books, books of reference, periodicals, blank books, pamphlets, maps, newspapers (not exceeding \$2,500); purchase of atlases or maps; stationery; furniture and repairs to same; carpets, matting, oilcloth, file cases, towels, ice, brooms, soap, sponges; fuel, lighting, and heating; not to exceed \$3,500 for the purchase and exchange of one passenger-carrying automobile for the Secretary of Commerce; purchase and exchange of motor trucks and bicycles; maintenance, repair, and operation of three motor-propelled passenger-carrying vehicles (one for the Secretary of Commerce and two for the general use of the department), and motor trucks and bicycles, to be used only for official purposes; freight and express charges; postage to foreign countries; telegraph and telephone service; typewriters, adding machines, and other labor-saving devices, including their repair and exchange; first-aid outfits for use in the buildings occupied by employees of this department; street-car fares, not exceeding \$500; and all other miscellaneous items and necessary expenses not included in the foregoing, \$220,000, which sum shall constitute the appropriation for contingent expenses of the department, except the Patent Office, and shall also be available for the purchase of necessary supplies and equipment for field services of bureaus and offices of the

Field service sup-
plies, etc.
Purchases.

department for which contingent and miscellaneous appropriations are specifically made in order to facilitate the purchase through the central purchasing office (Division of Purchases and Sales), as provided by law.

For all printing and binding for the Department of Commerce, including all of its bureaus, offices, institutions and services in the District of Columbia and elsewhere, except the Patent Office, \$460,000: *Provided*, That an amount not to exceed \$2,000 of this appropriation may be expended for salaries of persons detailed from the Government Printing Office for service as copy editors.

Printing and binding.

Proviso.
Copy editors.

FEDERAL EMPLOYMENT STABILIZATION BOARD

Salaries and expenses: To enable the Secretary of Commerce to carry out the provisions of the Employment Stabilization Act of 1931, approved February 10, 1931 (U. S. C., Supp. V, title 29, secs. 48-48g), including personal services in the District of Columbia and elsewhere, traveling expenses, purchases of equipment, furniture, stationery and office supplies, printing and binding, repairs to equipment, law books, books of reference, and other necessary publications, and to procure by contract or otherwise any information or data concerning construction which may be considered pertinent, and all other incidental expenses not included in the foregoing, \$65,000 of which amount to exceed \$54,100 may be expended for personal services in the District of Columbia.

Federal Employment Stabilization Board.
Salaries and expenses.
Vol. 46, p. 1084.
U. S. C., Supp. VI, p. 629.

Services in the District.

AIRCRAFT IN COMMERCE

Aircraft in commerce: To carry out the provisions of the Act approved May 20, 1926, entitled "An Act to encourage and regulate the use of aircraft in commerce, and for other purposes" (U. S. C., title 49, secs. 171-184), as amended by the Act approved February 28, 1929 (U. S. C., Supp. V, title 49, sec. 173d), including salary of Assistant Secretary of Commerce (provided for in the Act cited above), and other personal services in the District of Columbia (not to exceed \$276,375), and elsewhere; rent in the District of Columbia and elsewhere; traveling expenses; contract stenographic reporting services; fees and mileage of witnesses; purchase of furniture and equipment; stationery and supplies, including medical supplies, typewriting, adding, and computing machines, accessories and repairs; purchase, including exchange (not to exceed \$2,000), maintenance, operation, and repair of motor-propelled passenger-carrying vehicles for official use in field work; purchase and replacement, including exchange, of airplanes (not to exceed \$45,500); purchase of airplane motors, airplane and motor accessories and spare parts; maintenance, operation, and repair of airplanes and airplane motors; purchase of special clothing, wearing apparel, and similar equipment for aviation purposes; purchase of books of reference and periodicals; newspapers, reports, documents, plans, specifications, maps, manuscripts, and all other publications; and all other necessary expenses not included in the foregoing; in all, \$1,070,570: *Provided*, That none of the money appropriated in this Act shall be used for the purchase of any airplane ordered after the approval of this Act which is equipped or propelled by a Liberty motor or by any motor or airplane engine purchased or constructed prior to July 1, 1920.

Aircraft in commerce.

Services and expenses.
Vol. 44, p. 568; Vol. 45, p. 1404.
U. S. C., p. 2119; Supp. VI, p. 862.

Purchases of airplanes, accessories, etc.

Proviso.
Liberty, etc., motors.

Air-navigation facilities: For the establishment and maintenance of aids to air navigation, including the equipment of additional air mail routes for day and night flying; the construction of necessary lighting, radio, and other signalling and communicating structures

Air navigation facilities.
Establishment and maintenance of aids, mail routes, etc.

Services in the District.

Proviso.
Use restricted.
Vol. 44, p. 568.

Attendance at meetings.
Appropriations available.

Foreign and Domestic Commerce Bureau.

Director, and office personnel.

Foreign Commerce Service.
Expenses.
Vol. 44, p. 1394.
U. S. C., Supp. VI, p. 161.

Personal services.

Outside rent.

Promoting commerce in Europe, etc.

In Latin America.

In the Far East.

In Africa.

District and cooperative office service.
Maintenance, etc.

and apparatus; repairs, alterations, and all expenses of maintenance and operation; investigation, research, and experimentation to develop and improve aids to air navigation; for personal services in the District of Columbia (not to exceed \$135,200) and elsewhere; purchase, maintenance, operation, and repair of motor-propelled passenger-carrying vehicles for official use in field work, including their exchange; replacement, including exchange, of not to exceed two airplanes, maintenance, operation, and repair of airplanes, including accessories and spare parts and special clothing, wearing apparel, and suitable equipment for aviation purposes; and for the acquisition of the necessary sites by lease or grant, \$6,590,210: *Provided*, That no part of this appropriation shall be used for any purpose not authorized by the Air Commerce Act of 1926.

Appropriations herein made for aircraft in commerce and air navigation facilities shall be available for expenses of attendance at meetings concerned with the promotion of civil aeronautics, and also expenses of illustrating the work of the Aeronautics Branch by showing of maps, charts, and graphs a ¹ such meetings, when incurred on the written authority of the Secretary of Commerce.

BUREAU OF FOREIGN AND DOMESTIC COMMERCE

Salaries: For the director and other personal services in the District of Columbia, \$225,000.

For carrying out the provisions of the Act approved March 3, 1927 (U. S. C., Supp. V, title 15, secs. 197-197f), to establish in the Bureau of Foreign and Domestic Commerce of the Department of Commerce a Foreign Commerce Service of the United States, including personal services in the District of Columbia and elsewhere, the compensation of a clerk or clerks for each commercial attaché at the rate of not to exceed \$3,000 per annum for each person so employed, rent outside the District of Columbia, telephone service, purchase of furniture and equipment, stationery and supplies, typewriting, adding, duplicating, and computing machines, accessories and repairs, law books, books of reference and periodicals, uniforms, maps, reports, documents, plans, specifications, manuscripts, newspapers (foreign and domestic) not exceeding \$4,000, and all other publications, traveling expenses of officers and employees, ice and drinking water for office purposes, and all other incidental expenses not included in the foregoing, to be expended under the direction of the Secretary of Commerce, and under the following heads:

Promoting commerce in Europe and other areas: Investigations in Europe and other areas for the promotion and development of the foreign commerce of the United States, \$626,000;

Promoting commerce in Latin America: Investigations in Latin America for the promotion and development of the foreign commerce of the United States, \$402,000;

Promoting commerce in the Far East: Investigations in the Far East for the promotion and development of the foreign commerce of the United States, \$337,000;

Promoting commerce in Africa: Investigations in Africa for the promotion and development of the foreign commerce of the United States, \$79,640;

District and cooperative office service: For all expenses necessary to operate and maintain district and cooperative offices, including personal services in the District of Columbia and elsewhere, rent

¹ So in original.

outside of the District of Columbia, traveling expenses of officers and employees, purchase of furniture and equipment, stationery and supplies, typewriting, adding, and computing machines, accessories and repairs, purchase of maps, books of reference and periodicals, reports, documents, plans, specifications, manuscripts, not exceeding \$1,200 for newspapers, both foreign and domestic, and all other publications necessary for the promotion of the commercial interests of the United States, and all other incidental expenses not included in the foregoing, \$400,000: *Provided*, That the Secretary of Commerce shall require as a condition for the opening of a new office or the continuation of an existing office, except in cases where space is available in Federal buildings or in Federal buildings for the construction of which contracts have been let, that commercial organizations in the district affected provide suitable quarters without cost to the Government on and after September 1, 1932;

Proviso.
Conditions for opening new offices.

Enforcement of China Trade Act: To carry out the provisions of the Act entitled "China Trade Act, 1922" (U. S. C., title 15, secs. 141-162), including personal services in the District of Columbia and elsewhere, traveling expenses of officers and employees, purchase of furniture and equipment, stationery and supplies, typewriting, adding and computing machines, accessories and repairs, purchase of books of reference and periodicals, reports, documents, plans, specifications, maps, manuscripts, and all other publications, rent outside the District of Columbia, ice and drinking water for office purposes; and all necessary expenses not included in the foregoing, \$15,800: *Provided*, That payment in advance for telephone and other similar services under this appropriation is hereby authorized;

China Trade Act.
Enforcement expenses.
Vol. 42, p. 849; Vol. 43, p. 995.
U. S. C., p. 367.

Export industries: To enable the Bureau of Foreign and Domestic Commerce to investigate and report on domestic as well as foreign problems relating to the production, distribution, and marketing, in so far as they relate to the important export industries of the United States, including personal services in the District of Columbia, traveling expenses of officers and employees, purchase of furniture and equipment, stationery and supplies, typewriting, adding, and computing machines, accessories and repairs, books of reference and periodicals, reports, documents, plans, specifications, manuscripts, and all other publications, rent outside of the District of Columbia, ice and drinking water for office purposes, and all other incidental expenses connected therewith, \$692,800;

Proviso.
Advance payments.

Export industries.
Investigating problems of.

Domestic commerce and raw materials investigations: For all expenses, including personal services in the District of Columbia and elsewhere, purchase of books of reference and periodicals, furniture and equipment, stationery and supplies, typewriting, adding, and computing machines, accessories and repairs, medical supplies and first-aid outfits, reports, documents, plans, specifications, manuscripts, maps, and all other publications, rent outside of the District of Columbia, traveling expenses of officers and employees, and all other incidental expenses not included in the foregoing, to enable the Bureau of Foreign and Domestic Commerce to collect and compile information regarding the disposition and handling of raw materials and manufactures within the United States; and to investigate the conditions of production and marketing of foreign raw materials essential for American industries; \$266,000;

Outside rent.

Domestic raw materials and manufactures.
Compiling data as to disposition of, etc.

Customs statistics: For all expenses necessary for the operation of the section of customs statistics transferred to the Department of Commerce from the Treasury Department by the Act approved January 5, 1923 (U. S. C., title 15, sec. 194), including personal services in the District of Columbia and elsewhere; rent of or purchase of tabulating, punching, sorting, and other mechanical labor-saving machin-

Foreign raw materials.

Customs statistics.
Expenses of collecting, compiling, etc.
Vol. 42, p. 1109.
U. S. C., p. 373.

ery or devices, including adding, typewriting, billing, computing, mimeographing, multigraphing, photostat, and other duplicating machines and devices, including their exchange and repair; telegraph and telephone service; traveling expenses of officers and employees while traveling on official business; freight, express, drayage; tabulating cards, stationery, and miscellaneous office supplies; books of reference and periodicals; furniture and equipment; ice, water, heat, light, and power; street-car fare; and all other necessary and incidental expenses not included in the foregoing; \$244,000;

Directory of foreign buyers.
Compiling, etc., expenses.

Lists of foreign buyers: For all necessary expenses, including personal services in the District of Columbia and elsewhere, purchase of furniture and equipment, stationery and supplies, typewriting, adding, and computing machines, accessories and repairs, lists of foreign buyers, books of reference, periodicals, reports, documents, plans, specifications, rent outside of the District of Columbia, traveling expenses of officers and employees, and all other incidental expenses not included in the foregoing, to enable the Bureau of Foreign and Domestic Commerce to collect and compile lists of foreign buyers; \$53,890: *Provided*, That the Secretary of Commerce may make such charges as he deems reasonable for lists of foreign buyers, special statistical services, special commodity news bulletins, and World Trade Directory Reports, and the amounts collected therefrom shall be deposited in the Treasury as "Miscellaneous receipts";

Outside rent.

Proviso.
Charges authorized.

Investigation of foreign trade restrictions: For all necessary expenses, including personal services in the District of Columbia and elsewhere, purchase of furniture and equipment, stationery and supplies, typewriting, adding, and computing machines, accessories and repairs, books of reference and periodicals, reports, documents, plans, specifications, manuscripts, and all other publications, rent outside of the District of Columbia, traveling expenses of officers and employees, and all other incidental expenses not included in the foregoing, to enable the Bureau of Foreign and Domestic Commerce to collect and compile information regarding the restrictions and regulations of trade imposed by foreign countries, \$45,240;

Foreign trade restrictions.
Collecting, compiling, etc., information as to.

Transportation of families and effects.

Transportation of families and effects of officers and employees: To pay the traveling expenses and expenses of transportation, under such regulations as the Secretary of Commerce may prescribe, of families and effects of officers and employees of the Bureau of Foreign and Domestic Commerce in going to and returning from their posts, or when traveling under the order of the Secretary of Commerce, and also for defraying the expenses of preparing and transporting the remains of officers and employees of the Bureau of Foreign and Domestic Commerce who may die abroad or in transit, while in the discharge of their official duties, to their former homes in this country, or to a place not more distant, for interment, and for the ordinary expenses of such interment; \$42,000.

Bringing home remains of officers, etc., dying abroad.

Furnishing living quarters, etc., abroad.
Vol. 44, p. 1395; Vol. 46, p. 163.
U. S. C., Supp. VI, p. 165.

To enable the Secretary of Commerce, under such regulations as he may prescribe, in accordance with the provisions of the Act entitled "An Act to amend the Act entitled 'An Act to establish in the Bureau of Foreign and Domestic Commerce of the Department of Commerce, a Foreign Commerce Service of the United States, and for other purposes,' approved March 3, 1927," approved April 12, 1930 (U. S. C., Supp. V, title 15, sec. 197f), to furnish the officers in the Foreign Commerce Service of the Bureau of Foreign and Domestic Commerce stationed in a foreign country, without cost to them and within the limits of this appropriation, allowances for living quarters, heat, and light, notwithstanding the provisions of section 1765 of the Revised Statutes (U. S. C., title 5, sec. 70),

\$85,000: *Provided*, That the maximum allowance to any officer shall not exceed \$720.

Proviso.
Maximum allowance.

Appropriations herein made for the Bureau of Foreign and Domestic Commerce shall be available for expenses of attendance at meetings concerned with the promotion of foreign and domestic commerce, or either, and also expenses of illustrating the work of the bureau by showing of maps, charts, and graphs at such meetings, when incurred on the written authority of the Secretary of Commerce;

Attendance at meetings.

The purchase of supplies and equipment or the procurement of services for the Bureau of Foreign and Domestic Commerce, in foreign countries, may be made in open market without compliance with section 3709 of the Revised Statutes of the United States (U. S. C., title 41, sec. 5), in the manner common among business men, when the aggregate amount of the purchase or the service does not exceed \$100 in any instance;

Minor purchases in foreign countries.

R. S., sec. 3709, p. 733.
U. S. C., p. 1309.

Total, Bureau of Foreign and Domestic Commerce, \$3,514,370, of which amount not to exceed \$1,600,000 may be expended for personal services in the District of Columbia.

Services in District.

BUREAU OF THE CENSUS

Census Bureau.

For expenses for securing information for and compiling the census reports provided for by law, including personal services in the District of Columbia and elsewhere; compensation and expenses of enumerators, special agents, supervisors, supervisor's clerks, and interpreters in the District of Columbia and elsewhere; traveling expenses; the cost of transcribing State, municipal, and other records; temporary rental of quarters outside the District of Columbia; not to exceed \$5,000 for the employment by contract of personal services for the preparation of monographs on census subjects; not to exceed \$52,000 for constructing tabulating machines and repairs to such machinery and other mechanical appliances, including technical, mechanical, and other personal services in connection therewith in the District of Columbia and elsewhere, and the purchase of necessary machinery and supplies; and not to exceed \$2,000 for expenses of attendance at meetings concerned with the collection of statistics when incurred on the written authority of the Secretary of Commerce; \$1,903,000, of which amount not to exceed \$1,300,000 may be expended for personal services in the District of Columbia, including not to exceed \$25,000 for temporary employees who may be appointed by the Director of the Census under civil-service rules, at per diem rates to be fixed by him without regard to the provisions of the Classification Act of 1923, as amended, for the purpose of assisting in periodical inquiries.

Services and expenses.

Temporary employees.

BUREAU OF NAVIGATION AND STEAMBOAT INSPECTION

Departmental salaries: For the director and other personal services in the District of Columbia, \$97,000.

Navigation and Steamboat Inspection Bureau.
Director, and office personnel.

Salaries and general expenses: For salaries of shipping commissioners and employees in their offices; salaries for steamboat inspection as authorized by law, including clerks to boards of steamboat inspectors; to enable the Secretary of Commerce to provide and operate such motor boats and employ such persons (including temporary employees) as may be necessary for the enforcement, under his direction, of laws relating to navigation and inspection of vessels, boarding of vessels, counting of passengers on excursion boats, and to prevent overcrowding of passenger and excursion boats; to enable the Secretary of Commerce to carry out the provisions of the Act

Other employees, etc.

Overcrowding passenger boats.

Load lines for American vessels.
Vol. 45, p. 1492.
U. S. C., Supp. VI, p. 809.

entitled "An Act to establish load lines for American vessels, and for other purposes," approved March 2, 1929 (U. S. C., Supp. VI, title 46, secs. 85-85g), and to secure uniformity in the admeasurement of vessels, including personal services; fees to witnesses; traveling expenses of the personnel of the bureau and field offices; materials, supplies, equipment, and services, including rent and janitor service; purchase, exchange, and repair of instruments; plans and specifications; insignia, braid, and chin straps; coats, caps, and aprons for stewards' departments on vessels; and other incidental expenses of field offices, including contract stenographic reporting services without reference to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5); \$1,308,000.

R. S., sec. 3709, p. 733.
U. S. C., p. 1309.

Bureau of Standards.

BUREAU OF STANDARDS

Director, and office personnel.

Salaries: For the director and other personal services in the District of Columbia, \$600,000.

Equipment.

Equipment: For apparatus, machinery, tools, and appliances used in connection with buildings or work of the bureau, typewriters, adding machines, and other labor-saving devices, laboratory supplies, materials, and supplies used in the construction of apparatus, machinery, or other appliances, including their exchange; piping, wiring, and construction incident to the installation of apparatus, machinery, or appliances; furniture for laboratories and offices, cases for apparatus, \$80,000, including \$18,000 for repairs and necessary alterations to buildings.

General expenses.

General expenses: For fuel for heat, light, and power; office expenses, stationery, cleaning and toilet supplies, books and periodicals, which may be exchanged when not needed for permanent use; traveling expenses; street-car fares not exceeding \$100; expenses of the visiting committee; expenses of attendance of American member at the meeting of the International Committee of Weights and Measures; purchase of gloves, goggles, rubber boots, and aprons; supplies for operation, maintenance, and repair of motor trucks and a passenger automobile for official use, including their exchange; and contingencies of all kinds, \$64,000.

International Committee of Weights and Measures.

Care, etc., of grounds.

Improvement and care of grounds: For grading, construction of roads and walks, piping grounds for water supply, lamps, wiring for lighting purposes, and other expenses incident to the improvement and care of grounds, including foreman and laborers in the District of Columbia, \$11,220.

Structural materials investigations.
Services in the District.

Proviso.
Disseminating information as to housing, etc.

Testing structural materials: For continuation of the investigation of structural materials, such as stone, clays, cement, and so forth, including personal services in the District of Columbia and in the field, \$255,000: *Provided*, That as much of this sum as necessary shall be used to collect and disseminate such scientific, practical, and statistical information as may be procured, showing or tending to show approved methods in building, planning and construction, standardization, and adaptability of structural units, including building materials and codes, economy in the manufacture and utilization of building materials and supplies, and such other matters as may tend to encourage, improve, and cheapen construction and housing.

Testing machines for physical constants, etc.

Testing machines: For maintenance and operation of testing machines, including personal service in connection therewith in the District of Columbia and in the field, for the determination by the Bureau of Standards of the physical constants and the properties of materials as authorized by law, \$41,455.

Investigation of fire-resisting properties: For investigation of fire-resisting properties of building materials and conditions under which they may be most efficiently used, and for the standardization of types of appliances for fire prevention, including personal services in the District of Columbia and in the field, \$23,340.

Fire resisting building materials.

Investigation of public-utility standards: For investigation of the standards of practice and methods of measurements of public utilities, such as gas, electric light, electric power, water, telephone, central station heating, and electric-railway service, and the solution of the problems which arise in connection with standards in such service, including personal services in the District of Columbia and in the field, \$82,810.

Public utility standards, etc., investigations.

Testing miscellaneous materials: For testing miscellaneous materials, such as varnish materials, soap materials, inks, and chemicals, including supplies for the Government departments and independent establishments, including personal services in the District of Columbia and in the field, as authorized by law, \$37,000.

Testing miscellaneous materials.

Radio research: For investigation and standardization of methods and instruments employed in radio communication, including personal services in the District of Columbia and in the field, \$69,000.

Radio research.

Color standardization: To develop color standards and methods of manufacture and of color measurements, with special reference to their industrial use in standardization and specification of colorants, such as dyestuffs, inks, and pigments, and other products, paint, paper, and textiles, in which color is a pertinent property, including personal services in the District of Columbia and in the field, \$11,100.

Industrial color standardization.

Investigation of clay products: To study methods of measurement and technical processes used in the manufacture of pottery, brick, tile, terra cotta, and other clay products, and the study of the properties of the materials used in that industry, including personal services in the District of Columbia and in the field, \$37,000.

Clay products processes.

Standardizing mechanical appliances: To develop methods of testing and standardizing machines, motors, tools, measuring instruments, and other apparatus and devices used in mechanical, hydraulic, and aeronautic engineering; for the comparative study of types of apparatus and methods of operation, and for the establishment of standards of performance; for the accurate determination of fundamental physical constants involved in the proper execution of this work; and for the scientific experiments and investigations needed in solving the problems which may arise in connection therewith, especially in response to the requirements of aeronautics and aviation for information of a purely scientific nature, including personal services in the District of Columbia and in the field, \$37,000.

Mechanical appliances.
Testing mechanical, hydraulic, and aeronautic devices, etc.

Investigation of optical and other types of glass: For the investigation of the problems involved in the production of optical and other types of glass, including personal services in the District of Columbia and in the field, \$21,500.

Optical glass production problems.

Investigation of textiles: To investigate textiles, paper, leather, and rubber in order to develop standards of more durable quality and methods of measurement, including personal services in the District of Columbia and in the field, \$46,500.

Textiles, paper, etc., standardization.

Sugar standardization: For the standardization and design of sugar-testing apparatus; the development of technical specifications for the various grades of sugar, especially involving the standardization and manufacture of sugars; for the study of the technical problems incidental to the collection of the revenue on sugar and to determine the fundamental scientific constants of sugars and other substances; for the standardization and production of rare and unusual types of sugars required for the medical service of the

Sugar standardization.

Rare and unusual types.

Government departments; and for other technical and scientific purposes, including personal services in the District of Columbia and in the field, \$69,130.

Gages, screw threads,
etc.
Cooperative stand-
ardization.

Gage standardization: To provide by cooperation of the Bureau of Standards, the War Department, and the Navy Department for the standardization and testing of the standard gages, screw threads, and standards required in manufacturing throughout the United States, and to calibrate and test such standard gages, screw threads, and standards, including necessary equipment and personal services in the District of Columbia and in the field, \$37,000.

Testing large scales,
etc.

Testing railroad-track, mine, and other scales: For investigation and testing of railroad-track scales, elevator scales, and other scales used in weighing commodities for interstate shipments and to secure equipment and assistance for testing the scales used by the Government in its transactions with the public, such as post-office, navy-yard, and customhouse scales, and for the purpose of cooperating with the States in securing uniformity in the weights and measures laws and in the methods of inspection; for investigating the conditions and methods of use of scales and mine cars used for weighing and measuring coal dug by miners, for the purpose of determining wages due, and of conditions affecting the accuracy of the weighing or measuring of coal at the mines, including personal services in the District of Columbia and in the field, \$50,000.

Mine scales and cars.

High-temperature
measurements.

High-temperature investigations: For laboratory and field investigations of suitable methods of high-temperature measurements and control in various industrial processes and to assist in making available directly to the industries the results of the bureau's investigations in this field, including personal services in the District of Columbia and in the field, \$7,000.

Metallurgical re-
search.

Metallurgical research: For metallurgical research, including alloy steels, foundry practice, and standards for metals and sands; casting, rolling, forging, and the properties of aluminum alloys; prevention of corrosion of metals and alloys; development of metal substitutes, as for platinum; behavior of bearing metals; preparation of metal specifications; investigation of new metallurgical processes and study of methods of conservation in metallurgical manufacture and products; investigation of materials used in the construction of rails, wheels, axles, and other railway equipment, and the cause of their failure, including personal services in the District of Columbia and in the field, \$45,990.

Sound investigation.

Sound investigation: For the investigation of the principles of sound and their application to military and industrial purposes, including personal services in the District of Columbia and in the field, \$7,900.

Industrial research.
Cooperative investi-
gation.

Industrial research: For technical investigations in cooperation with the industries upon fundamental problems involved in industrial development, with a view to assisting in the permanent establishment of new American industries, including personal services in the District of Columbia and elsewhere, \$120,000.

Cooperative stand-
ardization of industrial
devices, etc.

Standardization of equipment: To enable the Bureau of Standards to cooperate with Government departments, engineers, and manufacturers in the establishment of standards, methods of testing, and inspection of instruments, equipment, tools, and electrical and mechanical devices used in the industries and by the Government, including the practical specifications for quality and performance of such devices, and the formulation of methods of inspection, laboratory, and service tests, including personal services in the District of Columbia and in the field, \$152,500.

Standard materials: For purchase, preparation, analysis, and distribution of standard materials to be used in checking chemical analyses in the testing of physical measuring apparatus, including personal services in the District of Columbia and in the field, \$8,900.

Standards for checking chemical analyses.

Investigation of radioactive substances and X rays: For an investigation of radioactive substances and the methods of their measurements and testing; for investigations relative to the development of standard specifications for X-ray equipment and operation; for the investigation of the hazards of X-ray practice; for the testing and standardization of X-ray protective materials; for the standardization and design of X-ray testing equipment; for the determination of fundamental physical constants essential to X-ray diagnosis and therapy, to X-ray analysis of materials, and to other technical and scientific applications, including personal services in the District of Columbia and in the field, \$21,500.

Radioactive substances and X-ray investigations.

Utilization of waste products from the land: For the survey of the possibilities of the industrial utilization of waste products from the land, including cooperation with colleges, other institutions, and manufacturers, including personal services in the District of Columbia and in the field, \$38,700: *Provided*, That the Bureau of Standards cooperates with the Bureau of Chemistry and Soils, Department of Agriculture, without duplication of work;

Utilizing waste products from the land.

Investigation of automotive engines: For the promotion of economy and efficiency in automotive transportation by land and by air through investigations of the basic principles underlying the design, performance, operation, and testing of automotive engines, their fuels, lubricants, accessories, and the power-transmitting system used in connection with them, also such elements as brakes and brake linings; to promote economy in the use of liquid fuels and safety in vehicular traffic, including personal services in the District of Columbia and in the field, \$34,000.

Proviso.
Cooperation with Chemistry Bureau without duplicating work.

Automotive engines, investigations, etc.

Investigation of dental materials: To investigate the physical and chemical properties of dental materials, including the method of their application and the causes of deterioration of such materials in service, for the purpose of developing standards of quality and standard methods of test, including personal services in the District of Columbia and in the field, \$6,500.

Dental materials investigations.

Hydraulic laboratory research: For the determination of fundamental data useful in hydraulic research and engineering, including laboratory research relating to the behavior and control of river and harbor waters, the study of hydraulic structures and water flow, and the development and testing of hydraulic instruments and accessories, including personal services in the District of Columbia and in the field, \$40,000.

Hydraulic laboratory research.

During the fiscal year 1934 the head of any department or independent establishment of the Government having funds available for scientific investigations and requiring cooperative work by the Bureau of Standards on scientific investigations within the scope of the functions of that bureau, and which the Bureau of Standards is unable to perform within the limits of its appropriations, may, with the approval of the Secretary of Commerce, transfer to the Bureau of Standards such sums as may be necessary to carry on such investigations. The Secretary of the Treasury shall transfer on the books of the Treasury Department any sums which may be authorized hereunder, and such amounts shall be placed to the credit of the Bureau of Standards for performance of work for the department or establishment from which the transfer is made, including, where necessary, compensation for personal services in the District of Columbia and in the field.

Cooperative work with departments, etc., in scientific investigations, etc.

Transfer of funds to credit of bureau.

Attendance at meetings, etc.

Appropriations herein made for the Bureau of Standards shall be available for expenses of attendance at meetings concerned with standardization and research, or either, when incurred on the written authority of the Secretary of Commerce, and for the compensation and expenses of medical officers of the Public Health Service detailed to the Bureau of Standards for the purpose of maintaining a first-aid station and making clinical observations.

Services in the District.

Total, Bureau of Standards, \$2,056,045, of which amount not to exceed \$1,800,000 may be expended for personal services in the District of Columbia.

Lighthouses Bureau.

BUREAU OF LIGHTHOUSES

Commissioner, and office personnel.

Salaries: For the commissioner and other personal services in the District of Columbia, \$100,000.

General expenses. Objects specified.

General expenses: For supplies, including replacement of and necessary additions to existing equipment, repairs, maintenance, and incidental expenses of lighthouses and other lights, beacons, buoyage, fog signals, lighting of rivers heretofore authorized to be lighted, light vessels, other aids to navigation, and lighthouse tenders, including the establishment, repair, and improvement of beacons and day marks, and purchase of land for same; establishment of post lights, buoys, submarine signals, and fog signals; establishment of oil or carbide houses, not to exceed \$10,000: *Provided*, That any oil or carbide house erected hereunder shall not exceed \$1,000 in cost; construction of necessary outbuildings at a cost not exceeding \$1,000 at any one light station in any fiscal year; improvement of grounds and buildings connected with light stations and depots; restoring light stations and depots and buildings connected therewith: *Provided further*, That such restoration shall be limited to the original purpose of the structures; wages of persons attending post lights; temporary employees and field force while engaged on works of general repair and maintenance, and laborers and mechanics at lighthouse depots; rations and provisions or commutation thereof for working parties in the field, officers and crews of light vessels and tenders, and officials and other authorized persons of the Lighthouse Service on duty on board of such tenders or vessels, and money accruing from commutation for rations and provisions for the above-named persons on board of tenders and light vessels or in working parties in the field may be paid on proper vouchers to the person having charge of the mess of such vessel or party; not exceeding \$2,000 for packing, crating, and transporting personal household effects of employees when transferred from one official station to another for permanent duty; purchase of rubber boots, oilskins, rubber gloves, and coats, caps, and aprons for stewards' departments on vessels; reimbursement under rules prescribed by the Secretary of Commerce of keepers of light stations and masters of light vessels and of lighthouse tenders for rations and provisions and clothing furnished shipwrecked persons who may be temporarily provided for by them, not exceeding in all \$5,000 in any fiscal year; fuel, light, and rent of quarters where necessary for keepers of lighthouses; purchase of land sites for fog signals; rent of necessary ground for all such lights and beacons as are for temporary use or to mark changeable channels and which in consequence can not be made permanent; rent of offices, depots, and wharves; traveling expenses, including travel for the examinations authorized by the Act entitled "An Act to provide for retirement for disability in the Lighthouse Service," approved March 4, 1925 (U. S. C., title 33, sec. 765); mileage; library books for light stations and vessels, and technical books and periodicals not exceed-

Oil, etc., houses.

Provided.
Limit for buildings.

Restoring stations, etc.

Limitation on use, etc.

Rations, etc.

Transferring household effects on change of station.

Relief of shipwrecked persons.

Land sites, etc.

Travel expenses.
Retirement examinations.
Vol. 43, p. 1261.
U. S. C., p. 1096.

ing \$1,000; traveling expenses of teachers while actually employed by States or private persons to instruct the children of keepers of lighthouses; all other contingent expenses of district offices and depots, including the purchase of provisions for sale to lighthouse keepers at isolated stations, and the appropriation reimbursed, purchase not to exceed \$3,600, exchange, maintenance, operation, and repair of motor-propelled passenger-carrying vehicles for official use in field work; payment of rewards for the apprehension and conviction, or for information helpful to the apprehension and conviction of persons found interfering with aids to navigation maintained by the Lighthouse Service, in violation of section 6 of the Act of May 14, 1908 (U. S. C., title 33, sec. 761), and not exceeding \$8,500 for contingent expenses of the office of the Bureau of Lighthouses, in the District of Columbia; \$4,009,000.

Contingent expenses.

Vehicles.

Paying rewards, etc.

Vol. 35, p. 162.
U. S. C., p. 1094.

Keepers of lighthouses: For salaries of not exceeding one thousand eight hundred lighthouse and fog-signal keepers and persons attending lights, exclusive of post lights, \$1,783,500.

Keepers.

Lighthouse vessels: For salaries and wages of officers and crews of light vessels and lighthouse tenders, including temporary employment when necessary, \$2,221,800.

Officers and crews of vessels.

Superintendents, clerks, and so forth: For salaries of eighteen superintendents of lighthouses, and of assistant superintendents, clerks, draftsmen, and other authorized permanent employees in the district offices and depots of the Lighthouse Service, exclusive of those regularly employed in the office of the Bureau of Lighthouses, District of Columbia, \$589,000.

Superintendents, clerks, etc.

Retired pay: For retired pay of officers and employees engaged in the field service or on vessels of the Lighthouse Service, except persons continuously employed in district offices and shops, \$411,300.

Retired pay.

COAST AND GEODETIC SURVEY

Coast and Geodetic Survey.

For every expenditure requisite for and incident to the work of the Coast and Geodetic Survey, including maintenance, repair, exchange, and operation of motor-propelled or horse-drawn vehicles for official use in field work, purchase of motor cycles with side cars, including their exchange, not to exceed \$1,000, surveying instruments, including their exchange, rubber boots, canvas and rubber gloves, goggles, and caps, coats, and aprons for stewards' departments on vessels, extra compensation at not to exceed \$1 per day for each station to employees of the Lighthouse Service and the Weather Bureau while observing tides or currents, services of one tide observer in the District of Columbia at not to exceed \$1 per day, and compensation, not otherwise appropriated for, of persons employed in the field work, and for expenses of attendance at meetings concerned with the work of the Coast and Geodetic Survey when incurred on the written authority of the Secretary of Commerce, to be expended in accordance with the regulations relating to the Coast and Geodetic Survey subscribed by the Secretary of Commerce, and under the following heads:

All expenses.
Objects specified.

Distribution.

Field expenses, Atlantic coast: For surveys and necessary resurveys of the Atlantic and Gulf coasts of the United States, including the coasts of outlying islands under the jurisdiction of the United States, and including the employment in the field and office of one physicist to develop survey methods based on transmission of sound through sea water, \$102,000: *Provided*, That not more than \$35,000 of this amount shall be expended on the coasts of said outlying islands and the Atlantic entrance to the Panama Canal;

Field expenses.

Atlantic coast.

Proviso.
Outlying islands.

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| Pacific coast. | Pacific coast: For surveys and necessary resurveys of coasts on the Pacific Ocean under the jurisdiction of the United States, and including the employment in the field and office of one physicist to develop survey methods based on transmission of sound through sea water, \$141,220; |
| Physical hydrography. | Tides, currents, and so forth: For continuing researches in physical hydrography, relating to harbors and bars, and for tidal and current observations on the coasts of the United States, or other coasts under the jurisdiction of the United States, \$16,820; |
| Coast Pilot. | Coast pilot: For compilation of the Coast Pilot, including the employment of such pilots and nautical experts, and stenographic help in the field and office as may be necessary for the same; \$5,200; |
| Magnetic and seismological observations. | Magnetic work: For continuing magnetic and seismological observations and to establish meridian lines in connection therewith in all parts of the United States; making magnetic and seismological observations in other regions under the jurisdiction of the United States; purchase of additional magnetic and seismological instruments; lease of sites where necessary and the erection of temporary magnetic and seismological buildings; and including the employment in the field and office of such magnetic and seismological observers and stenographic services as may be necessary, \$37,160; |
| Federal, State, etc., surveys. Determining lines of exact levels. | Federal, boundary, and State surveys: For continuing lines of exact levels between the Atlantic, Pacific, and Gulf coasts; determining geographic positions by triangulation and traverse for the control of Federal, State, boundary, county, city, and other surveys and engineering works in all parts of the United States; including special geodetic surveys of first-order triangulation and leveling in regions subject to earthquakes, not exceeding \$10,000; determining field astronomic positions and the variation of latitude, including the maintenance and operation of the latitude observatories at Ukiah, California, and Gaithersburg, Maryland, not exceeding \$2,500 each; establishing lines of exact levels, determining geographic positions by triangulation and traverse, and making astronomic observations in Alaska; and continuing gravity observations in the United States and for making such observations in regions under the jurisdiction of the United States and also on islands and coasts adjacent thereto, \$150,000, of which amount not to exceed \$41,250 may be expended for personal services in the District of Columbia; |
| Ukiah and Gaithersburg observatories. | |
| Alaska observations. | |
| Miscellaneous. | For objects not hereinbefore named that may be deemed urgent, including the preparation or purchase of plans and specifications of vessels and the employment of such hull draftsmen in the field and office as may be necessary for the same; the reimbursement, under rules prescribed by the Secretary of Commerce, of officers of the Coast and Geodetic Survey for food, clothing, medicines, and other supplies furnished for the temporary relief of distressed persons in remote localities and to shipwrecked persons temporarily provided for by them, not to exceed a total of \$550; actual necessary expenses of officers of the field force temporarily ordered to the office in the District of Columbia for consultation with the director, and not exceeding \$1,000 for the expenses of the attendance of representatives of the Coast and Geodetic Survey who may be designated as delegates from the United States at the meetings of the International Hydrographic Bureau, and not exceeding \$3,000 for special surveys that may be required by the Bureau of Lighthouses or other proper authority, \$6,735; |
| Relieving shipwrecked persons, etc. | |
| International Hydrographic Bureau. Special surveys. | |
| Vessels, repairs, etc. | In all, field expenses, \$459,135. Vessels: For repairs of vessels, including traveling expenses of persons inspecting the repairs, and exclusive of engineer's supplies and other ship chandlery, \$63,000. |

For all necessary employees to man and equip the vessels, including professional seamen serving as mates on vessels of the survey, to execute the work of the survey herein provided for and authorized by law, \$533,000.

Equipment employ-
ees.

Pay, commissioned officers: For pay and allowances prescribed by law for commissioned officers on sea duty and other duty, holding relative rank with officers of the Navy, including one director with relative rank of captain, six hydrographic and geodetic engineers with relative rank of captain, ten hydrographic and geodetic engineers with relative rank of commander, seventeen hydrographic and geodetic engineers with relative rank of lieutenant commander, forty-seven hydrographic and geodetic engineers with relative rank of lieutenant, sixty-one junior hydrographic and geodetic engineers with relative rank of lieutenant (junior grade), twenty-nine aides with relative rank of ensign, and including officers retired in accordance with existing law, \$633,955: *Provided*, That the Secretary of Commerce may designate one of the hydrographic and geodetic engineers to act as assistant director.

Pay, etc., commis-
sioned officers.

Proviso.
Assistant director.

Office force: For personal services, \$461,000.

Office force.

Office expenses: For purchase of new instruments (except surveying instruments), including their exchange, materials, equipment, and supplies required in the instrument shop, carpenter shop, and chart division; books, scientific and technical books, journals, books of reference, maps, charts, and subscriptions; copper plates, chart paper, printer's ink, copper, zinc, and chemicals for electrotyping and photographing; engraving, printing, photographing, rubber gloves, and electrotyping supplies; photolithographing and printing charts for immediate use; stationery for office and field parties; transportation of instruments and supplies when not charged to party expenses; telegrams; washing; office furniture, repairs; traveling expenses of officers and others employed in the office sent on special duty in the service of the office; miscellaneous expenses, contingencies of all kinds, not exceeding \$90 for street-car fares, \$55,000.

Office expenses.

Appropriations herein made for the Coast and Geodetic Survey shall not be available for allowance to civilian or other officers for subsistence while on duty at Washington (except as hereinbefore provided for officers of the field force ordered to Washington for short periods for consultation with the director), except as now provided by law.

Subsistence, restric-
tions.

Appropriations herein made for the field expenses of the Coast and Geodetic Survey shall be available for expenditures in the application of the airplane to the field work of the Coast and Geodetic Survey, and not to exceed a total of \$25,000 of said appropriations shall be available for the purchase or construction of cameras and other photographic apparatus, for equipment, except airplanes, and for employment of personnel in the field and office in connection with such work.

Application of air-
plane to field work.

Photographic appa-
ratus, etc.

BUREAU OF FISHERIES

Fisheries Bureau.

Commissioner's office: For the commissioner and other personal services in the District of Columbia, \$160,400.

Commissioner, and
office personnel.

Administration: For expenses of the office of the commissioner, including stationery, scientific and reference books, periodicals and newspapers for library, furniture and equipment, telegraph and telephone service, street-car fares not exceeding \$150, compensation of temporary employees, and all other necessary expenses connected therewith, \$3,000.

Office expenses, etc.

Propagation ex-
penses.

Propagation of food fishes: For maintenance, repair, alteration, improvement, equipment, and operation of fish-cultural stations, general propagation of food fishes and their distribution, including movement, maintenance, and repairs of cars, purchase of equipment (including rubber boots and oilskins) and apparatus, contingent expenses, pay of permanent employees not to exceed \$377,000, temporary labor, and not to exceed \$10,000 for propagation and distribution of fresh-water mussels and the necessary expenses connected therewith, and not to exceed \$10,000 for the purchase, collection, and transportation of specimens and other expenses incidental to the maintenance and operation of aquarium, of which not to exceed \$5,000 may be expended for personal services in the District of Columbia, \$801,755.

Vessels, maintenance.

Maintenance of vessels: For maintenance and operation of vessels and launches, including purchase and repair of boats, apparatus, machinery, and other facilities required for use with the same, hire of vessels, temporary employees, and all other necessary expenses in connection therewith, including not to exceed \$1,000 for the purchase of plans and specifications for vessels or for contract personal services for the preparation thereof, and money accruing from commutation of rations and provisions on board vessels may be paid on proper vouchers to the persons having charge of the mess of such vessels, \$200,000, of which not to exceed \$17,000 may be expended for pay of officers and employees of vessels of the Atlantic coast and not to exceed \$75,000 for pay of officers and crews of vessels for the Alaska Fisheries Service, and \$10,000 shall be immediately available for the procurement of supplies and equipment required for shipment to the Pribilof Islands for the service of the fiscal year 1934.

Alaska service.
Shipping supplies to
Pribilof Islands.

Commutation of ra-
tions.

Commutation of rations (not to exceed \$1 per day) may be paid to officers and crews of vessels of the Bureau of Fisheries during the fiscal year 1934 under regulations prescribed by the Secretary of Commerce.

Food fishes inquiry.

Inquiry respecting food fishes: For inquiry into the cause of the decrease of food fishes in the waters of the United States, and for investigation and experiments in respect to the aquatic animals, plants, and waters, and screening of irrigation ditches in fishways, in the interests of fish culture and the fishery industries, including pay of permanent employees not to exceed \$117,500, temporary employees, maintenance, repair, improvement, equipment, and operations of biological stations, expenses of travel and preparation of reports, \$173,000.

Fishing industry.
Statistical, etc., in-
quiries.

Fishery industries: For collection and compilation of statistics of the fisheries and the study of their methods and relations, and the methods of preservation and utilization of fishery products, including pay of permanent employees not to exceed \$23,100, compensation of temporary employees, travel and preparation of reports, including temporary employees in the District of Columbia not to exceed \$1,800, and all other necessary expenses in connection therewith, including the purchase (not to exceed \$500), exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles for official use in the field work of the Bureau of Fisheries, \$78,000.

Sponge fisheries.
Protecting.

Sponge fisheries: For protecting the sponge fisheries, including employment of inspectors, watchmen, and temporary assistants, hire of boats, rental of office and storage, care of seized sponges and other property, travel, and all other expenses necessary to carry out the provisions of the Act of August 5, 1914 (U. S. C., title 16, secs. 781-785), to regulate the sponge fisheries, \$2,750.

Alaska, general service: For protecting the seal fisheries of Alaska, including the furnishing of food, fuel, clothing, and other necessities of life to the natives of the Pribilof Islands of Alaska; not exceeding \$20,000 for construction, improvement, repair, and alteration of buildings and roads, transportation of supplies to and from the islands, expenses of travel of agents and other employees and subsistence while on said islands, hire and maintenance of vessels, purchase of sea otters, and for all expenses necessary to carry out the provisions of the Act entitled "An Act to protect the seal fisheries of Alaska, and for other purposes," approved April 21, 1910 (U. S. C., title 16, secs. 631-658), and for the protection of the fisheries of Alaska, including pay of permanent employees not to exceed \$61,000, contract stenographic reporting service, travel of employees while on duty in Alaska, hire of boats, employment of temporary labor, and all other necessary expenses connected therewith, \$340,000, of which \$100,000 shall be immediately available.

Alaska.
Seal fisheries protection, food to natives, etc.

Vol. 36, p. 326.
U. S. C., p. 431.

Mississippi Wild Life and Fish Refuge: For construction of buildings, boats, and ponds; for purchase of equipment, including boats for maintenance, operation, repair, and improvements, including expenditures for personal services at the seat of government and elsewhere as may be necessary, as authorized in the Act approved June 7, 1924 (U. S. C., title 16, secs. 721-731), \$6,835.

Mississippi Wild Life and Fish Refuge.
Construction, equipment, etc., expenses.

Vol. 43, p. 650.
U. S. C., p. 437.

Not to exceed \$1,000 of the appropriations herein made for the Bureau of Fisheries shall be available for expenses of attendance at meetings concerned with the work of said bureau when incurred on the written authority of the Secretary of Commerce, and not to exceed \$1,500 shall be available for the rental of suitable quarters in the District of Columbia for laboratory and storage purposes.

Attendance at meetings.

PATENT OFFICE

Patent Office.

The following sums are appropriated for the Patent Office for the fiscal year ending June 30, 1934, out of the revenues of such office in conformity with section 5 of the Act approved April 11, 1930 (U. S. C., Supp. VI, title 35, sec. 22), to the extent that such revenues are sufficient therefor and any remainder out of the general fund of the Treasury, namely:

Sums from available revenues thereof.
Vol. 46, p. 156.
U. S. C., Supp. VI, p. 695.

For the Commissioner of Patents and other personal services in the District of Columbia, \$3,176,250: *Provided*, That of the amount herein appropriated not to exceed \$25,000 may be used for special and temporary services of typists certified by the Civil Service Commission, who may be employed in such numbers, at \$4 per diem, as may, in the judgment of the Commissioner of Patents, be necessary to keep current the work of furnishing manuscript copies of records.

Commissioner and office personnel.
Proviso.
Temporary typists, etc.

For purchase of law, professional, and other reference books and publications and scientific books, including their exchange, and expenses of transporting publications of patents issued by the Patent Office to foreign governments, directories, and for other contingent and miscellaneous expenses of the Patent Office, \$30,000.

Reference books, etc.

For producing copies of weekly issue of drawings of patents and designs; reproduction of copies of drawings and specification of exhausted patents, designs, trade-marks, and other papers, such other papers when reproduced for sale to be sold at not less than cost plus 10 per centum; reproduction of foreign patent drawings; photo prints of pending application drawings; and photostat and photographic supplies and dry mounts, \$250,000.

Weekly issue of patents, reproductions, etc.

The headings of the drawings for patented cases may be multigraphed in the Patent Office for the purpose of photolithography.

Multigraphed headings allowed.

Investigating prior
use of inventions.

For investigating the question of public use or sale of inventions for two years or more prior to filing applications for patents, and such other questions arising in connection with applications for patents and the prior art as may be deemed necessary by the Commissioner of Patents; for expense attending defense of suits instituted against the Commissioner of Patents, \$700, and for expenses of attendance at meetings concerned with the work of the Patent Office when incurred on the written authority of the Secretary of Commerce.

Defense in suits.

Attendance at meet-
ings.

Furniture, etc.

Printing, etc.

Official Gazette.

For furniture and filing cases, \$18,000.
For printing the weekly issue of patents, designs, trade-marks, prints, and labels, exclusive of illustrations; and for printing, engraving illustrations, and binding the Official Gazette, including weekly and annual indices, \$900,000; for miscellaneous printing and binding, \$50,000; in all, \$950,000.

Mines Bureau.

BUREAU OF MINES

SALARIES AND GENERAL EXPENSES

Salaries and general
expenses.
Director, office and
field personnel.

Salaries and general expenses: For general expenses, including pay of the director and necessary assistants, clerks, and other employees, in the office in the District of Columbia, and in the field, and every other expense requisite for and incident to the general work of the bureau in the District of Columbia, and in the field, to be expended under the direction of the Secretary of Commerce, \$64,500, of which amount not to exceed \$58,000 may be expended for personal services in the District of Columbia.

Mining investiga-
tions, etc., in Alaska.

Mining investigations in Alaska: For investigations and the dissemination of information with a view to improving conditions in the mining, quarrying, and metallurgical industries as provided in the Act authorizing additional mining experiment stations, approved March 3, 1915 (U. S. C., title 30, sec. 8), and to provide for the inspection of mines and the protection of the lives of miners in the Territory of Alaska, including personal services, equipment, supplies, and expenses of travel and subsistence, \$8,300;

Vol. 38, p. 959.
U. S. C., p. 953.

Mine rescue cars and
stations.

Operating mine rescue cars and stations and investigation of mine accidents: For the investigation and improvement of mine rescue and first-aid methods and appliances and the teaching of mine safety, rescue, and first-aid methods; investigations as to the causes of mine explosions, causes of falls of roof and coal, methods of mining, especially in relation to the safety of miners, the appliances best adapted to prevent accidents, the possible improvement of conditions under which mining operations are carried on, the use of explosives and electricity, the prevention of accidents, statistical studies and reports relating to mine accidents, and other inquiries and technologic investigations pertinent to the mining industry; the exchange in part payment for operation, maintenance, and repair of mine rescue trucks; the construction of temporary structures and the repair, maintenance, and operation of mine rescue cars and and Government-owned mine rescue stations and appurtenances thereto; personal services, traveling expenses and subsistence, equipment, and supplies; travel and subsistence, and other incidental expenses of employees in attendance at meetings and conferences held for the purpose of promoting safety and health in the mining and allied industries; purchase not exceeding \$5,000, exchange as part payment for operation, maintenance, and repair of motor-propelled passenger-carrying vehicles for official use in field work; purchase and exchange in part payment therefor of cooks' uniforms, goggles, gloves, rubber boots, aprons, and such other articles or equipment

Attendance at meet-
ings.

as may be necessary in connection with the purposes of this paragraph; including not to exceed \$80,000 for personal services in the District of Columbia, \$614,000: *Provided*, That of this amount not to exceed \$500 may be expended for the purchase and bestowal of trophies in connection with mine rescue and first-aid contest;

Proviso.
Rescue trophies, etc.

Testing fuel: To conduct inquiries and scientific and technologic investigations concerning the mining, preparation, treatment, and use of mineral fuels, and for investigation of mineral fuels belonging to or for the use of the United States, with a view to their most efficient utilization; to recommend to various departments such changes in selection and use of fuel as may result in greater economy, and, upon request of the Director of the Bureau of the Budget, to investigate the fuel-burning equipment in use by or proposed for any of the departments, establishments, or institutions of the United States in the District of Columbia, \$131,000, of which amount not to exceed \$28,200 may be expended for personal services in the District of Columbia;

Testing fuel.

Mineral mining investigations: For inquiries and scientific and technologic investigations concerning the mining, preparation, treatment, and utilization of ores and mineral substances, other than fuels, with a view to improving health conditions and increasing safety, efficiency, economic development, and conserving resources through the prevention of waste in the mining, quarrying, metallurgical, and other mineral industries; to inquire into the economic conditions affecting these industries; and including all equipment, supplies, expenses of travel and subsistence, and the purchase, not to exceed \$2,500, including exchange, operation, maintenance, and repair of motor-propelled passenger-carrying vehicles for official use in field work, including not to exceed \$15,600 for personal services in the District of Columbia, \$115,000: *Provided*, That no part of this appropriation may be expended for an investigation in behalf of any private party;

Services in the District.

Mineral mining.
Studies, investigations, etc., for improving conditions in.

Oil and gas investigations: For inquiries and investigations and dissemination of information concerning the mining, preparation, treatment, and utilization of petroleum and natural gas, including economic conditions affecting the industry, with a view to economic development and conserving resources through the prevention of waste; for the purchase of newspapers relating to the oil, gas, and allied industries: *Provided*, That section 192 of the Revised Statutes (U. S. C., title 5, sec. 102) shall not apply to such purchase of newspapers from this appropriation; and for every other expense incident thereto, including supplies, equipment, expenses of travel and subsistence, purchase, not to exceed \$7,000, exchange as part payment for, maintenance, and operation of motor-propelled passenger-carrying vehicles for official use in field work, purchase of laboratory gloves, goggles, rubber boots and aprons, \$150,000, of which amount not to exceed \$22,870 may be expended for personal services in the District of Columbia;

Oil, gas, etc., investigations.

Proviso.
Private work forbidden.

Proviso.
Purchase of newspapers, etc.
R. S., sec. 192, p. 30.
U. S. C., p. 35.
All other expenses.

Services in the District.

Mining experiment stations: For the employment of personal services, purchase of laboratory gloves, goggles, rubber boots and aprons, the purchase not to exceed \$3,000, exchange as part payment for, maintenance and operation of motor-propelled passenger-carrying vehicles for official use in field work, and all other expenses in connection with the establishment, maintenance, and operation of mining experiment stations, as provided in the Act authorizing additional mining experiment stations, approved March 3, 1915 (U. S. C., title 30, sec. 8), \$171,000, of which amount not to exceed \$13,100 may be expended for personal services in the District of Columbia;

Mining experiment stations.
Personal services, etc.

Vol. 33, p. 959.
U. S. C., p. 953.

Services in the District.

Pittsburgh, Pa., station.
Maintenance, etc.

Buildings and grounds, Pittsburgh, Pennsylvania: For care and maintenance of buildings and grounds at Pittsburgh and Bruceton, Pennsylvania, including personal services, the purchase, exchange as part payment for, operation, maintenance, and repair of passenger automobiles for official use, and all other expenses requisite for and incident thereto, including not to exceed \$5,000 for additions and improvements, the sum of \$60,000 is hereby made available from the appropriation contained in this Act for "Government fuel yards, Bureau of Mines";

Temporary details from the field for service in the District.

Persons employed during the fiscal year 1934 in field work outside of the District of Columbia under the Bureau of Mines may be detailed temporarily for service in the District of Columbia for purposes of preparing results of their field work; all persons so detailed shall be paid in addition to their regular compensation only traveling expenses in going to and returning therefrom: *Provided*, That nothing herein shall prevent the payment to employees of the Bureau of Mines of their necessary expenses, or per diem in lieu of subsistence, while on temporary detail in the District of Columbia for purposes only of consultation or investigations on behalf of the United States. All details made hereinunder, and the purposes of each, during the preceding fiscal year shall be reported in the annual estimates of appropriations to Congress at the beginning of each regular session thereof;

Proviso.
Necessary expenses allowed.

The Secretary of the Treasury may detail medical officers of the Public Health Service for cooperative health, safety, or sanitation work with the Bureau of Mines, and the compensation and expenses of the officers so detailed may be paid from the applicable appropriations made herein for the Bureau of Mines;

Report to Congress.

Details from Public Health Service.

Government fuel yards.
Purchase of fuel, maintenance, etc.

Government fuel yards: For the purchase and transportation of fuel; storing and handling of fuel in yards; maintenance and operation of yards and equipment, including two motor-propelled passenger-carrying vehicles for inspectors, purchase of equipment, rentals, and all other expenses requisite for and incident thereto, including personal services in the District of Columbia, the unexpended balance of the appropriations heretofore made for these purposes is reappropriated and made available for such purposes for the fiscal year 1934, and for payment of obligations for such purposes of prior years, and of such sum not exceeding \$500 shall be available to settle claims for damages caused to private property by motor vehicles used in delivering fuel: *Provided*, That all moneys received from the sales of fuel shall be credited to this appropriation and be available for the purposes of this paragraph: *Provided further*, That the term "fuel" wherever used in this appropriation shall be understood to include fuel oil: *Provided further*, That the requirements of sections 3711 and 3713 of the Revised Statutes (U. S. C., title 40, sec. 109) relative to the weighing of coal and wood and the separate certificate as to the weight, measurement, or quantity of coal and wood purchased shall not apply to purchases by the Government fuel yards at free-on-board destinations outside of the District of Columbia;

Provisos.
Sales credited to appropriation.
"Fuel" to include fuel oil.

Inspection requirements not applicable.
R. S., secs. 3711, 3713, pp. 733, 734.
U. S. C., p. 1296.

Helium production, etc.
Advances for, from Army and Navy appropriations.
Vol. 44, p. 1387.
Post, pp. 1535, 1583.

Helium production and investigations: The sums made available for the fiscal year 1934 in the Acts making appropriations for the War and Navy Departments for the acquisition of helium from the Bureau of Mines shall be advanced from time to time upon requisition by the Secretary of Commerce in such amounts as may be determined by the President not in excess of the sums needed for the economical and efficient operation and maintenance of the plants for the production of helium for military and/or naval purposes, including purchase, not to exceed \$2,500, and exchange as part pay-

ment for, maintenance, operation, and repair of motor-propelled passenger-carrying vehicles for official use in field work, and all other necessary expenses, and \$12,340 for personal services in the District of Columbia;

For investigations of resources of helium-bearing gas and the conservation thereof, and of processes and methods of producing, storing, purifying, and utilizing helium and helium-bearing gas, including supplies and equipment, stationery, furniture, expenses of travel and subsistence, purchase, not exceeding \$1,200, exchange as part payment for, maintenance, and operation of motor-propelled passenger-carrying vehicles for official use in field work, purchase of laboratory gloves, goggles, rubber boots and aprons, and all other necessary expenses, including not to exceed \$12,000 for personal services in the District of Columbia, \$40,000;

Helium plants: For helium production and conservation, including acquisition of helium-bearing gas land or wells by purchase, exchange, lease, or condemnation, or interest in such land or wells, the purchase, lease, construction, or modification of plants, pipe lines and accessories, compressor stations, camp buildings, and other facilities for the production, transportation, storage, and purification of helium and helium-bearing gas, including acquisition of sites and rights of way therefor, by purchase, lease, or condemnation, and including supplies and equipment, expenses of travel and subsistence, maintenance and operation of motor-propelled, passenger-carrying vehicles for official use in field work, and all other necessary expenses, including not to exceed \$6,560 for personal services in the District of Columbia, and including the payment of obligations incurred under the contract authorization carried under this heading in the Department of Commerce Appropriation Act for the fiscal year 1932, the unexpended balances in the appropriation "Helium Plants, Bureau of Mines, 1933", less the sum of \$50,000, are hereby continued available for the fiscal year 1934: *Provided*, That no part of the appropriation herein made may be expended except with the approval of the President: *Provided further*, That the acquirement of leases, sites, and rights of way under terms customary in the oil and gas industry, including obligations to pay rental in advance and to pay damages to lands, crops, or structures arising out of the Government's operations is authorized: *Provided further*, That should valuable products other than helium-bearing gas be discovered in wells acquired or drilled for helium-bearing gas under this appropriation the Secretary of Commerce is authorized to provide for the disposal of said wells or the products therefrom, by the contracts under which the property is acquired, or otherwise, in accordance with the interests of the Government therein and in the manner which, in his opinion, is most advantageous to the Government;

Economics of mineral industries: For inquiries and investigations, and the dissemination of information concerning the economic problems of the mining, quarrying, metallurgical, and other mineral industries, with a view to assuring ample supplies and efficient distribution of the mineral products of the mines and quarries, including studies and reports relating to uses, reserves, production, distribution, stocks, consumption, prices, and marketing of mineral commodities and primary products thereof; preparation of the reports of the mineral resources of the United States, including special statistical inquiries; and including personal services in the District of Columbia and elsewhere; purchase of furniture and equipment; stationery and supplies; typewriting, adding, and computing machines, accessories and repairs; newspapers; traveling expenses;

Investigating sources of helium-bearing gas.

Helium plants, production, etc.
Purchase, etc., of plants.

Balances available.
Vol. 46, p. 1350.

Provisos.
Subject to approval of President.
Leases, etc.

Disposal of products in wells other than helium-bearing gas.

Economics of mineral industries.
Investigating, disseminating, etc., information as to problems of, etc.

Reports of mineral resources.

purchase, not exceeding \$1,200, exchange as part payment for, operation, maintenance, and repair of motor-propelled passenger-carrying vehicles for official use in field work; and for all other necessary expenses not included in the foregoing; \$220,500, of which amount not to exceed \$202,600 may be expended for personal services in the District of Columbia;

Scientific investigations for departments, etc., by the bureau.

During the fiscal year 1934 the head of any department or independent establishment of the Government having funds available for scientific investigations and requiring cooperative work by the Bureau of Mines on scientific investigations within the scope of the functions of that bureau and which it is unable to perform within the limits of its appropriations may, with the approval of the Secretary of Commerce, transfer to the Bureau of Mines such sums as may be necessary to carry on such investigations. The Secretary of the Treasury shall transfer on the books of the Treasury Department any sums which may be authorized hereunder, and such amounts shall be placed to the credit of the Bureau of Mines for the performance of work for the department or establishment from which the transfer is made: *Provided*, That any sums transferred by any department or independent establishment of the Government to the Bureau of Mines for cooperative work in connection with this appropriation may be expended in the same manner as sums appropriated herein may be expended;

Transfer of funds to credit of bureau.

Proviso.
Expenditure therefrom.

Purchase of supplies, etc.
R. S., sec. 3709, p. 733.
U. S. C., p. 1309.

The purchase of supplies and equipment or the procurement of services for the Bureau of Mines, at the seat of government, as well as in the field outside of the District of Columbia, may be made in open market without compliance with section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5) of the United States, in the manner common among business men, when the aggregate amount of the purchase or the service does not exceed \$100 in any instance;

Purchase of books, etc.

For the purchase or exchange of professional and scientific books, law books, and books to complete broken sets, periodicals, directories, and other books of reference relating to the business of the Bureau of Mines, there is hereby made available from any appropriations made for such bureau not to exceed \$2,500;

Attendance upon meetings.

For necessary traveling expenses of the director and employees of the bureau, acting under his direction, for attendance upon meetings of technical, professional, and scientific societies, when required in connection with the authorized work of the Bureau of Mines and incurred on the written authority of the Secretary of Commerce, there is hereby made available from any appropriations made to the Bureau of Mines not to exceed in all \$1,000;

Total, Bureau of Mines, \$1,514,300.

Department of Labor.

TITLE IV.—DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

Secretary, Assistants, and office personnel.

Salaries: Secretary of Labor, Assistant Secretary, Second Assistant Secretary, and other personal services in the District of Columbia, \$185,000.

Commissioners of conciliation.
Vol. 37, p. 738.
U. S. C., p. 62.

Commissioners of conciliation: To enable the Secretary of Labor to exercise the authority vested in him by section 8 of the Act creating the Department of Labor (U. S. C., title 5, sec. 611) and to appoint commissioners of conciliation, traveling expenses, and not to exceed \$14,905 for personal services in the District of Columbia, and telegraph and telephone service, \$180,000.

CONTINGENT EXPENSES, DEPARTMENT OF LABOR

For contingent and miscellaneous expenses of the offices and bureaus of the department, for which appropriations for contingent and miscellaneous expenses are not specifically made, including the purchase of stationery, furniture, and repairs to the same, carpets, matting, oilcloths, file cases, towels, ice, brooms, soap, sponges, laundry, street-car fares not exceeding \$200; lighting and heating; purchase, exchange, maintenance, and repair of motor cycles and motor trucks; maintenance, operation, and repair of a motor-propelled passenger-carrying vehicle, to be used only for official purposes; freight and express charges; newspaper clippings not to exceed \$1,800, postage to foreign countries, telegraph and telephone service, typewriters, adding machines, and other labor-saving devices; purchase of law books, books of reference, newspapers, and periodicals, not exceeding \$5,000; in all, \$55,000; and in addition thereto such sum as may be necessary, not in excess of \$25,000, to facilitate the purchase, through the central purchasing office as provided in the Act approved June 17, 1910 (U. S. C., title 41, sec. 7), of certain supplies for the Immigration Service, shall be deducted from the appropriation "Salaries and expenses, Bureau of Immigration," made for the fiscal year 1934 and added to the appropriation "Contingent expenses, Department of Labor," for that year; and the total sum thereof shall be and constitute the appropriation for contingent expenses for the Department of Labor, to be expended through the central purchasing office (Division of Publications and Supplies), Department of Labor: *Provided*, That section 3709 of the Revised Statutes of the United States (U. S. C., title 41, sec. 5) shall not be construed to apply to any purchase or service rendered for the Department of Labor when the aggregate amount involved does not exceed the sum of \$50.

Printing and binding: For printing and binding for the Department of Labor, including all its bureaus, offices, institutions, and services located in Washington, District of Columbia, and elsewhere, \$225,000.

BUREAU OF LABOR STATISTICS

Salaries and expenses: For personal services, including temporary statistical clerks, stenographers and typewriters in the District of Columbia, and including also experts and temporary assistants for field service outside of the District of Columbia; traveling expenses, including expenses of attendance at meetings concerned with the work of the Bureau of Labor Statistics when incurred on the written authority of the Secretary of Labor; purchase of periodicals, documents, envelopes, price quotations, and reports and materials for reports and bulletins of said bureau, \$414,000, of which amount not to exceed \$353,290 may be expended for the salary of the commissioner and other personal services in the District of Columbia.

BUREAU OF IMMIGRATION

Salaries and expenses: For enforcement of the laws regulating the immigration to, the residence in, and the exclusion and deportation from the United States of aliens, and persons subject to the Chinese exclusion laws; salaries, transportation, traveling, and other expenses of officers, clerks, and other employees appointed to enforce said laws; care, detention, maintenance, transportation, and traveling expenses incident to the deportation and exclusion of aliens, and persons subject to the Chinese exclusion laws, as authorized by law, in the United States and to, through, or in foreign countries; pur-

Contingent expenses.

Additional, from immigration expense appropriations, for supplies.
Vol. 36, p. 531.
U. S. C., p. 1309.

Expenditure through Publications and Supplies Division.

Proviso.
Minor purchases.
R. S., sec. 3709, p. 733.
U. S. C., p. 1309.

Printing and binding.

Labor Statistics Bureau.

Commissioner, and office personnel.

Immigration Bureau.

Salaries and expenses.

Deportation expenses.

Refunding head tax, etc.

Salary, Commissioner General, etc.

Coast and land border patrol.
Proviso.
Limitation on motor vehicles.

Amount for coast, etc., patrol.

Privately owned horses.

Allowances for living quarters.

Vol. 46, p. 818.
U. S. C., Supp. VI, p. 20.

Ellis Island, immigrant station.
Remodeling, etc.

Naturalization Bureau.

Salaries and expenses.
Vol. 34, p. 596; Vol. 37, p. 376; Vol. 40, p. 542; Vol. 45, p. 1545.
U. S. C., p. 157; Supp. VI, p. 79.

Attendance at meetings.

chase of supplies and equipment, including alterations and repairs; purchase, exchange, operation, maintenance and repair of motor-propelled vehicles, including passenger-carrying vehicles for official use in field work; cost of reports of decisions of the Federal courts and digests thereof for the use of the Commissioner General of Immigration; refunding of head tax, maintenance bills, immigration fines, registry fees, and reentry permit fees, upon presentation of evidence showing conclusively that collection and deposit was made through error of Government officers; and for all other expenses necessary to enforce said laws; \$9,444,000, all to be expended under the direction of the Secretary of Labor, of which amount not to exceed \$320,000 may be expended for the salary of the Commissioner General and other personal services in the District of Columbia, including services of persons authorized by law to be detailed there for duty, and not to exceed \$1,850,000 shall be available for coast and land border patrol: *Provided*, That not to exceed \$45,000 of the sum herein appropriated shall be available for the purchase, including exchange, of motor-propelled passenger-carrying vehicles, and of such sum of \$45,000 not more than \$35,000 shall be available for the same purposes for the coast and land border patrol: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Labor, may contract with officers and employees stationed outside of the District of Columbia whose salaries are payable from this appropriation, for the use, on official business outside of the District of Columbia, of privately owned horses, and the consideration agreed upon shall be payable from the funds herein appropriated: *Provided further*, That not to exceed \$7,000 of the total amount herein appropriated shall be available for allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, title 5, sec. 118a), not to exceed \$720 for any person.

Immigration stations: For remodeling, repairing (including repairs to the ferryboat, Ellis Island), renovating buildings and purchase of equipment, \$50,000.

BUREAU OF NATURALIZATION

Salaries and expenses: For the expenses of carrying on the work of the Bureau of Naturalization, as provided in the Acts authorizing a uniform rule for the naturalization of aliens throughout the United States, and establishing the Bureau of Naturalization, approved June 29, 1906, and March 4, 1913, and subsequent Acts (U. S. C., title 8, secs. 331-416; U. S. C., Supp. V, title 8, secs. 355-384); including personal services; traveling expenses, and not to exceed \$400 for expenses of attendance at meetings concerned with the naturalization of aliens when incurred on the written authority of the Secretary of Labor; street-car fare, telegrams, verifications of legal papers, telephone service in field offices and telephone toll service in the bureau; necessary supplies and equipment for the Naturalization Service; refunding of naturalization fees upon presentation of evidence showing conclusively that the collection and deposit was made through error; not to exceed \$3,000 for rent of offices outside of the District of Columbia where suitable quarters can not be obtained in public buildings; and for mileage and fees to witnesses subpoenaed on behalf of the United States, the expenditures from this appropriation to be made in the manner and under such regulations as the Secretary of Labor may prescribe, \$890,000, of which not to exceed \$210,883 may be expended for the salary of the commissioner and other personal services in the bureau in the Dis-

trict of Columbia: *Provided*, That no part of this appropriation shall be available for the compensation of assistants to clerks of United States courts.

Proviso.
Clerks at Federal courts excluded.

CHILDREN'S BUREAU

Children's Bureau.

Salaries and expenses: For expenses of investigating and reporting upon matters pertaining to the welfare of children and child life, and especially to investigate the questions of infant mortality; personal services, including experts and temporary assistants; traveling expenses, including expenses of attendance at meetings for the promotion of child welfare when incurred on the written authority of the Secretary of Labor; purchase of reports and material for the publications of the Children's Bureau and for reprints from State, city, and private publications for distribution when said reprints can be procured more cheaply than they can be printed by the Government, and other necessary expenses; \$344,000, of which amount not to exceed \$285,450 may be expended for personal services in the District of Columbia.

Salaries and expenses.
Child welfare and infant mortality, etc., investigations.

Bureau publications.

WOMEN'S BUREAU

Women's Bureau.

For carrying out the provisions of the Act entitled "An Act to establish in the Department of Labor a bureau to be known as the Women's Bureau," approved June 5, 1920 (U. S. C., title 29, secs. 11-16; U. S. C., Supp. V, title 29, secs. 12-14), including personal services in the District of Columbia, not to exceed \$124,680; purchase of material for reports and educational exhibits, and traveling expenses, \$147,000, which sum shall be available for expenses of attendance at meetings concerned with the work of said bureau when incurred on the written authority of the Secretary of Labor.

Salaries and expenses.
Vol. 41, p. 987.
U. S. C., p. 947;
Supp. VI, p. 627.

EMPLOYMENT SERVICE

Employment Service.

To enable the Secretary of Labor to foster, promote, and develop the welfare of the wage earners of the United States, including juniors legally employed, to improve their working conditions, to advance their opportunities for profitable employment by regularly collecting, furnishing, and publishing employment information as to opportunities for employment; maintaining a system for clearing labor between the several States; cooperating with the Veterans' Administration to secure employment for veterans; cooperating with and coordinating the public employment offices throughout the country, including personal services in the District of Columbia and elsewhere; traveling expenses, including expenses of attendance at meetings concerned with the work of the Employment Service when specifically authorized by the Secretary of Labor; supplies and equipment, telegraph and telephone service, and miscellaneous expenses; \$734,865, of which amount not to exceed \$46,750 may be expended for personal services in the District of Columbia: *Provided*, That no part of this appropriation shall be expended for the establishment or maintenance of any employment office unless suitable space therefor can be found in a Federal building or is furnished free of rent by State, county, or local authority, or by individuals or organizations: *Provided further*, That no part of this appropriation shall be used to pay any salary in any field employment office at an annual rate in excess of \$2,000, except one director in each State whose salary shall not exceed \$3,500, and twenty-three managers of the Veterans' Employment Service whose salary shall not exceed \$2,400 each.

Promoting welfare of wage earners.

Traveling expenses.
Attendance at meetings.

Proviso.
Rent restriction.

Field service pay restrictions.

Housing Corpora-
tion.

UNITED STATES HOUSING CORPORATION

Salaries and expenses.

Salaries and expenses: For officers, clerks, and other employees, and for contingent and miscellaneous expenses, in the District of Columbia and elsewhere, including blank books, maps, stationery, file cases, towels, ice, brooms, soap, freight and express charges, communication service, travel expense, printing and binding not to exceed \$150, and all other miscellaneous items and expenses not included in the foregoing and necessary to collect and account for the receipts from the sale of properties and the receipts from the operation of unsold properties of the United States Housing Corporation, the Bureau of Industrial Housing and Transportation¹, property commandeered by the United States through the Secretary of Labor, and to collect the amounts advanced to transportation facilities and others; for payment of special assessments and other utility, municipal, State, and county charges or assessments unpaid by purchasers, and which have been assessed against property in which the United States Housing Corporation has an interest, and to defray expenses incident to foreclosing mortgages, conducting sales under deeds of trusts, or reacquiring title or possession of real property under default proceeding, including attorney fees, witness fees, court costs, charges, and other miscellaneous expenses; for the maintenance and repair of houses, buildings, and improvements which are unsold; in all, \$8,500: *Provided*, That no person shall be employed hereunder at a rate of compensation exceeding \$4,000 per annum, and only one person may be employed at that rate: *Provided further*, That no part of the appropriations heretofore made and available for expenditure by the United States Housing Corporation shall be expended for the purposes for which appropriations are made herein.

Approved. March 1, 1933.

Miscellaneous items.
Receipts from sales,
operation, etc.Maintenance of un-
sold property.*Provisos.*
Salary restriction.Prior appropriations
not available.

[CHAPTER 145.]

AN ACT

March 1, 1933.

[S. 88.]

[Public, No. 388.]

To authorize the Postmaster General to investigate the conditions of the lease of the post-office garage in Boston, Massachusetts, and to readjust the terms thereof.

Boston, Mass., post-
office garage.
Conditions of lease,
to be investigated.

Rental and purchase
options may be read-
justed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General is hereby directed, because of the conditions encountered in the performance of the contract for the construction and lease of the post-office garage in Boston, Massachusetts, and the modifications made in said building from the original specifications, during the course of construction, to meet the aforesaid conditions, and to provide a larger and better building than was required under the original contract and specifications; to readjust the rental, and the purchase options in the existing lease by increasing the annual rental under the lease from March 23, 1931, but not in excess of \$7,500, and by increasing the purchase options not in excess of \$75,000.

Approved, March 1, 1933.

¹ So in original.

[CHAPTER 146.]

AN ACT

To amend section 808 of Title VIII of the Revenue Act of 1926, as amended by section 443 of the Revenue Act of 1928.

March 1, 1933.
[H. R. 12977.]
[Public, No. 389.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 808 of Title VIII of the Revenue Act of 1926, as amended by section 443 of the Revenue Act of 1928, be, and the same is hereby, amended by striking out the words "in cities of over twenty-five thousand inhabitants" and inserting in lieu thereof the following: "in all post offices of the first and second classes and such post offices of the third and fourth classes as are located in county seats."

Revenue Act of 1926.
Vol. 44, p. 103; Vol. 45, p. 868, amended.
Sale of revenue stamps.

Approved, March 1, 1933

[CHAPTER 147.]

AN ACT

To authorize the Secretary of the Treasury in his discretion to acquire a new site in Huntsville, Alabama, and to construct a building thereon for the accommodation of the courts, post office, and other Government offices.

March 1, 1933.
[H. R. 14321.]
[Public, No. 390.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to acquire a new site in Huntsville, Alabama, and to construct a building thereon for the accommodation of the courts, post office, and other Government offices, at a cost not to exceed the sum of \$234,000, in lieu of the acquisition of additional land, demolition of building and construction of a new building within said limit of cost fixed under authority of the Act approved July 21, 1932, as modified by the Act approved June 30, 1932.

Huntsville, Ala.
Acquisition of new site and construction of public building, authorized.

Ante, pp. 718, 412.

Approved, March 1, 1933.

[CHAPTER 148.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Rio Grande at Boca Chica, Texas.

March 1, 1933.
[H. R. 14411.]
[Public, No. 391.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge authorized by Act of Congress approved June 10, 1932, to be built by the Boca Chica Bridge Company, across the Rio Grande at Boca Chica, Texas, are hereby extended one and three years, respectively, from June 10, 1933.

Rio Grande.
Time extended for bridging, at Boca Chica, Tex.
Ante, p. 297, amended.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, March 1, 1933.

[CHAPTER 149.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Baton Rouge, Louisiana.

March 1, 1933.
[H. R. 14460.]
[Public, No. 392.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Mississippi River at or near Baton Rouge, Louisiana, authorized to

Mississippi River.
Time extended for bridging, at Baton Rouge, La.

Ante, p. 46, amended.

be built by the Louisiana Highway Commission, and the Missouri Pacific Railroad Company, and the Louisiana and Arkansas Railway Company, by an Act of Congress approved February 10, 1932, are hereby extended two and four years, respectively, from February 10, 1933.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, March 1, 1933.

[CHAPTER 150.]

AN ACT

March 1, 1933.

[H. R. 14480.]

[Public, No. 393.]

To extend the times for commencing and completing the reconstruction of a railroad bridge across the Little River at or near Morris Ferry, Arkansas.

Little River.
Time extended for
reconstructing bridge
across, at Morris Ferry,
Ark.
Vol. 46, p. 800,
amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the reconstruction of a railroad bridge across the Little River at or near Morris Ferry, Arkansas, authorized to be reconstructed, maintained, and operated by the Texarkana and Fort Smith Railway Company, its successors and assigns, by an Act of Congress approved June 23, 1930, are hereby extended one and three years, respectively, from June 23, 1933.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved March 1, 1933.

[CHAPTER 151.]

AN ACT

March 1, 1933.

[H. R. 14584.]

[Public, No. 394.]

Granting the consent of Congress to the Board of County Commissioners of Allegheny County, Pennsylvania, to construct, maintain, and operate a bridge across the Allegheny River between the city of Pittsburgh and the township of O'Hara and the borough of Sharpsburg, Pennsylvania.

Allegheny River.
Allegheny County,
Pa., may bridge, be-
tween O'Hara and
Sharpsburg.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the Board of County Commissioners of Allegheny County, Pennsylvania, to construct, maintain, and operate a bridge and approaches thereto across the Allegheny River at a point suitable to the interest of navigation, between the city of Pittsburgh and the township of O'Hara and the borough of Sharpsburg, to replace Number 9 Allegheny River Bridge, commonly known as the Highland Park Bridge, in accordance with the provisions of an Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

To replace Highland
Park bridge.

Construction.
Vol. 34, p. 84.

Tolls adjusted to
maintenance, sinking
fund, etc.

SEC. 2. If tolls are charged for the use of such bridge, the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the cost of the bridge and its approaches, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed twenty years from the completion thereof. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches

Operation as free
bridge after costs amor-
tized.

under economical management. An accurate record of the costs of the bridge and its approaches, the expenditures for maintaining, repairing, and operating the same, and the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

Record of expenditures and receipts.

SEC. 3. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, March 1, 1933.

[CHAPTER 152.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Culbertson, Montana.

March 1, 1933.
[H. R. 14586.]
[Public, No. 395.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Missouri River at or near Culbertson, Montana, authorized to be built by the State of Montana and the counties of Roosevelt and Richland, or any of them, by the Act of Congress approved July 3, 1930, heretofore extended by Acts of Congress approved February 20, 1931, and February 10, 1932, are hereby further extended one and three years, respectively, from July 3, 1933.

Missouri River.
Time extended for bridging, at Culbertson, Mont.
Vol. 46, pp. 859, 1174.

Ante, p. 43, amended.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, March 1, 1933.

[CHAPTER 153.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Tenth Street in Bettendorf, Iowa.

March 1, 1933.
[H. R. 14589.]
[Public, No. 396.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Mississippi River at or near Tenth Street in Bettendorf, Iowa, authorized to be built by B. F. Peek, G. A. Shallberg, and C. I. Josephson, of Moline, Illinois; J. W. Bettendorf, A. J. Russell, and J. L. Hecht, of Bettendorf and Davenport, Iowa, their heirs, legal representatives, and assigns, by an Act of Congress approved May 26, 1928, heretofore extended by Acts of Congress approved March 2, 1929, June 10, 1930, and April 22, 1932, are hereby further extended one and three years, respectively, from May 26, 1933.

Mississippi River.
Time extended for bridging, at Bettendorf, Iowa.

Vol. 45, pp. 759, 1512;
Vol. 46, p. 552, amended.
Ante, p. 133, amended.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, March 1, 1933.

[CHAPTER 154.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Mississippi River between New Orleans and Gretna, Louisiana.

March 1, 1933.
[H. R. 14601.]
[Public, No. 397.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge across the Mississippi River between New Orleans and Gretna, Louisiana, authorized to be built by George A. Hero and Allen S. Hackett,

Mississippi River.
Time extended for bridging, between New Orleans and Gretna, La.

Vol. 44, p. 1270; Vol. 45, pp. 193, 1229; Vol. 46, p. 551, amended.

their successors and assigns, by Act of Congress approved March 2, 1927, heretofore extended by Acts of Congress approved March 6, 1928, February 19, 1929, and June 10, 1930, are hereby further extended one and three years, respectively, from March 2, 1933.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, March 1, 1933.

[CHAPTER 155.]

AN ACT

March 1, 1933.
[H. R. 14602.]
[Public, No. 398.]

To revive and reenact the Act entitled "An Act granting the consent of Congress to the Highway Department of the State of Alabama to construct a bridge across Elk River between Lauderdale and Limestone Counties, Alabama," approved February 16, 1928.

Elk River.
Time extended for bridging, between Lauderdale and Limestone Counties, Ala.
Vol. 45, p. 109.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act approved February 16, 1928, granting the consent of Congress to the Highway Department of the State of Alabama to construct, maintain, and operate a bridge and approaches thereto across the Elk River, at a point suitable to the interest of navigation on the Athens-Florence Road between Lauderdale and Limestone Counties, in the State of Alabama, be, and the same is hereby, revived and reenacted: *Provided,* That this Act shall be null and void unless the actual construction of the bridge herein referred to be commenced within one year and completed within three years from the date of approval hereof.

Proviso.
Limitation on commencement and completion.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, March 1, 1933.

[CHAPTER 156.]

AN ACT

March 1, 1933.
[H. R. 14657.]
[Public, No. 399.]

To extend the times for commencing and completing the construction of a railroad bridge and/or a toll bridge across the water between the mainland at or near Cedar Point and Dauphin Island, Alabama.

Mobile Bay.
Time extended for bridging, between Cedar Point and Dauphin Island, Ala.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a railroad bridge and/or a toll bridge across the water between the mainland at or near Cedar Point and Dauphin Island, Alabama, authorized to be built by the Dauphin Island Railway and Harbor Company, its successors and assigns, by an Act of Congress approved February 25, 1927, heretofore extended by an Act of Congress approved February 7, 1930, are hereby extended one and three years, respectively, from February 25, 1933.

Vol. 44, p. 1242; Vol. 46, p. 65, amended.

Amendment.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, March 1, 1933.

[CHAPTER 157.]

AN ACT

To amend article 5 of the Act of Congress approved June 7, 1897, relating to the approval of regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States.

March 1, 1933.
[S. 4008.]
[Public, No. 400.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That article 5 of the Act of Congress approved June 7, 1897, be amended by striking out the word "or" after the word "way" and preceding the word "being" in the first line thereof, and adding the words "and any vessel" after the word "way" and before the word "being" hereinabove referred to; and that the article be further amended by inserting a comma and the words "except barges, canal boats, scows, and other vessels of nondescript type, when in tow of steam vessels," between the words "towed" and "shall," so that the article as amended shall read as follows:

Collisions on rivers, harbors and inland waters.
Vol. 30, p. 97, amended.

"ART. 5. A sailing vessel under way and any vessel being towed, except barges, canal boats, scows, and other vessels of nondescript type, when in tow of steam vessels, shall carry the same lights as are prescribed by article 2 for a steam vessel under way, with the exception of the white lights mentioned therein, which they shall never carry."

Rule concerning lights on sailing vessels, under way, etc., modified.

Approved, March 1, 1933.

[CHAPTER 158.]

AN ACT

To amend the Act of February 14, 1920, authorizing and directing the collection of fees for work done for the benefit of Indians.

March 1, 1933.
[H. R. 10986.]
[Public, No. 401.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the item contained in the Act approved February 14, 1920 (41 Stat. L. 415; U. S. C., title 25, sec. 413), authorizing and directing the collection of fees to cover the cost of certain specified work performed for the benefit of Indians, be, and the same is hereby, amended so as to read as follows:

Indian Service, fees for services.
Vol. 41, p. 415.
U. S. C., p. 720, amended.

"That the Secretary of the Interior is hereby authorized, in his discretion, and under such rules and regulations as he may prescribe, to collect reasonable fees to cover the cost of any and all work performed for Indian tribes or for individual Indians, to be paid by vendees, lessees, or assignees, or deducted from the proceeds of sale, leases, or other sources of revenue: *Provided*, That the amounts so collected shall be covered into the Treasury as miscellaneous receipts, except when the expenses of the work are paid from Indian tribal funds, in which event they shall be credited to such funds."

Collection of, optional, under prescribed rules.

Provido.
Sums paid from tribal funds to be credited thereto.

Approved, March 1, 1933.

[CHAPTER 159.]

AN ACT

To authorize acceptance of proposed donation of property in Maxwell, Nebraska, for Federal building purposes.

March 1, 1933.
[H. R. 10749.]
[Public, No. 402.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and empowered to accept on behalf of the United States the donation by Mr. C. J. Israel of his property in Maxwell, Nebraska, for Federal building purposes; being a cross section of lots numbered 1, 2, 3, and 4,

Maxwell, Nebr.
Acceptance of property donation in, for Federal building purposes.

To be operated as public building.

Sum for alterations, etc.

block 22, original town, facing east on Pine Street and having dimensions of twenty-six by ninety-six feet, together with the one-story bank building now located thereon; that said property shall be used and operated as are other public buildings, and that the annual appropriations for the general maintenance of public buildings under the control of the Treasury Department shall be construed to be available for use in connection with said property as for other buildings under said department; and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$1,000 to be used for the purpose of altering, repairing, and reconditioning said building to make same available for use as a post office.

Approved, March 1, 1933.

[CHAPTER 160.]

AN ACT

To permanently set aside certain lands in Utah as an addition to the Navajo Indian Reservation, and for other purposes.

March 1, 1933.
[H. R. 11735.]
[Public, No. 403.]

Navajo Indian Reservation, Utah.
Designated lands set aside as addition to.
Description.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all vacant, unreserved, and undisposed of public lands within the areas in the southern part of the State of Utah, bounded as follows: Beginning at a point where the San Juan River intersects the one hundred and tenth degree of west longitude; thence down said river to its confluence with the Colorado River; thence down the Colorado River to a point where said river crosses the boundary line between Utah and Arizona; thence east along said boundary line to the one hundred and tenth degree of west longitude; thence north to the place of beginning; also beginning at a point where the west rim of Montezuma Creek or wash intersects the north boundary line of the Navajo Indian Reservation in Utah; thence northerly along the western rim of said creek or wash to a point where it intersects the section line running east and west between sections 23 and 26, township 39 south, range 24 east, Salt Lake base and meridian in Utah; thence eastward along said section line to the northeast section corner of section 26, township 39 south, range 25 east; thence south one mile along the section line between sections 25 and 26 to the southeast section corner of section 26, township 39 south, range 25 east; thence eastward along the section line between sections 25 and 36, township 39 south, range 25 east, extending through township 39 south, range 26 east, to its intersection with the boundary line between Utah and Colorado; thence south along said boundary line to its intersection with the north boundary line of the Navajo Indian Reservation; thence in a westerly direction along the north boundary line of said reservation to the point of beginning be, and the same are hereby, permanently withdrawn from all forms of entry or disposal for the benefit of the Navajo and such other Indians as the Secretary of the Interior may see fit to settle thereon: *Provided*, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96; U. S. C., title 43, sec. 190). Should oil or gas be produced in paying quantities within the lands hereby added to the Navajo Reservation, 37½ per centum of the net royalties accruing therefrom derived from tribal leases shall be paid to the State of Utah: *Provided*, That said 37½ per centum of said royalties shall be expended by the

Provisos.
Restriction on further allotments.
Vol. 23, p. 96.
U. S. C., p. 1338.

Portion of oil, etc., revenues, to be paid to State.
Use of.

State of Utah in the tuition of Indian children in white schools and/or in the building or maintenance of roads across the lands described in section 1 hereof, or for the benefit of the Indians residing therein.

SEC. 2. That the State of Utah may relinquish such tracts of school land within the areas added to the Navajo Reservation by section 1 of this Act as it may see fit in favor of the said Indians, and shall have the right to select other unreserved and nonmineral public lands contiguously or noncontiguously located within the State of Utah, equal in area and approximately of the same value to that relinquished, said lieu selections to be made in the same manner as is provided for in the Enabling Act of July 16, 1894 (28 Stat. L. 107), except as to the payment of fees or commissions which are hereby waived. •

Approved, March 1, 1933.

Relinquishment by Utah of certain school tracts to Indians.

Selection of other lands in lieu.

Vol. 28, p. 109.
Fees waived.

[CHAPTER 161.]

AN ACT

To amend the description of land described in section 1 of the Act approved February 14, 1931, entitled "An Act to authorize the President of the United States to establish the Canyon De Chelly National Monument within the Navajo Indian Reservation, Arizona."

March 1, 1933.
[H. R. 13960.]
[Public, No. 404.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the description of the tract of land described in section 1 of the Act approved February 14, 1931, entitled "An Act to authorize the President of the United States to establish the Canyon De Chelly National Monument within the Navajo Indian Reservation, Arizona" (U. S. C., title 16, secs. 445, 445b), be, and the same is hereby, amended to read as follows:

Canyon De Chelly National Monument, Ariz.

Vol. 46, p. 1161.
U. S. C., Supp. VI,
p. 219, amended.

"All lands in Del Muerto, De Chelly, and Monument Canyons, and the canyons tributary thereto, and the lands within one-half mile of the rims of the said canyons, situated in unsurveyed townships 4 and 5 north, range 7 west; townships 4, 5, and 6 north, range 8 west; townships 4 and 5 north, range 9 west; and in surveyed townships 4 and 5 north, range 6 west; townships 3, 6, and 7 north, range 7 west; township 6 north, range 9 west; and township 5 north, range 10 west; embracing about eighty-three thousand eight hundred and forty acres, all of the Navajo meridian, in Arizona."

Description of tract amended.

Approved, March 1. 1933.

[CHAPTER 162.]

AN ACT

To provide for placing the jurisdiction, custody, and control of the Washington City post office in the Secretary of the Treasury.

March 1, 1933.
[H. R. 14461.]
[Public, No. 405.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 1, 1898 (U. S. C., title 40, sec. 285), is hereby amended to give to the Secretary of the Treasury exclusive jurisdiction, control, and custody of the Washington City post office and the additions thereto, located at North Capitol Street and Massachusetts Avenue, to be operated and maintained by him the same as other public buildings under his custody and control.

Washington City post office. Jurisdiction, etc., of placed under the Secretary of the Treasury.
Vol. 30, p. 614.
U. S. C., p. 1305.

Approved, March 1, 1933.

[CHAPTER 163.]

JOINT RESOLUTION

March 1, 1933.
[S. J. Res. 48.]
[Pub. Res., No. 61.]

To authorize the acceptance on behalf of the United States of the bequest of the late William F. Edgar, of Los Angeles County, State of California, for the benefit of the museum and library connected with the office of the Surgeon General of the United States Army.

Army Medical Museum, etc.
Acceptance of bequest of William F. Edgar for benefit of.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Surgeon General of the United States Army be, and is hereby, authorized to accept the bequest of the late William F. Edgar, of Los Angeles County, California, as contained in his will and testament and codicil thereto and such interest as may have accrued on the funds covered by such bequest, and to receipt therefor on behalf of the United States and to deposit the funds so received in the Treasury of the United States as a special fund dedicated to the purposes stated in said codicil, copy of which shall be filed in the General Accounting Office, said fund to be subject to disbursement for such purposes upon vouchers submitted by the Surgeon General of the United States Army under authority of the Secretary of War and to be available until expended.

Deposit of funds.

Approved, March 1, 1933.

[CHAPTER 179.]

AN ACT

March 2, 1933.
[S. 1752.]
[Public, No. 406.]

To authorize an appropriation for the purchase of land in South Dakota for use as camp sites or rifle ranges for the National Guard of said State.

National Guard of South Dakota.
Purchase of land, for use of, authorized.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a sum not to exceed \$14,000 is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the purchase of camp sites or rifle ranges in the State of South Dakota, for the use of the National Guard of said State. All purchase of land under this Act shall be made by the Secretary of War pursuant to law governing the acquisition of land for the use of the National Guard.

Approved, March 2, 1933.

[CHAPTER 180.]

AN ACT

March 2, 1933.
[S. 5233.]
[Public, No. 407.]

To provide for the protection of national military parks, national parks, battlefield sites, national monuments, and miscellaneous memorials under the control of the War Department.

National military parks, monuments, etc.
Regulations for government, etc., of, to be prescribed and published.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War is hereby authorized to prescribe and publish such regulations as he deems necessary for the proper government and protection of, and maintenance of good order in, national military parks, national parks, battlefield sites, national monuments, and miscellaneous memorials as are now or hereafter may be under the control of the War Department; and any person who knowingly and willfully violates any such regulation shall be deemed guilty of a misdemeanor and punishable by a fine of not more than \$100 or by imprisonment for not more than three months, or by both such fine and imprisonment.

Punishment for violation.

Arrest, etc., of offender.

SEC. 2. That the commissioners, superintendents, caretakers, officers, or guards of such national military parks, national parks, battlefield sites, national monuments, and miscellaneous memorials, or any of them, are authorized to make arrests for violations of any

of the regulations prescribed pursuant to this Act, and to bring the offenders before the nearest commissioner, judge, or court of the United States having jurisdiction in the premises

Approved, March 2, 1933.

[CHAPTER 181.]

AN ACT

To extend the times for commencing and completing the construction of a bridge across the Rio Grande at or near Rio Grande City, Texas.

March 2, 1933.
[S. 5445.]
[Public, No. 406.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge authorized by an Act of Congress approved February 15, 1929, to be built by the Rio Grande City-Camargo Bridge Company, across the Rio Grande at or near Rio Grande City, Texas, heretofore extended by an Act of Congress approved January 31, 1931, are hereby further extended one and three years respectively, from February 15, 1933.

Rio Grande.
Time extended for
bridging, at Rio
Grande City, Tex.
Vol. 45, p. 1184; Vol.
46, p. 1056, amended.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, March 2, 1933.

[CHAPTER 182.]

AN ACT

To provide for the creation of the Morristown National Historical Park in the State of New Jersey, and for other purposes.

March 2, 1933.
[S. 5469.]
[Public, No. 409.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when title to all the lands, structures, and other property in the military campground areas and other areas of Revolutionary War interest at and in the vicinity of Morristown, New Jersey, as shall be designated by the Secretary of the Interior, in the exercise of his discretion, as necessary or desirable for national-park purposes, shall have been vested in the United States, such areas shall be, and they are hereby, established, dedicated, and set apart as a public park for the benefit and enjoyment of the people and shall be known as the Morristown National Historical Park: *Provided,* That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid areas, but such lands shall be secured by the United States only by public or private donation: *And provided further,* That such areas shall include, at least, Jockey Hollow camp site, now owned by Lloyd W. Smith and the town of Morristown, Fort Nonsense, now owned by the town of Morristown, and the George Washington Headquarters, known as the Ford House, with its museum and other personal effects and its grounds, now owned by the Washington Association of New Jersey.

Morristown National
Historical Park, N. J.
Establishment, when
lands therefor vest in
the United States.

Proviso.
Lands to be secured
by donation only.

Areas, etc., to be in-
cluded.

Acceptance of titles
to lands, etc.

SEC. 2. The Secretary of the Interior is hereby authorized to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of said park as determined and fixed hereunder and donations of funds for the purchase and/or maintenance thereof, the title and evidence of title to lands purchased to be satisfactory to the Secretary of the Interior: *Provided,* That the Secretary of the Interior is authorized, in his discretion, to accept on behalf of the United States other lands, easements, and buildings of Revolutionary War interest in Morris and adjacent counties in New Jersey as may be donated for the extension of the Morristown National Historical Park.

Proviso.
Acquisitions for ex-
tensions.

Maintenance of museum, etc.

SEC. 3. After the acquisition of the museum and other personal effects of the said Washington Association by the United States, including such other manuscripts, books, paintings, and other relics of historical value pertaining to George Washington and the Revolutionary War as may be donated to the United States, such museum and library shall forever be maintained as a part of said Morristown National Historical Park.

Board of advisers. Duties, meetings, etc.

SEC. 4. The Washington Association of New Jersey, Lloyd W. Smith, and the town of Morristown having, by their patriotic and active interest in conserving for posterity these important historical areas and objects, the board of trustees and the executive committee of the said association, together with Mrs. Willard W. Cutler, its curator, and Clyde Potts, at present mayor of Morristown, shall hereafter act as a board of advisers in the maintenance of said park. The said association shall have the right to hold its meetings in said Ford House.

Washington Association, employees. Services, in park administration, etc.

SEC. 5. Employees of the said Washington Association, who have been heretofore charged with the care and development of the said Ford House and its museum and other effects, may, in the discretion of the Secretary of the Interior, hereafter be employed by the National Park Service in the administration, protection, and development of the said park without regard to the laws of the United States applicable to the employment and compensation of officers and employees of the United States.

Supervision by National Park Service.

SEC. 6. The administration, protection, and development of aforesaid national historical park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of the Act of August 25, 1916, entitled "An Act to establish a National Park Service, and for other purposes," as amended (U. S. C., title 16, secs. 1-4): *Provided*, That no appropriation of Federal funds for administration, protection, and maintenance of said park in excess of \$7,500 annually shall be made for the fiscal years 1934, 1935, 1936.

Vol. 39, p. 535.
U. S. C., p. 389.

Proviso.
Limitation on Federal funds.

Jurisdiction of State not impaired.

SEC. 7. Nothing in this Act shall be held to deprive the State of New Jersey, or any political subdivision thereof, of its civil and criminal jurisdiction in and over the areas included in said national historical park, nor shall this Act in any way impair or affect the rights of citizenship of any resident therein; and save and except as the consent of the State of New Jersey may be hereafter given, the legislative authority of said State in and over all areas included within such national historical park shall not be diminished or affected by the creation of said park, nor by any terms and provisions of this Act.

Approved, March 2, 1933.

[CHAPTER 183.]

AN ACT

Providing for an alternate budget for the Indian Service, fiscal year 1935.

March 2, 1933.
[S. 5622.]
[Public, No. 410.]

Indian Service.
Alternate budget, fiscal year 1935, to be submitted.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the estimates of appropriations for the Bureau of Indian Affairs transmitted in the Budget for the fiscal year 1935 in the customary order and arrangement, there shall be submitted for the consideration of Congress an alternate arrangement of such estimates with a view to simplification and clarity of presentation and consideration thereof.

Approved, March 2, 1933.

[CHAPTER 184.]

AN ACT

To effect needed changes in the Navy ration.

March 2, 1933.
[S. 5675.]
[Public, No. 411.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1580 and 1581, Revised Statutes, as amended by the Act of June 29, 1906, and the Act of March 2, 1907 (34 Stat. 570, 571, 1193; U. S. C., title 34, secs. 902, 903, 906), are hereby repealed.

Navy rations.
R. S., secs. 1580, 1581,
p. 270.
Vol. 34, pp. 570, 571,
1193.
U. S. C., p. 1141,
repealed.
Daily allowance
modified.

The Navy ration issued to each person entitled thereto shall consist of the following daily allowance of provisions: Eight ounces of biscuit or twelve ounces of soft bread or twelve ounces of flour; twelve ounces of preserved meat or fourteen ounces of salt or smoked meat or twenty ounces of fresh meat or fresh fish or poultry; twelve ounces of dried vegetables or eighteen ounces of canned vegetables or forty-four ounces of fresh vegetables; four ounces of dried fruit or ten ounces of canned fruit or six ounces of preserved fruit or sixteen ounces of fresh fruit; two ounces of cocoa or two ounces of coffee or one-half ounce of tea; four ounces of evaporated milk or one ounce of powdered milk or one-half pint of fresh milk, together with one and six-tenths ounces of butter, one and six tenths ounces of cereals or rice or starch foods, one-half ounce of cheese, one and two-tenths eggs, one and six-tenths ounces of lard or lard substitute, two-fifths of a gill of oils or sauces or vinegar, five ounces of sugar and such quantities of baking powder and soda, flavoring extracts, mustard, pepper, pickles, salt, sirup, spices, and yeast as required.

SEC. 2. Any article comprised in the Navy ration may be issued in excess of the authorized quantity: *Provided*, That there be an underissue of the same value in some other article or articles.

Excess issue of any
article allowed.
Proviso.
Underissue of same
value in some other
article.
Small vessels and sta-
tions, increase.

SEC. 3. The Secretary of the Navy is authorized to increase the above-stated allowances on those vessels and stations having an allowed complement of less than one hundred and fifty men and subsisting on a ration allowance, when, in his opinion, such vessels and stations are operating under conditions which warrant such increases.

SEC. 4. The Secretary of the Navy is authorized to fix the limit of the cost of rations on destroyers, submarines, mine sweepers, tugs, aircraft, and other vessels and stations subsisted under the direction of commanding officers.

Rations on destroy-
ers, aircraft, etc.

Approved, March 2, 1933.

[CHAPTER 185.]

AN ACT

To amend section 6 of the national charter of the Great Council of the United States of the Improved Order of Red Men.

March 2, 1933.
[H. R. 194.]
[Public, No. 412.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the charter of the Great Council of the United States of the Improved Order of Red Men, be, and the same is hereby, amended to read as follows:

Great Council of the
United States of the
Improved Order of
Red Men.
Charter amended.
Vol. 34, p. 118,
amended.
Purposes, etc.

“SEC. 6. That said corporation shall not engage in any business for gain; the purposes of said corporation being fraternal, benevolent, and patriotic in providing benefits to its members, care for members, orphans, and widows of members, and to inspire a greater love for the United States of America, and the principles of American liberty.”

Care for members,
added.

Approved, March 2, 1933.

[CHAPTER 186.]

AN ACT

Relating to the construction of a Federal building at Mangum, Oklahoma.

March 2, 1933.

[H. R. 14489.]

[Public, No. 413.]

Mangum, Okla.
Federal building con-
struction at, to provide
court facilities.
Vol. 46, p. 1164.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the construction of the Federal building at Mangum, Oklahoma, authorized by the Act of February 16, 1931 (Document Numbered 788, Seventy-first Congress), the Secretary of the Treasury is hereby authorized to provide facilities for the holding of terms of the District Court for the Western District of Oklahoma.

Approved, March 2, 1933.

[CHAPTER 187.]

JOINT RESOLUTION

To amend the Act entitled "An Act to remove existing discriminations incident to certain land grants and to subject them to the same conditions that govern other land grants of their class," approved February 14, 1933.

March 2, 1933.

[S. J. Res. 259.]

[Pub. Res., No. 62.]

Discriminations in
certain land grants.
Correction author-
ized in Act relative to
Ante, p. 800.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to remove existing discriminations incident to certain land grants and to subject them to the same conditions that govern other land grants of their class," approved February 14, 1933, be, and the same is hereby, amended by striking out "July 2, 1866" where it occurs therein and inserting in lieu thereof "July 27, 1866."

Approved, March 2, 1933.

[CHAPTER 188.]

JOINT RESOLUTION

For the relief of the State of Idaho.

March 2, 1933.

[H. J. Res. 138.]

[Pub. Res., No. 63.]

Idaho.
Relieved from obliga-
tion to replace build-
ing, etc.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Idaho be, and is hereby, relieved of any obligation to replace the building on the Boise Barracks Military Reservation, Boise, Idaho, or to reimburse the United States for the amount of damage to the building destroyed by fire on January 8, 1928.

Approved, March 2, 1933.

[CHAPTER 198.]

AN ACT

To allow credit in connection with homestead entries to widows of persons who served in certain Indian wars.

March 3, 1933.

[S. 2054.]

[Public, No. 414.]

Homestead entries,
public lands.
Vol. 46, p. 144,
amended.
Rights of unmarried
widows of Indian War
veterans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions and limitations of the Act entitled "An Act to allow credit to homestead settlers and entrymen for military service in certain Indian wars," approved April 7, 1930, are hereby extended to the widow of any person who would be entitled to make homestead entry or settlement and receive credit in connection therewith for military service under the provisions of such Act, if such widow is unmarried and otherwise qualified to make entry of public lands under the provisions of the homestead laws of the United States and has heretofore made or shall hereafter make such entry: *Provided,* That in the event of the death of any such widow prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law.

Approved, March 3, 1933.

Proviso.
Patent to minor child
if death prior to perfec-
tion of title.

[CHAPTER 199.]

AN ACT

Amending the Shipping Act, 1916, as amended, for the purpose of further regulating common carriers by water in interstate commerce of the United States engaged in transportation by way of the Panama Canal.

March 3, 1933.

[S. 4491.]

[Public, No. 415.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act—

Intercoastal Shipping Act, 1933.

The term "common carrier by water in intercoastal commerce" for the purposes of this Act shall include every common and contract carrier by water engaged in the transportation for hire of passengers or property between one State of the United States and any other State of the United States by way of the Panama Canal.

"Common carriers by water in intercoastal trade." Term defined.

SEC. 2. That every common carrier by water in intercoastal commerce shall file with the United States Shipping Board and keep open to public inspection schedules showing all the rates, fares, and charges for or in connection with transportation between intercoastal points on its own route; and, if a through route has been established, all the rates, fares, and charges for or in connection with transportation between intercoastal points on its own route and points on the route of any other carrier by water. The schedules filed and kept open to public inspection as aforesaid by any such carrier shall plainly show the places between which passengers and/or freight will be carried, and shall contain the classification of freight and of passenger accommodations in force, and shall also state separately each terminal or other charge, privilege, or facility, granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such aforesaid rates, fares, or charges, or the value of the service rendered to the passenger, consignor, or consignee. Such carriers in establishing and fixing rates, fares, or charges may make equal rates, fares, or charges for similar service between all ports of origin and all ports of destination, and it shall be unlawful for any such carrier, either directly or indirectly, through the medium of any agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any such carrier from extending service to any publicly owned terminal located on any improvement project authorized by the Congress at the same rates which it charges at its nearest regular port of call. Such schedules shall be plainly printed, and copies shall be kept posted in a public and conspicuous place at every wharf, dock, and office of such carrier where passengers or freight are received for transportation, in such manner that they shall be readily accessible to the public and can be conveniently inspected.

Rate, etc., schedules filed with Shipping Board.

Contents.

Equal rates, etc., to be fixed.

Unlawful to prevent service extension at same rates, etc.

Posting schedules required.

No change permitted until 30 days after posting new schedule.

New schedule to show proposed changes.

No change shall be made in the rates, fares, or charges, or classifications, rules, or regulations, which have been filed and posted as required by this section, except by the publication, filing, and posting as aforesaid of a new schedule or schedules which shall become effective not earlier than thirty days after date of posting and filing thereof with the board, and such schedule or schedules shall plainly show the changes proposed to be made in the schedule or schedules then in force and the time when the rates, fares, charges, classifications, rules, or regulations as changed are to become effective: *Provided*, That the board may, in its discretion and for good cause, allow changes upon less than the period of thirty days herein specified: *And provided further*, That schedules or changes which provide for extension of actual service to additional ports at rates of said carrier already in effect for similar service at the nearest port

Provided. Discretionary reduction of period. Rates to secondary ports.

of call to said additional ports shall become effective immediately upon notice to the board.

Intercoastal commerce.
Regulations governing.

From and after ninety days following enactment hereof no person shall engage in transportation as a common carrier by water in intercoastal commerce unless and until its schedules as provided by this section have been duly and properly filed and posted; nor shall any common carrier by water in intercoastal commerce charge or demand or collect or receive a greater or less or different compensation for the transportation of passengers or property or for any service in connection therewith than the rates, fares, and/or charges which are specified in its schedules filed with the board and duly posted and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, nor extend or deny to any person any privilege or facility, except in accordance with such schedules.

Form and manner of publishing schedule.

The board shall by regulations prescribe the form and manner in which the schedules required by this section shall be published, filed, and posted; and the board is authorized to reject any schedule filed with it which is not in consonance with this section and with such regulations. Any schedule so rejected by the board shall be void and its use shall be unlawful.

Rejection, if nonconforming.

Penalty for violation.

Any violation of any provision of this section by a common carrier by water in intercoastal commerce shall be punished by a fine of not less than \$1,000 nor more than \$5,000 for each act of violation and/or for each day such violation continues, to be recovered by the United States in a civil action.

Hearings to determine lawfulness of rate, etc.

SEC. 3. Whenever there shall be filed with the board any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the board shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice: *Provided, however,* That there shall be no suspension of a tariff schedule or service which extends to additional ports, actual service at rates of said carrier for similar service already in effect at the nearest port of call to said additional port.

Notice.

Proviso.
Tariff schedule or service not suspended.

Temporary suspension pending hearing, etc.

Pending such hearing and the decision thereon the board, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than four months beyond the time when it would otherwise go into effect; and after full hearing whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the board may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period. The board shall give preference to the hearing and decision of such questions and decide the same as speedily as possible. Nothing contained herein shall be construed to empower the board affirmatively to fix specific rates.

Duration.
Effect of board's orders.

Power to fix specific rates not granted.

SEC. 4. That nothing in this Act shall prevent the carriage, storage, or handling of property free or at reduced rates, for the United States, State, or municipal Governments, or for charitable purposes.

Special rates to Government, etc.

SEC. 5. That the provisions of the Shipping Act, 1916, and as amended prior to this Act, shall in all respects, except as amended by this Act, continue to be applicable to common carriers by water in intercoastal commerce.

Existing laws applicable.
Vol. 39, p. 729; Vol. 40, p. 900; Vol. 44, p. 1063.

SEC. 6. That this Act may be cited as the Intercoastal Shipping Act, 1933.

Title.

Approved, March 3, 1933.

[CHAPTER 200.]

AN ACT

To extend the operation of the Act entitled "An Act for the temporary relief of water users on irrigation projects constructed and operated under the reclamation law," approved April 1, 1932.

March 3, 1933.
[S. 5417.]

[Public, No. 416.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Act entitled "An Act for the temporary relief of water users on irrigation projects constructed and operated under the reclamation law," approved April 1, 1932, the Secretary of the Interior is authorized and directed to extend the provisions of such Act relating to certain charges coming due for 1931 and to one-half of certain charges due for 1932, in like manner to the remaining one-half of such charges coming due for 1932 and to all of similar charges to become due for 1933, and to extend the provisions of section 3 of such Act, (1) so far as they relate to the extension of time for beginning construction of a drainage system upon the Uncompahgre reclamation project, to one year from and after January 1, 1933, and (2) so far as they relate to certain charges upon or for the Uncompahgre and Grand Valley reclamation projects in the State of Colorado due and payable for the year 1932, in like manner to all similar charges due and payable for the year 1933: *Provided*, That the deferred charges shall bear interest at the rate of 3 per centum per annum for the years specified in the Act approved April 1, 1932, and as amended herein, which interest shall be paid at the same time the principal deferred herein is paid.

Water users on irrigation projects.
Extension, for 1932 and 1933 charges, authorized.
Amc, p. 75, amended.

Uncompahgre drainage construction.

Construction charges, Uncompahgre and Grand Valley projects, deferred.

Proviso.
Interest, deferred charges.

SEC. 2. That the last line of section 10 of said Act is amended by substituting "1936" for "1934."

Reimbursing advances to begin July 1, 1935.

Approved, March 3, 1933.

[CHAPTER 201.]

AN ACT

To extend temporary relief to water users on irrigation projects on Indian reservations, and for other purposes.

March 3, 1933.
[S. 5525.]

[Public, No. 417.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to extend to water users on Indian irrigation projects like relief to that provided in an Act approved April 1, 1932, applying to water users under the reclamation law for the remaining half of such charges due for the calendar year 1932 and for all similar charges to become due for the calendar year 1933, the said Secretary to issue appropriate regulations for the carrying out of the provisions of this Act.

Indian irrigation projects.
Relief provisions to water users on, extended.

Amc, p. 75.

Approved, March 3, 1933.

[CHAPTER 202.]

AN ACT

March 3, 1933.

[H. R. 9877.]

[Public, No. 418.]

To repeal obsolete sections of the Revised Statutes omitted from the United States Code.

United States Code.
Designated obsolete
sections of Revised
Statutes, omitted from,
repealed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sections of the Revised Statutes are hereby repealed:

| | | | | |
|-----------|------------|------------|------------|------------|
| R. S. 14 | R. S. 238 | R. S. 521 | R. S. 1117 | R. S. 1195 |
| R. S. 15 | | R. S. 522 | | R. S. 1196 |
| R. S. 16 | R. S. 242 | | R. S. 1119 | R. S. 1197 |
| R. S. 17 | | R. S. 561 | | R. S. 1198 |
| | R. S. 253 | | R. S. 1121 | |
| R. S. 20 | | R. S. 628 | | R. S. 1200 |
| R. S. 21 | R. S. 255 | | R. S. 1123 | |
| | | R. S. 768 | R. S. 1124 | R. S. 1202 |
| R. S. 23 | R. S. 268 | | | R. S. 1203 |
| | | R. S. 770 | R. S. 1126 | R. S. 1204 |
| R. S. 42 | R. S. 271 | | | R. S. 1205 |
| | | R. S. 777 | R. S. 1128 | R. S. 1206 |
| R. S. 51 | R. S. 276 | R. S. 778 | R. S. 1129 | R. S. 1207 |
| R. S. 52 | | | R. S. 1130 | R. S. 1208 |
| R. S. 53 | R. S. 279 | R. S. 781 | R. S. 1131 | |
| | | | | R. S. 1213 |
| R. S. 75 | R. S. 299 | R. S. 825 | R. S. 1133 | R. S. 1214 |
| R. S. 76 | | R. S. 826 | R. S. 1134 | R. S. 1215 |
| R. S. 77 | R. S. 300A | R. S. 827 | | R. S. 1216 |
| R. S. 78 | R. S. 300B | | R. S. 1137 | R. S. 1217 |
| | | R. S. 831 | | |
| R. S. 85 | R. S. 316 | | R. S. 1139 | R. S. 1219 |
| R. S. 86 | R. S. 317 | R. S. 835 | R. S. 1140 | R. S. 1220 |
| R. S. 87 | | R. S. 836 | | R. S. 1221 |
| R. S. 88 | R. S. 322 | R. S. 837 | R. S. 1142 | |
| | R. S. 323 | | | R. S. 1235 |
| R. S. 90 | | R. S. 839 | R. S. 1146 | R. S. 1236 |
| R. S. 91 | | R. S. 840 | R. S. 1147 | |
| R. S. 92 | R. S. 332 | R. S. 841 | R. S. 1148 | R. S. 1238 |
| R. S. 93 | R. S. 334 | R. S. 842 | | R. S. 1239 |
| | | R. S. 843 | R. S. 1151 | R. S. 1240 |
| R. S. 130 | R. S. 351 | R. S. 844 | R. S. 1152 | |
| | R. S. 352 | R. S. 845 | | R. S. 1262 |
| R. S. 135 | | | R. S. 1154 | R. S. 1263 |
| | R. S. 393 | R. S. 847 | R. S. 1155 | |
| R. S. 142 | R. S. 394 | | | R. S. 1267 |
| | | R. S. 980 | | |
| R. S. 155 | | | R. S. 1159 | |
| R. S. 156 | R. S. 414 | R. S. 1008 | R. S. 1160 | R. S. 1269 |
| R. S. 157 | | R. S. 1009 | R. S. 1161 | |
| | R. S. 416 | | R. S. 1162 | R. S. 1271 |
| R. S. 163 | | R. S. 1037 | R. S. 1163 | R. S. 1272 |
| R. S. 164 | R. S. 433 | R. S. 1038 | | R. S. 1273 |
| | | R. S. 1039 | R. S. 1168 | |
| R. S. 167 | R. S. 440 | R. S. 1040 | | R. S. 1277 |
| R. S. 168 | | | R. S. 1170 | |
| | R. S. 443 | R. S. 1048 | R. S. 1171 | R. S. 1279 |
| R. S. 171 | | | R. S. 1172 | |
| | R. S. 445 | R. S. 1090 | R. S. 1173 | R. S. 1282 |
| R. S. 198 | | R. S. 1094 | | R. S. 1283 |
| | R. S. 466 | | R. S. 1179 | R. S. 1286 |
| R. S. 201 | | R. S. 1099 | R. S. 1180 | R. S. 1287 |
| | R. S. 477 | R. S. 1100 | R. S. 1181 | |
| R. S. 212 | | R. S. 1101 | R. S. 1182 | |
| | R. S. 484 | R. S. 1102 | | R. S. 1289 |
| R. S. 221 | R. S. 485 | R. S. 1103 | | R. S. 1290 |
| R. S. 222 | | | R. S. 1184 | |
| R. S. 223 | | R. S. 1106 | R. S. 1185 | R. S. 1292 |
| | R. S. 490 | R. S. 1107 | R. S. 1186 | |
| R. S. 227 | R. S. 491 | | R. S. 1187 | R. S. 1295 |
| | R. S. 492 | R. S. 1109 | R. S. 1188 | |
| R. S. 231 | | | | R. S. 1297 |
| | R. S. 503 | R. S. 1113 | R. S. 1190 | |
| R. S. 235 | | R. S. 1114 | | R. S. 1315 |
| | R. S. 511 | R. S. 1115 | R. S. 1193 | R. S. 1316 |

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|------------|------------|------------|------------|------------|----------------------------------|
| R. S. 1326 | R. S. 1556 | R. S. 1729 | R. S. 1905 | R. S. 2062 | Sections repealed— Continued. |
| R. S. 1332 | R. S. 1558 | R. S. 1730 | R. S. 1906 | R. S. 2065 | |
| R. S. 1339 | R. S. 1559 | R. S. 1732 | R. S. 1907 | | |
| R. S. 1340 | R. S. 1561 | R. S. 1733 | R. S. 1908 | R. S. 2099 | |
| R. S. 1343 | R. S. 1562 | R. S. 1739 | R. S. 1909 | R. S. 2102 | |
| | R. S. 1565 | R. S. 1741 | R. S. 1910 | | |
| R. S. 1363 | R. S. 1566 | | R. S. 1911 | R. S. 2107 | |
| R. S. 1364 | R. S. 1567 | R. S. 1747 | R. S. 1912 | | |
| R. S. 1365 | R. S. 1568 | | R. S. 1913 | R. S. 2128 | |
| R. S. 1366 | R. S. 1569 | R. S. 1751 | R. S. 1914 | R. S. 2129 | |
| | R. S. 1570 | R. S. 1762 | R. S. 1915 | R. S. 2130 | |
| R. S. 1368 | | R. S. 1799 | R. S. 1916 | R. S. 2131 | |
| R. S. 1371 | R. S. 1572 | | R. S. 1917 | | |
| R. S. 1372 | R. S. 1573 | R. S. 1817 | R. S. 1918 | R. S. 2175 | |
| | R. S. 1577 | R. S. 1842 | R. S. 1919 | R. S. 2176 | |
| R. S. 1376 | R. S. 1578 | | R. S. 1920 | R. S. 2177 | |
| R. S. 1377 | R. S. 1579 | R. S. 1845 | R. S. 1921 | R. S. 2178 | |
| | R. S. 1589 | R. S. 1846 | R. S. 1922 | R. S. 2179 | |
| R. S. 1390 | R. S. 1590 | R. S. 1847 | R. S. 1923 | R. S. 2180 | |
| R. S. 1391 | | R. S. 1848 | R. S. 1924 | R. S. 2181 | |
| R. S. 1392 | R. S. 1594 | R. S. 1849 | R. S. 1925 | R. S. 2182 | |
| | R. S. 1595 | R. S. 1850 | R. S. 1926 | R. S. 2183 | |
| R. S. 1394 | R. S. 1596 | R. S. 1851 | R. S. 1927 | R. S. 2184 | |
| | R. S. 1597 | R. S. 1852 | R. S. 1928 | R. S. 2185 | |
| R. S. 1399 | R. S. 1598 | R. S. 1853 | R. S. 1929 | R. S. 2186 | |
| R. S. 1400 | R. S. 1599 | | R. S. 1930 | R. S. 2187 | |
| | R. S. 1601 | R. S. 1856 | R. S. 1931 | R. S. 2188 | |
| R. S. 1412 | R. S. 1602 | | R. S. 1932 | R. S. 2189 | |
| | R. S. 1608 | R. S. 1859 | R. S. 1933 | R. S. 2190 | |
| R. S. 1416 | | R. S. 1862 | R. S. 1934 | R. S. 2191 | |
| | R. S. 1615 | R. S. 1863 | R. S. 1935 | R. S. 2192 | |
| R. S. 1423 | | R. S. 1865 | R. S. 1936 | R. S. 2193 | |
| R. S. 1424 | R. S. 1618 | R. S. 1866 | R. S. 1937 | R. S. 2194 | |
| R. S. 1425 | | R. S. 1867 | R. S. 1938 | R. S. 2195 | |
| | R. S. 1661 | R. S. 1869 | R. S. 1939 | R. S. 2196 | |
| R. S. 1446 | R. S. 1662 | R. S. 1870 | R. S. 1940 | R. S. 2197 | |
| R. S. 1447 | R. S. 1663 | R. S. 1871 | R. S. 1941 | R. S. 2198 | |
| | R. S. 1667 | R. S. 1872 | R. S. 1942 | R. S. 2199 | |
| R. S. 1460 | | R. S. 1874 | R. S. 1943 | R. S. 2200 | |
| R. S. 1461 | R. S. 1670 | R. S. 1875 | R. S. 1944 | R. S. 2201 | |
| | R. S. 1672 | R. S. 1876 | R. S. 1945 | R. S. 2202 | |
| R. S. 1472 | R. S. 1673 | R. S. 1877 | R. S. 1946 | R. S. 2203 | |
| | R. S. 1676 | | R. S. 1947 | R. S. 2204 | |
| R. S. 1476 | | R. S. 1879 | R. S. 1948 | R. S. 2205 | |
| | R. S. 1677 | R. S. 1880 | R. S. 1949 | R. S. 2206 | |
| R. S. 1478 | R. S. 1678 | R. S. 1881 | R. S. 1950 | R. S. 2207 | |
| R. S. 1479 | R. S. 1679 | R. S. 1882 | R. S. 1951 | R. S. 2208 | |
| | R. S. 1682 | R. S. 1885 | R. S. 1952 | R. S. 2209 | |
| R. S. 1484 | R. S. 1684 | R. S. 1887 | R. S. 1953 | R. S. 2210 | |
| | R. S. 1687 | R. S. 1889 | R. S. 1954 | R. S. 2211 | |
| R. S. 1491 | | R. S. 1891 | R. S. 1958 | R. S. 2212 | |
| R. S. 1492 | R. S. 1690 | R. S. 1896 | R. S. 1991 | R. S. 2213 | |
| | R. S. 1691 | R. S. 1897 | | R. S. 2214 | |
| R. S. 1497 | R. S. 1694 | R. S. 1898 | R. S. 2034 | R. S. 2215 | |
| | R. S. 1702 | R. S. 1899 | R. S. 2036 | R. S. 2216 | |
| R. S. 1513 | R. S. 1703 | R. S. 1900 | R. S. 2041 | R. S. 2217 | |
| R. S. 1514 | R. S. 1704 | R. S. 1901 | | R. S. 2226 | |
| | R. S. 1705 | R. S. 1902 | R. S. 2043 | R. S. 2227 | |
| R. S. 1522 | | R. S. 1903 | R. S. 2044 | | |
| R. S. 1523 | R. S. 1694 | R. S. 1904 | R. S. 2045 | R. S. 2233 | |
| R. S. 1524 | | R. S. 1905 | R. S. 2046 | | |
| R. S. 1525 | | R. S. 1906 | R. S. 2047 | R. S. 2241 | |
| | R. S. 1702 | R. S. 1907 | R. S. 2048 | R. S. 2256 | |
| R. S. 1529 | R. S. 1703 | R. S. 1908 | R. S. 2049 | | |
| R. S. 1530 | R. S. 1704 | R. S. 1909 | R. S. 2050 | R. S. 2299 | |
| R. S. 1531 | R. S. 1705 | R. S. 1910 | R. S. 2051 | | |
| | R. S. 1720 | R. S. 1911 | | R. S. 2312 | |
| R. S. 1540 | | R. S. 1912 | R. S. 2054 | R. S. 2313 | |
| R. S. 1541 | | R. S. 1913 | R. S. 2055 | R. S. 2314 | |
| | | R. S. 1914 | | R. S. 2315 | |

Sections repealed—
Continued.

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|------------|------------|------------|------------|------------|
| R. S. 2316 | R. S. 2558 | R. S. 2673 | R. S. 2750 | R. S. 3579 |
| R. S. 2317 | R. S. 2559 | R. S. 2674 | | |
| | R. S. 2560 | R. S. 2675 | R. S. 2752 | R. S. 3582 |
| R. S. 2367 | | R. S. 2676 | R. S. 2753 | |
| | R. S. 2562 | R. S. 2677 | R. S. 2754 | R. S. 3586 |
| R. S. 2390 | R. S. 2563 | R. S. 2678 | R. S. 2755 | R. S. 3592 |
| | R. S. 2564 | R. S. 2679 | | |
| R. S. 2489 | R. S. 2565 | R. S. 2680 | R. S. 2757 | R. S. 3594 |
| | R. S. 2566 | R. S. 2681 | R. S. 2917 | |
| R. S. 2491 | R. S. 2567 | R. S. 2682 | | R. S. 3596 |
| R. S. 2492 | R. S. 2568 | R. S. 2683 | | R. S. 3597 |
| R. S. 2493 | R. S. 2569 | R. S. 2684 | R. S. 3109 | R. S. 3598 |
| R. S. 2494 | | R. S. 2685 | | R. S. 3599 |
| R. S. 2495 | R. S. 2576 | R. S. 2686 | R. S. 3112 | |
| R. S. 2496 | R. S. 2577 | | | R. S. 3601 |
| R. S. 2497 | R. S. 2578 | R. S. 2688 | R. S. 3145 | R. S. 3602 |
| R. S. 2498 | R. S. 2579 | R. S. 2689 | | R. S. 3603 |
| R. S. 2499 | | R. S. 2690 | R. S. 3148 | R. S. 3604 |
| R. S. 2500 | R. S. 2582 | R. S. 2691 | | R. S. 3605 |
| R. S. 2501 | R. S. 2583 | R. S. 2692 | R. S. 3178 | R. S. 3606 |
| R. S. 2502 | | R. S. 2693 | | R. S. 3607 |
| R. S. 2503 | R. S. 2586 | R. S. 2694 | R. S. 3222 | R. S. 3608 |
| R. S. 2504 | R. S. 2587 | R. S. 2695 | | R. S. 3609 |
| R. S. 2505 | | R. S. 2696 | R. S. 3237 | R. S. 3610 |
| R. S. 2506 | | R. S. 2697 | | R. S. 3611 |
| R. S. 2507 | R. S. 2591 | R. S. 2698 | R. S. 3245 | R. S. 3612 |
| R. S. 2508 | R. S. 2592 | R. S. 2699 | | |
| R. S. 2509 | R. S. 2593 | R. S. 2700 | R. S. 3328 | R. S. 3654 |
| R. S. 2510 | R. S. 2594 | R. S. 2701 | | R. S. 3655 |
| R. S. 2511 | R. S. 2595 | R. S. 2702 | R. S. 3365 | R. S. 3656 |
| R. S. 2512 | R. S. 2596 | R. S. 2703 | | R. S. 3657 |
| R. S. 2513 | R. S. 2597 | R. S. 2704 | R. S. 3378 | R. S. 3658 |
| | R. S. 2598 | R. S. 2705 | R. S. 3379 | |
| R. S. 2517 | R. S. 2599 | R. S. 2706 | R. S. 3380 | R. S. 3666 |
| R. S. 2518 | R. S. 2600 | R. S. 2707 | | |
| R. S. 2519 | R. S. 2601 | R. S. 2708 | R. S. 3401 | R. S. 3669 |
| | R. S. 2602 | R. S. 2709 | | |
| R. S. 2522 | R. S. 2603 | R. S. 2710 | R. S. 3410 | R. S. 3680 |
| R. S. 2523 | R. S. 2604 | | | |
| | R. S. 2605 | R. S. 2712 | R. S. 3412 | R. S. 3697 |
| R. S. 2525 | R. S. 2606 | R. S. 2713 | R. S. 3413 | |
| R. S. 2526 | R. S. 2607 | R. S. 2714 | | |
| R. S. 2527 | | R. S. 2715 | R. S. 3420 | R. S. 3756 |
| R. S. 2528 | R. S. 2618 | R. S. 2716 | R. S. 3421 | R. S. 3757 |
| R. S. 2529 | | R. S. 2717 | R. S. 3422 | R. S. 3758 |
| R. S. 2530 | R. S. 2624 | R. S. 2718 | R. S. 3423 | R. S. 3759 |
| R. S. 2531 | | R. S. 2719 | R. S. 3424 | R. S. 3760 |
| R. S. 2532 | R. S. 2634 | R. S. 2720 | R. S. 3425 | R. S. 3761 |
| R. S. 2533 | | R. S. 2721 | R. S. 3426 | R. S. 3762 |
| R. S. 2534 | R. S. 2642 | R. S. 2722 | R. S. 3427 | R. S. 3763 |
| R. S. 2535 | | R. S. 2723 | R. S. 3428 | R. S. 3764 |
| R. S. 2536 | R. S. 2650 | R. S. 2724 | R. S. 3429 | R. S. 3765 |
| | | R. S. 2725 | R. S. 3430 | R. S. 3766 |
| R. S. 2538 | R. S. 2653 | R. S. 2726 | R. S. 3431 | R. S. 3767 |
| R. S. 2539 | | | R. S. 3432 | R. S. 3768 |
| | | | R. S. 3433 | R. S. 3769 |
| | | R. S. 2728 | | R. S. 3770 |
| | R. S. 2655 | R. S. 2729 | | R. S. 3771 |
| R. S. 2541 | R. S. 2656 | R. S. 2730 | R. S. 3435 | R. S. 3772 |
| R. S. 2542 | R. S. 2657 | R. S. 2731 | R. S. 3436 | R. S. 3773 |
| R. S. 2543 | R. S. 2658 | R. S. 2732 | | R. S. 3774 |
| R. S. 2544 | R. S. 2659 | R. S. 2733 | R. S. 3438 | R. S. 3775 |
| R. S. 2545 | R. S. 2660 | R. S. 2734 | R. S. 3439 | R. S. 3776 |
| R. S. 2546 | R. S. 2661 | R. S. 2735 | R. S. 3440 | R. S. 3777 |
| R. S. 2547 | R. S. 2662 | R. S. 2736 | R. S. 3441 | R. S. 3778 |
| R. S. 2548 | R. S. 2663 | R. S. 2737 | R. S. 3442 | R. S. 3779 |
| R. S. 2549 | R. S. 2664 | R. S. 2738 | | R. S. 3780 |
| R. S. 2550 | R. S. 2665 | R. S. 2739 | R. S. 3465 | R. S. 3781 |
| R. S. 2551 | R. S. 2666 | R. S. 2740 | | R. S. 3782 |
| R. S. 2552 | R. S. 2667 | R. S. 2741 | R. S. 3489 | R. S. 3783 |
| R. S. 2553 | R. S. 2668 | R. S. 2742 | R. S. 3564 | R. S. 3784 |
| | R. S. 2669 | R. S. 2743 | | R. S. 3785 |
| R. S. 2555 | R. S. 2670 | R. S. 2744 | R. S. 3572 | R. S. 3786 |
| R. S. 2556 | R. S. 2671 | R. S. 2745 | R. S. 3573 | R. S. 3787 |
| R. S. 2557 | R. S. 2672 | R. S. 2746 | R. S. 3574 | R. S. 3788 |
| | | | R. S. 3575 | |

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|------------|------------|------------|------------|------------|----------------------------------|
| R. S. 3789 | R. S. 3897 | R. S. 4243 | R. S. 4739 | R. S. 4937 | Sections repealed— Continued. |
| R. S. 3790 | | R. S. 4244 | R. S. 4740 | R. S. 4938 | |
| R. S. 3791 | R. S. 3902 | | | R. S. 4939 | |
| R. S. 3792 | R. S. 3903 | R. S. 4246 | R. S. 4743 | R. S. 4940 | |
| R. S. 3793 | R. S. 3904 | R. S. 4247 | | R. S. 4941 | |
| R. S. 3794 | R. S. 3905 | R. S. 4248 | R. S. 4751 | R. S. 4942 | |
| R. S. 3795 | R. S. 3906 | | | R. S. 4943 | |
| R. S. 3796 | R. S. 3907 | R. S. 4346 | R. S. 4758 | R. S. 4944 | |
| R. S. 3797 | R. S. 3908 | R. S. 4347 | R. S. 4759 | R. S. 4945 | |
| R. S. 3798 | R. S. 3909 | | R. S. 4760 | R. S. 4946 | |
| R. S. 3799 | R. S. 3910 | R. S. 4458 | R. S. 4761 | R. S. 4947 | |
| R. S. 3800 | | | R. S. 4762 | R. S. 4948 | |
| R. S. 3801 | R. S. 3970 | R. S. 4592 | R. S. 4763 | R. S. 4949 | |
| R. S. 3802 | | R. S. 4593 | R. S. 4764 | R. S. 4950 | |
| | | R. S. 4594 | R. S. 4765 | | |
| R. S. 3807 | R. S. 3997 | | | R. S. 4952 | |
| R. S. 3808 | R. S. 3998 | R. S. 4616 | R. S. 4767 | | |
| R. S. 3809 | | | R. S. 4768 | R. S. 4954 | |
| | R. S. 4000 | R. S. 4631 | R. S. 4769 | R. S. 4955 | |
| R. S. 3811 | R. S. 4001 | R. S. 4632 | | R. S. 4956 | |
| | R. S. 4002 | R. S. 4633 | | R. S. 4957 | |
| | R. S. 4003 | R. S. 4634 | R. S. 4774 | R. S. 4958 | |
| R. S. 3813 | R. S. 4004 | R. S. 4635 | R. S. 4775 | R. S. 4959 | |
| R. S. 3814 | R. S. 4005 | | | R. S. 4960 | |
| R. S. 3815 | | R. S. 4642 | R. S. 4777 | R. S. 4961 | |
| R. S. 3816 | R. S. 4024 | R. S. 4643 | | R. S. 4962 | |
| R. S. 3817 | R. S. 4025 | | R. S. 4779 | R. S. 4963 | |
| R. S. 3818 | | R. S. 4648 | | R. S. 4964 | |
| R. S. 3819 | | R. S. 4649 | R. S. 4781 | R. S. 4965 | |
| R. S. 3820 | R. S. 4032 | | R. S. 4782 | R. S. 4966 | |
| R. S. 3821 | | R. S. 4672 | | R. S. 4967 | |
| R. S. 3822 | R. S. 4047 | | R. S. 4789 | R. S. 4968 | |
| R. S. 3823 | | R. S. 4675 | | R. S. 4969 | |
| R. S. 3824 | R. S. 4092 | | R. S. 4817 | R. S. 4970 | |
| R. S. 3825 | R. S. 4093 | R. S. 4689 | | | |
| R. S. 3826 | R. S. 4094 | | R. S. 4828 | | |
| R. S. 3827 | R. S. 4095 | R. S. 4710 | | R. S. 5180 | |
| | R. S. 4096 | | R. S. 4832 | R. S. 5181 | |
| R. S. 3837 | | R. S. 4714 | | | |
| | R. S. 4123 | | R. S. 4836 | R. S. 5194 | |
| R. S. 3865 | R. S. 4124 | R. S. 4718 | R. S. 4837 | | |
| R. S. 3866 | | | | R. S. 5245 | |
| | R. S. 4135 | R. S. 4723 | R. S. 4845 | | |
| R. S. 3872 | | | R. S. 4846 | R. S. 5249 | |
| | R. S. 4140 | R. S. 4725 | R. S. 4847 | | |
| | | R. S. 4726 | R. S. 4848 | | |
| R. S. 3875 | R. S. 4175 | R. S. 4727 | | R. S. 5255 | |
| R. S. 3876 | | | R. S. 4864 | | |
| R. S. 3877 | R. S. 4185 | R. S. 4730 | | R. S. 5411 | |
| R. S. 3878 | R. S. 4186 | R. S. 4731 | R. S. 4924 | R. S. 5412 | |
| | | R. S. 4732 | R. S. 4925 | | |
| R. S. 3881 | R. S. 4212 | R. S. 4733 | R. S. 4926 | R. S. 5568 | |
| | | | R. S. 4927 | R. S. 5569 | |
| R. S. 3884 | R. S. 4229 | R. S. 4736 | R. S. 4928 | | |
| | R. S. 4230 | R. S. 4737 | | R. S. 5597 | |
| R. S. 3886 | R. S. 4231 | R. S. 4738 | R. S. 4932 | R. S. 5598 | |

SEC. 2. The question as to whether any other provisions of law now omitted from the United States Code and supplements, have present force or effect as general and permanent law, shall be determined without regard to this Act.

SEC. 3. No inference shall be raised by the enactment of this Act that the sections of the Revised Statutes repealed by this Act were in force or effect at the time of such enactment: *Provided, however,* That any rights or liabilities existing under such repealed sections shall not be affected by their repeal.

Approved, March 3, 1933.

Determination of omitted provisions.

No inference that sections repealed were in force.

Provided. Existing rights not affected.

[CHAPTER 203.]

AN ACT

Making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1934, and for other purposes.

March 3, 1933.
[H. R. 13872.]
[Public, No. 419.]

Department of Agriculture appropriations, fiscal year 1934.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Agriculture for the fiscal year ending June 30, 1934, namely:

Secretary's office.

OFFICE OF THE SECRETARY

SALARIES

Secretary, Assistant, office, emergency, and field personnel.

Provisos.
Cleaning department buildings.

Salaries limited to average rates under Classification Act.

Vol. 42, p. 1488; Vol. 45, p. 776; Vol. 46, p. 1003.

U. S. C., p. 65; Supp. VI, p. 31.
Exception.

Restriction not applicable to clerical-mechanical service.

No reduction in fixed salaries.

Vol. 42, p. 1490.
U. S. C., p. 66.

Transfers to another position without reduction.

Higher salary rates permitted.

If only one position in a grade.

Contracts for stenographic reporting.

Purchase of options for land.

Allowances for living quarters abroad.

Vol. 46, p. 818.
U. S. C., Supp. VI, p. 20.

No payment to officer or employee issuing predictions, etc., of future cotton prices.

For Secretary of Agriculture, Assistant Secretary, and for other personal services in the District of Columbia, including \$7,294 for extra labor and emergency employments, and for personal services in the field, \$731,347: *Provided*. That in addition thereto, this appropriation may be reimbursed for the cost of such additional employments as may be necessary for cleaning, in whole or in part, of buildings of the Department of Agriculture in the city of Washington from the appropriations made for the bureaus or offices for which such service is performed: *Provided further*, That in expending appropriations or portions of appropriations, contained in this Act, for the payment for personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, with the exception of the Assistant Secretary, the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriation unit shall not at any time exceed the average of the compensation rates specified for the grade by such Act as amended: *Provided further*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed, as of July 1, 1924, in accordance with the rules of section 6 of such Act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade, in the same or different bureau, office, or other appropriation unit, (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923 as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated: *Provided further*, That the Secretary of Agriculture is authorized to contract for stenographic reporting services, and the appropriations made in this Act shall be available for such purposes: *Provided further*, That the Secretary of Agriculture is authorized to expend from appropriations available for the purchase of lands not to exceed \$1 for each option to purchase any particular tract or tracts of land: *Provided further*, That not to exceed \$23,600 of the appropriations available for salaries and expenses of officers and employees of the Department of Agriculture permanently stationed in foreign countries may be used for payment of allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, title 5, sec. 118a), but not to exceed \$720 may be so used for any one person: *Provided further*, That no part of the funds appropriated by this Act shall be used for the payment of any officer or employee of the Department of Agriculture who, as such officer or employee, or on

behalf of the department or any division, commission, or bureau thereof, issues, or causes to be issued, any prediction, oral or written, or forecast with respect to future prices of cotton or the trend of same.

For salaries and compensation of necessary employees in the mechanical shops and power plant of the Department of Agriculture, \$120,960: *Provided*, That such portion of this amount as may be necessary shall be available for transfer to the appropriation "Miscellaneous expenses, Department of Agriculture," for the purpose of that appropriation.

Mechanical, etc., employees.

Proviso.
Transfer of funds.

MISCELLANEOUS EXPENSES, DEPARTMENT OF AGRICULTURE

For stationery, blank books, twine, paper, gum, dry goods, soap, brushes, brooms, mats, oils, paints, glass, lumber, hardware, ice, fuel, water and gas pipes, heating apparatus, furniture, carpets, and mattings; for lights, freight, express charges, advertising and press clippings, telegraphing, telephoning, postage, washing towels, and necessary repairs and improvements to buildings and heating apparatus; for the maintenance, repair, and operation of not to exceed three (including one for the Secretary of Agriculture, one for general utility needs of the entire department, and one for the Forest Service) and purchase and exchange of one motor-propelled passenger-carrying vehicle and one motor cycle for official purposes only; for the payment of the Department of Agriculture's proportionate share of the expense of the dispatch agent in New York; for official traveling expenses, including examination of estimates for appropriations in the field for any bureau, office, or service of the department; and for other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the department, which are authorized by such officer as the Secretary may designate, \$267,254: *Provided*, That the Secretary of Agriculture during the fiscal year 1934, may maintain stocks of stationery, supplies, equipment, and miscellaneous materials sufficient to meet, in whole or in part, requirements of the bureaus and offices of the department in the city of Washington and elsewhere, but not to exceed in the aggregate \$200,000 in value at the close of the fiscal year, and the appropriations made for such bureaus and offices for such stocks and for toilet-room supplies and materials and equipment used to clean, in whole or in part, the buildings occupied by the department in the city of Washington shall be available to reimburse the appropriation for miscellaneous expenses current at the time supplies are issued: *Provided further*, That the appropriations made hereunder shall be available for the payment of salaries of employees engaged in purchasing, storing, handling, packing, or shipping of supplies and blank forms and the amount of such salaries shall be charged proportionately as a part of the cost of supplies issued and in the case of blank forms and supplies not purchased from this appropriation the amount of such salaries shall be charged proportionately to the proper appropriation: *Provided further*, That the facilities of the central storehouse of the department shall to the fullest extent practicable be used to make unnecessary the maintenance of separate bureau storehouse activities in the department: *Provided further*, That a separate schedule of expenditures, transfers of funds, or other transactions hereunder shall be included in the annual Budget.

Department continuing expenses.

Dispatch agent, New York.

Provisos.
Maintenance of stocks of stationery, supplies, etc.

Maximum allotment.
Available for miscellaneous expenses.

Employees, handling, etc., supplies.

Use of central storehouse to avoid separate units.

Segregation of transactions.

Rent.

RENT OF BUILDINGS IN THE DISTRICT OF COLUMBIA

Buildings in the District.

For rent of buildings and parts of buildings in the District of Columbia, for use of the various bureaus, divisions, and offices of the Department of Agriculture, \$45,000, in addition to which the Secretary of Agriculture, if found necessary, may enter into leases not to exceed \$35,000: *Provided*, That only such part of this sum shall be available to pay rent for space which can not be furnished by the Public Buildings Commission in Government buildings located in the District of Columbia.

Leases.

Proviso.
Restriction.

Total, Office of the Secretary, \$1,164,561.

Information Office.

OFFICE OF INFORMATION

SALARIES AND GENERAL EXPENSES

Salaries and expenses.

For necessary expenses in connection with the publication, indexing, illustration, and distribution of bulletins, documents, and reports, including labor-saving machinery and supplies, envelopes, stationery and materials, office furniture and fixtures, photographic equipment and materials, artists' tools and supplies, telephone and telegraph service, freight and express charges; purchase and maintenance of bicycles; purchase of manuscripts; traveling expenses; electrotypes, illustrations, and other expenses not otherwise provided for, \$376,287, of which not to exceed \$352,444 may be used for personal services in the District of Columbia.

PRINTING AND BINDING

Printing and binding.

For all printing and binding for the Department of Agriculture, including all of its bureaus, offices, institutions, and services located in Washington, District of Columbia, and elsewhere, \$850,000, including the Annual Report of the Secretary of Agriculture, as required by the Act approved January 12, 1895 (U. S. C., title 44, secs. 111, 212-220, 222, 241, 244, 257), and in pursuance of the Joint Resolution Numbered 13, approved March 30, 1906 (U. S. C., title 44, secs. 214, 224), and also including not to exceed \$250,000 for farmers' bulletins, which shall be adapted to the interests of the people of the different sections of the country, an equal proportion of four-fifths of which shall be delivered to or sent out under the addressed franks furnished by the Senators, Representatives, and Delegates in Congress, as they shall direct, but not including work done at the field printing plants of the Weather Bureau and the Forest Service authorized by the Joint Committee on Printing, in accordance with the Act approved March 1, 1919 (U. S. C., title 44, secs. 111, 220).

Total, Office of Information, \$1,226,287.

Library.

LIBRARY, DEPARTMENT OF AGRICULTURE

Salaries and expenses.

Salaries and expenses: For purchase and exchange of books of reference, law books, technical and scientific books, periodicals, and for expenses incurred in completing imperfect series; not to exceed \$1,200 for newspapers, and when authorized by the Secretary of Agriculture for dues for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; for salaries in the city of Washington and elsewhere; for official traveling expenses, and for library fixtures, library cards, supplies, and for all other necessary expenses, \$100,223, of which amount not to exceed \$64,998 may be expended for personal services in the District of Columbia.

OFFICE OF EXPERIMENT STATIONS

Experiment Stations
Office.

PAYMENTS TO STATES, HAWAII, ALASKA, AND PUERTO RICO FOR AGRICULTURAL EXPERIMENT STATIONS

To carry into effect the provisions of an Act approved March 2, 1887 (U. S. C., title 7, secs. 362, 363, 365, 368, 377-379), entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an Act approved July 2, 1862 (U. S. C., title 7, secs. 301-308), and of the Acts supplementary thereto," the sums apportioned to the several States, to be paid quarterly in advance, \$720,000.

Support of experiment stations.
Vol. 24, p. 440.
U. S. C., p. 115.Vol. 12, p. 503.
U. S. C., p. 111.

To carry into effect the provisions of an Act approved March 16, 1906 (U. S. C., title 7, sec. 369), entitled "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," and Acts supplementary thereto, the sums apportioned to the several States to be paid quarterly in advance, \$720,000.

Allotment of additional appropriations.
Vol. 34, p. 63.
U. S. C., p. 115.

To carry into effect the provisions of an Act entitled "An Act to authorize the more complete endowment of agricultural experiment stations," approved February 24, 1925 (U. S. C., title 7, secs. 361, 366, 370, 371, 373-376, 380, 382), \$2,880,000.

Further allotments.
Vol. 43, p. 970.
U. S. C., p. 115.

Hawaii: To carry into effect the provisions of an Act entitled "An Act to extend the benefits of certain Acts of Congress to the Territory of Hawaii," approved May 16, 1928 (U. S. C., Supp. V, title 7, secs. 386-386b), \$26,000.

Extending benefits to Hawaii.
Vol. 45, p. 571.
U. S. C., Supp. VI, p. 56.

Alaska: To carry into effect the provisions of an Act entitled "An Act to extend the benefits of the Hatch Act and the Smith-Lever Act to the Territory of Alaska," approved February 23, 1929 (U. S. C., Supp. V, title 7, sec. 386c), \$15,000.

Extension work in Alaska.
Vol. 45, p. 1256.
U. S. C., Supp. VI, p. 56.

Puerto Rico: To carry into effect the provisions of an Act entitled "An Act to coordinate the agricultural experiment-station work and to extend the benefits of certain Acts of Congress to the Territory of Puerto Rico," approved March 4, 1931 (U. S. C., Supp. V, title 7, secs. 386d-386f), \$20,000.

Extending benefits to Puerto Rico, etc.
Vol. 46, p. 1520.
U. S. C., Supp. VI, p. 56.

In all, payments to States, Hawaii, Alaska, and Puerto Rico for agricultural experiment stations, \$4,381,000.

SALARIES AND GENERAL EXPENSES

To enable the Secretary of Agriculture to enforce the provisions of the Acts approved March 2, 1887 (U. S. C., title 7, secs. 362, 363, 365, 368, 377-379), March 16, 1906 (U. S. C., title 7, secs. 369, 375), February 24, 1925 (U. S. C., title 7, secs. 361, 366, 370, 371, 373-376, 380, 382), May 16, 1928 (U. S. C., Supp. V, title 7, secs. 386-386b), February 23, 1929 (U. S. C., Supp. V, title 7, sec. 386c), and March 4, 1931 (U. S. C., Supp. V, title 7, secs. 386d-386f), and Acts amendatory or supplementary thereto, relative to their administration and for the administration of agricultural experiment stations in Hawaii and Puerto Rico, including the employment of clerks, assistants, and other persons in the city of Washington and elsewhere, freight and express charges, official traveling expenses, office fixtures, supplies, apparatus, telegraph and telephone service, gas, electric current, and rent outside of the District of Columbia, \$148,831; and the Secretary of Agriculture shall prescribe the form of the annual financial statement required under the above Acts, ascertain whether the expenditures are in accordance with their provisions, coordinate the work of the Department of Agriculture with that of the State agricultural colleges and experiment stations in the lines authorized in said Acts, and make report thereon to Congress.

Administrative expenses.
Vol. 24, p. 440; Vol. 24, p. 63; Vol. 43, p. 970; Vol. 45, pp. 571, 1256; Vol. 46, p. 1520.
U. S. C., p. 115; Supp. VI, p. 56.

Territorial and insular possessions.

Outside rent.

Annual statement forms.

Experiment stations in Hawaii and Puerto Rico, maintenance.

Allotments.

Sale of products; use of receipts.

Insular experiment stations: To enable the Secretary of Agriculture to establish and maintain agricultural experiment stations in Hawaii and Puerto Rico, including the erection of buildings, the preparation, illustration, and distribution of reports and bulletins, and all other necessary expenses, \$78,130, as follows: \$36,270 for Hawaii, and \$41,860 for Puerto Rico; and the Secretary of Agriculture is authorized to sell such products as are obtained on the land belonging to the agricultural experiment stations in Hawaii and Puerto Rico, and the amount obtained from the sale thereof shall be covered into the Treasury of the United States as miscellaneous receipts.

In all, salaries and expenses, \$226,961.

Amount for vehicles for field service.

Total, Office of Experiment Stations, \$4,607,961, of which amount not to exceed \$138,574 may be expended for personal services in the District of Columbia, and not to exceed \$750 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

Extension Service.

EXTENSION SERVICE

PAYMENTS TO STATES, HAWAII, AND ALASKA

Cooperative extension work allotments. Vol. 38, p. 372; Vol. 45, p. 571, 711. U. S. C., p. 114; Supp. VI, p. 55.

For cooperative agricultural extension work, to be allotted, paid, and expended in the same manner, upon the same terms and conditions, and under the same supervision as the additional appropriations made by the Act of May 8, 1914 (U. S. C., title 7, secs. 341-348), entitled "An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several States receiving the benefits of an Act of Congress approved July 2, 1862 (U. S. C., title 7, secs. 301-308), and of Acts supplementary thereto, and the United States Department of Agriculture," \$1,580,000; and all sums appropriated by this Act for use for demonstration or extension work within any State shall be used and expended in accordance with plans mutually agreed upon by the Secretary of Agriculture and the proper officials of the college in such State which receives the benefits of said Act of May 8, 1914: *Provided*, That of the above appropriation not more than \$300,000 shall be expended for purposes other than salaries of county agents.

Use as mutually agreed upon.

Proviso.
County agents.

Further cooperation with State colleges in extension work. Vol. 12, p. 503; Vol. 38, p. 372; Vol. 45, p. 711. U. S. C., p. 111; Supp. VI, p. 55.

To enable the Secretary of Agriculture to carry into effect the provisions of the Act entitled "An Act to provide for the further development of agricultural extension work between the agricultural colleges in the several States receiving the benefits of the Act entitled 'An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and mechanic arts,' approved July 2, 1862 (U. S. C., title 7, secs. 301-308), and all Acts supplementary thereto, and the United States Department of Agriculture," approved May 22, 1928 (U. S. C., Supp. V, title 7, secs. 343a, 343b), \$1,480,000.

Extension work in Alaska. Vol. 45, p. 1256. U. S. C., Supp. VI, p. 56.

Alaska: To enable the Secretary of Agriculture to carry into effect the provisions of the Act entitled "An Act to extend the benefits of the Hatch Act and the Smith-Lever Act to the Territory of Alaska," approved February 23, 1929 (U. S. C., Supp. V, title 7, sec. 386c), \$12,000.

Additional cooperative extension work.

Additional cooperative agricultural extension work: For additional cooperative agricultural extension work, including employment of specialists in economics and marketing, to be allotted and paid by the Secretary of Agriculture to the several States and the Territory of Hawaii in such amounts as he may deem necessary to accomplish such purposes, \$1,000,000.

In all, payments to States, Hawaii, and Alaska for agricultural extension work, \$4,072,000.

SALARIES AND GENERAL EXPENSES

General administrative expenses: For necessary expenses for general administrative purposes, including personal services in the District of Columbia, \$13,846. Administrative expenses.

Farmers' cooperative demonstration work: For farmers' cooperative demonstration work, including special suggestions of plans and methods for more effective dissemination of the results of the work of the Department of Agriculture and the agricultural experiment stations and of improved methods of agricultural practice, at farmers' institutes and in agricultural instruction, and for such work on Government reclamation projects, and for personal services in the city of Washington and elsewhere, supplies, and all other necessary expenses, \$1,420,189: *Provided*, That the expense of such service shall be defrayed from this appropriation and such cooperative funds as may be voluntarily contributed by State, county, and municipal agencies, associations of farmers, and individual farmers, universities, colleges, boards of trade, chambers of commerce, other local associations of business men, business organizations, and individuals within the State. Farmers' cooperative demonstration work.

Agricultural exhibits at fairs: To enable the Secretary of Agriculture to make suitable agricultural exhibits at State, interstate, and international fairs held within the United States; for the purchase of necessary supplies and equipment; for telephone and telegraph service, freight and express charges; for travel, and for every other expense necessary, including the employment of assistance in or outside the city of Washington, \$85,000. Proviso. Voluntary contributions within State accepted.

Cooperative farm forestry: For cooperation with appropriate officials of the various States or with other suitable agencies to assist the owners of farms in establishing, improving, and renewing wood lots, shelter belts, windbreaks, and other valuable forest growth, and in growing and renewing useful timber crops under the provisions of section 5 of the Act entitled "An Act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of national forests, and for other purposes, in order to promote the continuous production of timber on lands chiefly suitable therefor," approved June 7, 1924 (U. S. C., title 16, secs. 564-570), including personal services in the District of Columbia, \$64,787. Agricultural exhibits at fairs.

In all, salaries and expenses, \$1,583,822, of which amount not to exceed \$436,731 may be expended for personal services in the District of Columbia. Cooperative farm forestry.

Total, Extension Service, \$5,655,822.

Grand total, office of the Secretary of Agriculture, \$12,754,854. Wood lots, etc.

WEATHER BUREAU

SALARIES AND GENERAL EXPENSES

For carrying into effect in the District of Columbia and elsewhere in the United States, in the West Indies, in the Panama Canal, the Caribbean Sea, and on adjacent coasts, in the Hawaiian Islands, in Bermuda, and in Alaska the provisions of an Act approved October 1, 1890 (U. S. C., title 15, secs. 311-313, 317), so far as they relate to the weather service transferred thereby to the Department of Agriculture, and the amendment thereof contained in section 5 (e) of the Air Commerce Act of 1926 (U. S. C., Supp. V, title 15, sec. 313), for the employment of professors of meteorology, district fore- Services in the District.

Weather Bureau.

General expenses.

Classification of.

Vol. 26, p. 653.
U. S. C., p. 381.

Air Service reports.
Vol. 44, p. 571.
U. S. C., Supp. VI,
p. 168.

casters, local forecasters, meteorologists, section directors, observers, apprentices, operators, skilled mechanics, instrument makers, foremen, assistant foremen, proofreaders, compositors, pressmen, lithographers, folders and feeders, repair men, station agents, messengers, messenger boys, laborers, special observers, display men, and other necessary employees; for fuel, gas, electricity, freight and express charges, furniture, stationery, ice, dry goods, twine, mats, oil, paints, glass, lumber, hardware, and washing towels; for advertising; for purchase, subsistence, and care of horses and vehicles, the purchase and repair of harness, for official purposes only; for instruments, shelters, apparatus, storm-warning towers and repairs thereto; for rent of offices; for repair, alterations, and improvements to existing buildings and care and preservation of grounds, including the construction of necessary outbuildings and sidewalks on public streets, abutting Weather Bureau grounds; and the erection of temporary buildings for living quarters of observers; for official traveling expenses; for telephone rentals, and for telegraphing, telephoning, and cabling reports and messages, rates to be fixed by the Secretary of Agriculture by agreement with the companies performing the service; for the maintenance and repair of Weather Bureau telegraph, telephone, and cable lines; and for every other expenditure required for the establishment, equipment, and maintenance of meteorological offices and stations and for the issuing of weather forecasts and warnings of storms, cold waves, frosts, and heavy snows, the gaging and measuring of the flow of rivers and the issuing of river forecasts and warnings; for observations and reports relating to crops, and for other necessary observations and reports, including cooperation with other bureaus of the Government and societies and institutions of learning for the dissemination of meteorological information, as follows:

Telegraphing, telephoning, etc.

Issuing forecasts and warnings.

Cooperation with other bureaus, etc.

Chief of bureau, and office personnel.

Expenses in the District and elsewhere.

Weather relationship to forest fires.
Vol. 43, p. 701.
U. S. C., Supp. VI, p. 225.

International Meteorological Committee.

Proviso.
Printing limitation.

Horticultural protection.

Aerological stations.

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$125,975.

General weather service and research: For necessary expenses incident to collecting and disseminating meteorological, climatological, and marine information, and for investigations in meteorology, climatology, seismology, evaporation, and aerology in the District of Columbia and elsewhere, including \$4,288 for investigations of the relationship of weather conditions to forest fires, under section 6 of the Act approved May 22, 1928 (U. S. C., Supp. V, title 16, sec. 581e), \$2,279,750, of which not to exceed \$800 may be expended for the contribution of the United States to the cost of the office of the secretariat of the International Meteorological Committee, and not to exceed \$10,000 may be expended for the maintenance of a printing office in the city of Washington for the printing of weather maps, bulletins, circulars, forms, and other publications: *Provided*, That no printing shall be done by the Weather Bureau that can be done at the Government Printing Office without impairing the service of said bureau.

Horticultural protection: For investigations, observations, and reports, forecasts, warnings, and advices for the protection of horticultural interests, \$44,905.

Aerology: For the maintenance of stations, for observing, measuring, and investigating atmospheric phenomena, including salaries and other expenses, in the city of Washington and elsewhere, \$1,280,605.

Total, Weather Bureau, \$3,731,235, of which amount not to exceed \$474,000 may be expended for personal services in the District of Columbia.

BUREAU OF ANIMAL INDUSTRY

SALARIES AND GENERAL EXPENSES

For carrying out the provisions of the Act approved May 29, 1884 (U. S. C., title 7, sec. 391; title 21, secs. 112-119, 130), establishing a Bureau of Animal Industry, and the provisions of the Act approved March 3, 1891 (U. S. C., title 45, secs. 75, 76), providing for the safe transport and humane treatment of export cattle from the United States to foreign countries, and for other purposes; the Act approved August 30, 1890 (U. S. C., title 21, secs. 101-105), providing for the importation of animals into the United States, and for other purposes; and the provisions of the Act approved February 2, 1903 (U. S. C., title 21, secs. 111-113, 120-122), to enable the Secretary of Agriculture to more effectually suppress and prevent the spread of contagious and infectious diseases of livestock, and for other purposes; and also the provisions of the Act approved March 3, 1905 (U. S. C., title 21, secs. 123-128), to enable the Secretary of Agriculture to establish and maintain quarantine districts, to permit and regulate the movement of cattle and other livestock therefrom, and for other purposes; and for carrying out the provisions of the Act of June 29, 1906 (U. S. C., title 45, secs. 71-74), entitled "An Act to prevent cruelty to animals while in transit by railroad or other means of transportation"; and for carrying out the provisions of the Act approved March 4, 1913 (U. S. C., title 21, secs. 151-158), regulating the preparation, sale, barter, exchange, or shipment of any virus, serum, toxin, or analogous products manufactured in the United States and the importation of such products intended for use in the treatment of domestic animals; and for carrying out the provisions of the Packers and Stockyards Act, approved August 15, 1921 (U. S. C., title 7, secs. 181-229); and to enable the Secretary of Agriculture to collect and disseminate information concerning livestock and animal products; to prepare and disseminate reports on animal industry; to employ and pay from the appropriation herein made as many persons in the city of Washington or elsewhere as he may deem necessary; to purchase in the open market samples of all tuberculin, serums, antitoxins, or analogous products, of foreign or domestic manufacture, which are sold in the United States, for the detection, prevention, treatment, or cure of diseases of domestic animals, to test the same, and to disseminate the results of said tests in such manner as he may deem best; to purchase and destroy diseased or exposed animals, including poultry, or quarantine the same whenever in his judgment essential to prevent the spread of pleuropneumonia, tuberculosis, contagious poultry diseases, or other diseases of animals from one State to another, as follows:

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$170,915.

Inspection and quarantine: For inspection and quarantine work, including all necessary expenses for the eradication of scabies in sheep and cattle, the inspection of southern cattle, the supervision of the transportation of livestock, and the inspection of vessels, the execution of the twenty-eight hour law, the inspection and quarantine of imported animals, including the establishment and maintenance of quarantine stations and repairs, alterations, improvements, or additions to buildings thereon; the inspection work relative to the existence of contagious diseases, and the mallein testing of animals, \$689,660.

Animal Industry Bureau.

General expenses.
Vol. 23, p. 31.
U. S. C., pp. 117, 631.
Vol. 26, p. 833.
U. S. C., p. 1444.

Vol. 26, p. 414; Vol. 32, p. 791.
U. S. C., pp. 630, 631, 632.

Contagious diseases.
Vol. 33, p. 1264.
U. S. C., p. 633.

Cattle quarantine.

Twenty-eight hour law.
Vol. 34, p. 607.
U. S. C., p. 1444.

Animal viruses, etc.
Vol. 37, p. 832.
U. S. C., p. 634.

Packers and Stockyards Act.
Vol. 42, p. 159.
U. S. C., p. 102.

Collecting and disseminating information.
Pay of employees.

Tuberculin, serums, etc.

Purchase and destruction of diseased animals.
Pleuropneumonia, etc.

Chief of bureau, and office personnel.

Inspection and quarantine work.

Eradicating tuberculosis, etc., of animals.

Application of funds.

Provisos. Reimbursing owners for animals destroyed.

Cooperation with States, etc.

Restriction on payments.

Additional limitations.

Eradicating cattle ticks. Proviso. Purchase of animals limited.

Animal husbandry. Feeding, breeding, etc., experiments.

Eradicating tuberculosis: For investigating the diseases of tuberculosis and paratuberculosis of animals, and avian tuberculosis, for their control and eradication, for the tuberculin testing of animals, and for researches concerning the causes of the diseases, their modes of spread, and methods of treatment and prevention, including demonstrations, the formation of organizations, and such other means as may be necessary, either independently or in cooperation with farmers, associations, or State, Territory, or county authorities, \$5,945,360, of which \$1,145,360 shall be set aside for administrative and operating expenses and \$4,800,000 for the payment of indemnities: *Provided*, That in carrying out the purpose of this appropriation, if in the opinion of the Secretary of Agriculture it shall be necessary to condemn and destroy tuberculous or paratuberculous cattle, if such animals have been destroyed, condemned, or die after condemnation, he may, in his discretion, and in accordance with such rules and regulations as he may prescribe, expend in the city of Washington or elsewhere such sums as he shall determine to be necessary, within the limitations above provided, for the payment of indemnities, for the reimbursement of owners of such animals, in cooperation with such States, Territories, counties, or municipalities, as shall by law or by suitable action in keeping with its authority in the matter, and by rules and regulations adopted and enforced in pursuance thereof, provide inspection of tuberculous or paratuberculous cattle and for compensation to owners of cattle so condemned, but no part of the money hereby appropriated shall be used in compensating owners of such cattle except in cooperation with and supplementary to payments to be made by State, Territory, county, or municipality where condemnation of such cattle shall take place, nor shall any payment be made hereunder as compensation for or on account of any such animal if at the time of inspection or test, or at the time of condemnation thereof, it shall belong to or be upon the premises of any person, firm, or corporation to which it has been sold, shipped, or delivered for the purpose of being slaughtered: *Provided further*, That out of the money hereby appropriated no payment as compensation for any cattle condemned for slaughter shall exceed one-third of the difference between the appraised value of such cattle and the value of the salvage thereof; that no payment hereunder shall exceed the amount paid or to be paid by the State, Territory, county, and municipality where the animal shall be condemned; that in no case shall any payment hereunder be more than \$25 for any grade animal or more than \$50 for any purebred animal, and that no payment shall be made unless the owner has complied with all lawful quarantine regulations.

Eradicating cattle ticks: For all necessary expenses for the eradication of southern cattle ticks, \$671,089: *Provided*, That no part of this appropriation shall be used for the purchase of animals or in the purchase of materials for or in the construction of dipping vats upon land not owned solely by the United States, except at fairs or expositions where the Department of Agriculture makes exhibits or demonstrations; nor shall any part of this appropriation be used in the purchase of materials or mixtures for use in dipping vats except in experimental or demonstration work carried on by the officials or agents of the Bureau of Animal Industry.

Animal husbandry: For all necessary expenses for investigations and experiments in animal husbandry; for experiments in animal feeding and breeding, including cooperation with the State agricultural experiment stations and other agencies, including repairs and additions to and erection of buildings absolutely necessary to carry

on the experiments, including the employment of labor in the city of Washington and elsewhere, rent outside of the District of Columbia, and all other necessary expenses, \$637,150, including \$12,500 for livestock experiments and demonstrations at Big Springs and/or elsewhere in Texas, to be available only when the State of Texas, or other cooperating agency in Texas shall have appropriated an equal amount or, in the opinion of the Secretary of Agriculture, shall have furnished its equivalent in value in cooperation for the same purpose during the fiscal year ending June 30, 1934: *Provided*, That of the sum thus appropriated \$161,320 may be used for experiments in poultry feeding and breeding.

Livestock experiments, etc., Big Springs, Tex.
Condition.

Proviso.
Poultry feeding, etc.

Diseases of animals: For all necessary expenses for scientific investigations of diseases of animals, including the construction of necessary buildings at Beltsville, Maryland, the maintenance and improvement of the bureau experiment station at Bethesda, Maryland, and the necessary alterations of buildings thereon, and the necessary expenses for investigations of tuberculin, serums, antitoxins, and analogous products, \$375,000: *Provided*, That of said sum \$86,600 may be used for researches concerning the cause, modes of spread, and methods of treatment and prevention of the disease of contagious abortion of animals.

Animal diseases investigations.

Beltsville, Md.
Bethesda, Md., station.

Proviso.
Contagious abortion of animals.

Eradicating hog cholera: For investigating the disease of hog cholera and related swine diseases, and for their control or eradication by such means as may be necessary, including demonstrations, the formation of organizations, and other methods, either independently or in cooperation with farmers' associations, State or county authorities, \$420,000: *Provided*, That of said sum \$232,840 shall be available for expenditure in carrying out the provisions of the Act approved March 4, 1913 (U. S. C., title 21, secs. 151-158), regulating the preparation, sale, barter, exchange, or shipment of any virus, serum, toxin, or analogous product manufactured in the United States and the importation of such products intended for use in the treatment of domestic animals: *Provided further*, That of said sum \$27,700 shall be available for researches concerning the cause, modes of spread, and methods of treatment and prevention of these diseases.

Hog cholera, investigation, etc.

Provisos.
Regulating trade in viruses, etc.
Vol. 37, p. 832,
U. S. C., p. 634.

Pathological researches.

Eradicating dourine: For all necessary expenses for the investigation, treatment, and eradication of dourine, \$25,000.

Eradicating dourine.

Packers and Stockyards Act: For necessary expenses in carrying out the provisions of the Packers and Stockyards Act, approved August 15, 1921 (U. S. C., title 7, secs. 181-229), \$350,200: *Provided*, That the Secretary of Agriculture may require reasonable bonds from every market agency and dealer, under such rules and regulations as he may prescribe to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provision of said Act he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary of Agriculture or a court of competent jurisdiction: *Provided further*, That the Secretary of Agriculture may, whenever necessary, authorize the charging and collection from owners of a reasonable fee for the inspection of brands appearing upon livestock subject to the provisions of the said Act for the purpose of determining the ownership of such livestock: *Provided further*, That such fee shall not be imposed except upon written request made to the Secretary of Agriculture by the Board of Livestock Commissioners, or duly organized livestock association of the

Executing Packers and Stockyards Act.
Vol. 42, p. 159,
U. S. C., p. 102.

Provisos.
Bonds from agencies and dealers.

Suspension for violation.

Fee for inspecting brands.

Request for, required.

States from which such livestock have originated or been shipped to market.

In all, salaries and expenses, \$9,284,374.

Meat inspection.

MEAT INSPECTION

Additional expenses.
Vol. 34, pp. 674, 1260;
U. S. C., p. 627.

Equine meat.
Vol. 41, p. 241.
U. S. C., p. 630.

For additional expenses in carrying out the provisions of the Meat Inspection Act of June 30, 1906 (U. S. C., title 21, sec. 95), as amended by the act of March 4, 1907 (U. S. C., title 21, secs. 71-94), and as extended to equine meat by the Act of July 24, 1919 (U. S. C., title 21, sec. 96), including the purchase of tags, labels, stamps, and certificates printed in course of manufacture, \$2,074,590.

Contagious diseases of animals.

ERADICATION OF FOOT-AND-MOUTH AND OTHER CONTAGIOUS DISEASES OF ANIMALS

Emergency, eradicating foot-and-mouth, etc., diseases.

In case of an emergency arising out of the existence of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or other contagious or infectious disease of animals, which, in the opinion of the Secretary of Agriculture, threatens the livestock industry of the country, he may expend, in the city of Washington or elsewhere, any unexpended balances of appropriations heretofore made for this purpose in the arrest and eradication of any such disease, including the payment of claims growing out of past and future purchases and destruction, in cooperation with the States, of animals affected by or exposed to, or of materials contaminated by or exposed to, any such disease, wherever found and irrespective of ownership, under like or substantially similar circumstances, when such owner has complied with all lawful quarantine regulations: *Provided*, That the payment for animals hereafter purchased may be made on appraisalment based on the meat, dairy, or breeding value, but in case of appraisalment based on breeding value no appraisalment of any animal shall exceed three times its meat or dairy value, and, except in case of an extraordinary emergency, to be determined by the Secretary of Agriculture, the payment by the United States Government for any animals shall not exceed one-half of any such appraisements: *Provided further*, That the sum of \$5,000 of the unexpended balance of the appropriation of \$3,500,000, contained in the Second Deficiency Appropriation Act, fiscal year 1924, approved December 5, 1924, for the eradication of the foot-and-mouth disease and other contagious or infectious diseases of animals, is hereby made available during the fiscal year 1934 to enable the Secretary of Agriculture to control and eradicate the European fowl pest and similar diseases in poultry.

Use of balances.
Ante, p. 620.

Payment for destroyed animals.

Provisos.
Appraisalment based on meat, etc., value.

Sum available for eradicating European fowl pest.
Vol. 43, p. 682.

Services in the District.

Total, Bureau of Animal Industry, \$11,358,964, of which amount not to exceed \$746,672 may be expended for departmental personal services in the District of Columbia, and not to exceed \$48,195 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

Vehicles.

Dairy Industry Bureau.

BUREAU OF DAIRY INDUSTRY

General expenses.

SALARIES AND GENERAL EXPENSES

Investigations, etc.
Vol. 43, p. 243.
U. S. C., p. 117.

For carrying out the provisions of the Act approved May 29, 1924 (U. S. C., title 7, secs. 401-404), establishing a Bureau of Dairying for salaries in the city of Washington and elsewhere, and for all other necessary expenses, as follows:

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of the chief of bureau and other personal services in the District of Columbia, \$64,265.

Chief of bureau, and office personnel.

Dairy investigations: For conducting investigations, experiments, and demonstrations in dairy industry, cooperative investigations of the dairy industry in the various States, and inspection of renovated-butter factories, including repairs to buildings, not to exceed \$5,000 for the construction of buildings, \$590,865.

Investigations, demonstrations, etc.

Total, Bureau of Dairy Industry, \$655,130, of which amount not to exceed \$296,850 may be expended for personal services in the District of Columbia.

Services in the District.

BUREAU OF PLANT INDUSTRY

Plant Industry Bureau.

SALARIES AND GENERAL EXPENSES

General expenses.

For all necessary expenses in the investigation of fruits, fruit trees, grain, cotton, tobacco, vegetables, grasses, forage, drug, medicinal, poisonous, fiber, and other plants and plant industries in cooperation with other branches of the department, the State experiment stations, and practical farmers, and for the erection of necessary farm buildings: *Provided*, That the cost of any building erected shall not exceed \$1,500; for field and station expenses, including fences, drains, and other farm improvements; for repairs in the District of Columbia and elsewhere; for rent outside of the District of Columbia; and for the employment of all investigators, local and special agents, agricultural explorers, experts, clerks, illustrators, assistants, and all labor and other necessary expenses in the city of Washington and elsewhere required for the investigations, experiments, and demonstrations herein authorized as follows:

Investigations of fruits, plants, products, etc.

Proviso.
Limit for buildings. Field, etc., expenses.

Employment of investigators, etc.

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$193,639.

Chief of bureau, and office personnel.

Arlington Farm: For continuing the necessary improvements to establish and maintain a general experiment farm and agricultural station on the Arlington estate, in the State of Virginia, in accordance with the provisions of the Act of Congress approved April 18, 1900 (31 Stat., pp. 135, 136), \$51,545: *Provided*, That the limitations in this Act as to the cost of farm buildings shall not apply to this paragraph.

Arlington, Va., farm.

Vol. 31, p. 135.

Proviso.
Building limit not applicable.

Barberry eradication: For the eradication of the common barberry and for applying such other methods of eradication and control of cereal rusts as in the judgment of the Secretary of Agriculture may be necessary, including the payment of such expenses and the employment of such persons and means, in the city of Washington and elsewhere, and cooperation with such authorities of the States concerned, organizations of growers, or individuals, as he may deem necessary to accomplish such purposes, \$180,722: *Provided*, That \$75,000 of this amount shall be available for expenditure only when an equal amount shall have been appropriated, subscribed, or contributed by States, counties, or local authorities, or by individuals or organizations for the accomplishment of such purposes: *Provided further*, That no part of the money herein appropriated shall be used to pay the cost or value of property injured or destroyed.

Barberry eradication. Control of cereal rusts.

Cooperation.

Provisos.
Subject to equal contribution of States, etc.

No pay for property destroyed.

Blister-rust control: For applying such methods of eradication or control of the white-pine blister rust as in the judgment of the Secretary of Agriculture may be necessary, including the payment of such expenses and the employment of such persons and means in the city

Blister-rust control. White pine blister rust, eradication methods.

- of Washington and elsewhere, in cooperation with such authorities of the States concerned, organizations, or individuals as he may deem necessary to accomplish such purposes, and in the discretion of the Secretary of Agriculture no expenditures shall be made for these purposes until a sum or sums at least equal to such expenditures shall have been appropriated, subscribed, or contributed by State, county, or local authorities, or by individuals or organizations for the accomplishment of such purposes, \$375,233: *Provided*, That no part of this appropriation shall be used to pay the cost or value of trees or other property injured or destroyed.
- Proviso.*
No pay for trees, etc., injured.
- Wild plants and grazing lands. Botany: For investigation, improvement, and utilization of wild plants and grazing lands, and for determining the distribution of weeds and means of their control, \$39,113.
- Cereal crops and diseases. Cereal crops and diseases: For the investigation and improvement of cereals, including corn, and methods of cereal production and for the study and control of cereal diseases, and for the investigation of the cultivation and breeding of flax for seed purposes, including a study of flax diseases, and for the investigation and improvement of broomcorn and methods of broomcorn production, \$488,200.
- Investigations for improvement of, eradicating diseases, etc.
- Broomcorn production. Citrus canker eradication. Citrus-canker eradication: For conducting such investigations of the nature and means of communication of the disease of citrus trees known as citrus canker, and for applying such methods of eradication or control of the disease as in the judgment of the Secretary of Agriculture may be necessary, including the payment of such expenses and the employment of such persons and means, in the city of Washington and elsewhere, and cooperation with such authorities of the States concerned, organizations of growers, or individuals, as he may deem necessary to accomplish such purposes, \$25,000, and, in the discretion of the Secretary of Agriculture, no expenditures shall be made for these purposes until a sum or sums at least equal to such expenditures shall have been appropriated, subscribed, or contributed by State, county, or local authorities, or by individuals or organizations for the accomplishment of such purposes: *Provided*, That no part of the money herein appropriated shall be used to pay the cost or value of trees or other property injured or destroyed.
- Cooperation expenses. Local contributions required. Cotton production, etc. Cotton production and diseases: For investigation of cotton production, including the improvement by cultural methods, breeding, acclimatization, adaptation, and selection, and for investigation and control of diseases, \$200,000.
- Proviso.*
No pay for trees, etc., injured.
- Drug, etc., plants. Drug and related plants: For the investigation, testing, and improvement of plants yielding drugs, spices, poisons, oils, and related products and by-products, \$39,840.
- Dry land, etc., agriculture. Dry-land agriculture: For the investigation and improvement of methods of crop production under subhumid, semiarid, or dry-land conditions, \$220,000: *Provided*, That no part of this appropriation shall be used for the establishment of any new field station.
- Proviso.*
No new field station.
- Forage crops and diseases. Forage crops and diseases: For the purchase, propagation, testing, and distribution of new and rare seeds; for the investigation and improvement of grasses, alfalfa, clover, and other forage crops, including the investigation and control of diseases, \$201,014.
- New and rare seeds. Foreign seed and plant introduction. Foreign plant introduction: For investigations in foreign seed and plant introduction, including the study, collection, purchase, testing, propagation, and distribution of rare and valuable seeds, bulbs, trees, shrubs, vines, cuttings, and plants from foreign countries and from our possessions, and for experiments with reference to their introduction and cultivation in this country, \$163,574.
- Rare, etc., seeds.

Forest pathology: For the investigation of diseases of forest and ornamental trees and shrubs, including a study of the nature and habits of the parasitic fungi causing the chestnut-tree bark disease, the white-pine blister rust, and other epidemic tree diseases, for the purpose of discovering new methods of control and applying methods of eradication or control already discovered, and including \$112,560 for investigations of diseases of forest trees and forest products, under section 3 of the Act approved May 22, 1928 (U. S. C., Supp. V., title 16, sec. 581b), \$206,955.

Forest pathology.

Chestnut tree bark disease.

Vol. 45, p. 701.
U. S. C., Supp. VI,
p. 225.

Fruit and vegetable crops and diseases: For investigation and control of diseases, for improvement of methods of culture, propagation, breeding, selection, and related activities concerned with the production of fruits, nuts, vegetables, ornamentals, and related plants for investigation of methods of harvesting, packing, shipping, storing, and utilizing these products, and for studies of the physiological and related changes of such products during processes of marketing and while in commercial storage, \$1,144,100.

Fruit and vegetable crops and diseases.

Gardens and grounds: To cultivate and care for the gardens and grounds of the Department of Agriculture in the city of Washington, including the upkeep and lighting of the grounds and the construction, surfacing, and repairing of roadways and walks; and to erect, manage, and maintain conservatories, greenhouses, and plant and fruit propagating houses on the grounds of the Department of Agriculture in the city of Washington, \$87,190.

Experimental gardens and grounds, D. C.

Genetics and biophysics: For biophysical investigations in connection with the various lines of work herein authorized, \$33,617.

Genetics and biophysics, investigations.

Mycology and disease survey: For mycological collections and the maintenance of a plant-disease survey, \$46,133.

Plant disease survey, etc.

National Arboretum: For the maintenance of the National Arboretum established under the provisions of the Act entitled "An Act authorizing the Secretary of Agriculture to establish a National Arboretum, and for other purposes," approved March 4, 1927 (U. S. C., Supp. V, title 20, secs. 191-194), including the erection of buildings, salaries in the city of Washington and elsewhere, traveling expenses of employees and advisory council, and other necessary expenses, \$4,758, of which such amounts as may be necessary may be expended by contract or otherwise for the services of consulting landscape architects without reference to the Classification Act of 1923, as amended, or civil-service rules.

National Arboretum.
Vol. 44, p. 1422.
U. S. C., Supp. VI,
p. 351.

Landscape architects.

Nematology: For crop technological investigations, including the study of plant-infesting nematodes, \$46,840.

Nematology.

Phony-peach eradication: For conducting such investigations of the nature and means of communication of the disease of peach trees known as phony peach and for applying such methods of eradication or control of the disease as in the judgment of the Secretary of Agriculture may be necessary, including the payment of such expenses and the employment of such persons and means, in the city of Washington and elsewhere, and cooperation with such authorities of the States concerned, organizations of growers, or individuals, as he may deem necessary to accomplish such purposes, \$41,860, and, in the discretion of the Secretary of Agriculture, no expenditure shall be made for these purposes until a sum or sums at least equal to such expenditures shall have been appropriated, subscribed, or contributed, by State, county, or local authorities, or by individuals or organizations for the accomplishment of such purposes: *Provided*, That no part of the money herein appropriated shall be used to pay the cost or value of trees or other property injured or destroyed.

Phony-peach eradication.
Investigations, etc.

Subject to equal contribution from States, etc.

Proviso.
No pay for trees, etc., injured or destroyed.

Plant nutrition: For plant-nutrition investigations, \$16,900.

Plant nutrition.

Rubber, fiber, and other tropical plants.

Rubber, fiber, and other tropical plants: For investigation of crops introduced from tropical regions, and for the improvement of rubber, abaca, and other fiber plants by cultural methods, breeding, acclimatization, adaptation, and selection, and for investigation of their diseases, and for determining the feasibility of increasing the production of hard fibers outside of the continental United States, \$69,474.

Seed investigations. Testing commercial seeds and grasses.

Seed investigations: For studying and testing commercial seeds, including the testing of samples of seeds of grasses, clover, or alfalfa, and lawn-grass seeds secured in the open market, and where such samples are found to be adulterated or misbranded the results of the tests shall be published, together with the names of the persons by whom the seeds were offered for sale, and for carrying out the provisions of the Act approved August 24, 1912 (U. S. C., title 7, secs. 111-114), entitled "An Act to regulate foreign commerce by prohibiting the admission into the United States of certain adulterated grain and seeds unfit for seeding purposes," \$70,648: *Provided*, That not to exceed \$250 of this amount may be used for meeting the share of the United States in the expenses of the International Seed Testing Congress in carrying out plans for correlating the work of the various adhering governments on problems relating to seed analysis or other subjects which the congress may determine to be necessary in the interest of international seed trade.

Preventing admission of seeds, etc. Vol. 37, p. 506; Vol. 44, p. 325. U. S. C., p. 95; Supp. VI, p. 51.

Proviso. International Seed Testing Congress.

Sugar-plant investigations.

Sugar-plant investigations: For sugar-plant investigations, including studies of diseases and the improvement of sugar beets and sugar-beet seed, \$340,000.

Tobacco investigations.

Tobacco investigations: For the investigation and improvement of tobacco and the methods of tobacco production and handling, \$80,000.

Western irrigation agriculture. Utilizing reclaimed lands.

Western irrigation agriculture: For investigations in connection with western irrigation agriculture, the utilization of lands reclaimed under the Reclamation Act, and other areas in the arid and semiarid regions, \$130,000.

Services in the District.

Total, Bureau of Plant Industry, \$4,496,155, of which amount not to exceed \$1,511,042 may be expended for personal services in the District of Columbia and not to exceed \$13,200 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

Vehicles.

Forest Service.

FOREST SERVICE

General expenses.

SALARIES AND GENERAL EXPENSES

Experiments.

To enable the Secretary of Agriculture to experiment and to make and continue investigations and report on forestry, national forests, forest fires, and lumbering, but no part of this appropriation shall be used for any experiment or test made outside the jurisdiction of the United States; to advise the owners of woodlands as to the proper care of the same; to investigate and test American timber and timber trees and their uses, and methods for the preservative treatment of timber; to seek, through investigations and the planting of native and foreign species, suitable trees for the treeless regions; to erect necessary buildings: *Provided*, That the cost of any building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and of connecting the same with any such building, and exclusive of the cost of any tower upon which a lookout house may be erected, shall not exceed \$2,500; to pay all expenses necessary to protect, administer, and improve the national forests, including tree planting in the forest reserves to prevent erosion, drift, surface wash, and soil waste and the

Restricted to United States.

Proviso. Cost of buildings.

Protecting national forests.

formation of floods, and including the payment of rewards under regulations of the Secretary of Agriculture for information leading to the arrest and conviction for violation of the laws and regulations relating to fires in or near national forests, or for the unlawful taking of, or injury to, Government property; to ascertain the natural conditions upon and utilize the national forests; to transport and care for fish and game supplied to stock the national forests or the waters therein; to employ agents, clerks, assistants, and other labor required in practical forestry and in the administration of national forests in the city of Washington and elsewhere; to collate, digest, report, and illustrate the results of experiments and investigations made by the Forest Service; to purchase necessary supplies, apparatus, office fixtures, law books, reference and technical books and technical journals for officers of the Forest Service stationed outside of Washington, and for medical supplies and services and other assistance necessary for the immediate relief of artisans, laborers, and other employees engaged in any hazardous work under the Forest Service: *Provided further*, That the appropriations for the work of the Forest Service shall be available for meeting the expenses of warehouse maintenance and the procurement, care, and handling of supplies and materials stored therein for distribution to projects under the supervision of the Forest Service and for sale and distribution to other Government activities, the cost of such supplies and materials, including the cost of supervision, transportation, and handling, to be reimbursed to appropriations current at the time additional supplies and materials are procured for warehouse stocks from the appropriations chargeable with the cost of stock issued; to pay freight, express, telephone, and telegraph charges; for electric light and power, fuel, gas, ice, and washing towels, and official traveling and other necessary expenses, including traveling expenses for legal and fiscal officers while performing Forest Service work; and for rent outside of the District of Columbia, as follows:

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of the Chief Forester and other personal services in the District of Columbia, \$327,819.

NATIONAL FOREST ADMINISTRATION

For the employment of forest supervisors, deputy forest supervisors, forest rangers, forest guards, and administrative clerical assistants on the national forests, and for additional salaries and field-station expenses, including the maintenance of nurseries, collecting seed, and planting, necessary for the use, maintenance, improvement, and protection of the national forests, and of additional national forests created or to be created under section 11 of the Act of March 1, 1911 (U. S. C., title 16, sec. 521), and under the Act of June 7, 1924 (U. S. C., title 16, secs. 471, 499, 505, 564-570), and lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted for the purposes of said Acts, and for necessary miscellaneous expenses incident to the general administration of the Forest Service and of the national forests:

In national forest region 1, Montana, Washington, Idaho, and South Dakota, \$1,457,066: *Provided*, That the Secretary of Agriculture is authorized to use not to exceed \$200 in caring for the graves of fire fighters buried at Wallace, Idaho; Newport, Washington; and Saint Maries, Idaho;

Care of fish and game.

Station supplies, etc.

Warehouse maintenance.

Outside rent.

Chief Forester and office personnel.

National forests.

Forest supervisors, rangers, guards, etc.

Vol. 36, p. 963; Vol. 43, p. 653.
U. S. C., p. 418-428.

District expenses allotted.
Proviso.
Care of graves of fire fighters.

Proviso.
Long-horned cattle,
Wichita National For-
est.

In national forest region 2, Colorado, Wyoming, South Dakota, Nebraska, and Oklahoma, \$649,452: *Provided*, That not to exceed \$1,000 of this appropriation may be expended for the maintenance of the herd of long-horned cattle on the Wichita National Forest;

In national forest region 3, Arizona and New Mexico, \$618,495;

In national forest region 4, Utah, Idaho, Wyoming, Nevada, Arizona, and Colorado, \$817,251;

In national forest region 5, California and Nevada, \$1,151,613;

In national forest region 6, Washington, Oregon, and California, \$1,136,029;

In national forest region 7, Arkansas, Alabama, Florida, Georgia, South Carolina, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, New Hampshire, Maine, Puerto Rico, Kentucky, Louisiana, Mississippi, and Vermont, \$489,356;

In national forest region 8, Alaska, \$112,280;

In national forest region 9, Michigan, Minnesota, and Wisconsin, \$137,338;

Aggregate.
Provisos.
Interchangeable
funds for fire protec-
tion.

In all, for the use, maintenance, improvement, protection, and general administration of the national forests, \$6,568,880: *Provided*, That the foregoing amounts appropriated for such purposes shall be available interchangeably in the discretion of the Secretary of Agriculture for the necessary expenditures for fire protection and other unforeseen exigencies: *Provided further*, That the amount so interchanged shall not exceed in the aggregate 10 per centum of all the amounts so appropriated.

Limitation.

Fighting forest fires.

Revested Oregon-
California lands, etc.
Vol. 39, p. 218.
Coos Bay Wagon
Road lands.

Fighting forest fires: For fighting and preventing forest fires on or threatening the national forests and for the establishment and maintenance of a patrol to prevent trespass and to guard against and check fires upon the lands revested in the United States by the Act approved June 9, 1916 (39 Stat., p. 218), and the lands known as the Coos Bay Wagon Road lands involved in the case of Southern Oregon Company against United States (numbered 2711), in the Circuit Court of Appeals of the Ninth Circuit, \$100,000, which amount shall be immediately available.

Aerial fire control.

Proviso.
Purchases forbidden.

Aerial fire control: For cooperation with the War Department or for contract airplane service, in the maintenance and operation of an airplane patrol to prevent and suppress forest fires on national forests and adjacent lands, \$24,900: *Provided*, That no part of this appropriation shall be used for the purchase of land or airplanes.

Classification of lands
for homestead entries,
etc.

Classification of lands: For the selection, classification, and segregation of lands within the boundaries of national forests that may be opened to homestead settlement and entry under the homestead laws applicable to the national forests; for the examination and appraisal of lands in effecting exchanges authorized by law and for the survey thereof by metes and bounds or otherwise, by employees of the Forest Service, under the direction of the Commissioner of the General Land Office; and for the survey and platting of certain lands, chiefly valuable for agriculture, now listed or to be listed within the national forests, under the Act of June 11, 1906 (U. S. C., title 16, secs. 506-509), the Act of August 10, 1912 (U. S. C., title 16, sec. 506), and the Act of March 3, 1899 (U. S. C., title 16, sec. 488), as provided by the Act of March 4, 1913 (U. S. C., title 16, sec. 512), \$47,250.

Surveying, etc., agri-
cultural lands in na-
tional forests.

Vol. 30, p. 1097; Vol.
34, p. 233; Vol. 37, pp.
287, 842.
U. S. C., pp. 421-424.

Public camp ground
facilities.

Sanitation and fire prevention: For the construction and maintenance of sanitary facilities and for fire-preventive measures on public camp grounds within the national forests when necessary for the protection of the public health or the prevention of forest fires, \$65,000.

Planting on national forests: For the establishment and maintenance of forest-tree nurseries, the collection or purchase of tree seed, cones, and nursery stock, and seeding and tree planting within national forests; for additional protection, care, and improvement of plantations or young growth; and for experiments and investigations necessary for seeding and tree planting, \$214,070.

Reconnaissance, national forests: For estimating and appraising timber and other resources on the national forests preliminary to disposal by sale or to the issue of occupancy permits, and for emergency expenses incident to their sale or use, \$68,410.

Improvement of the national forests: For the construction and maintenance of roads, trails, bridges, fire lanes, telephone lines, cabins, fences, and other improvements necessary for the proper and economical administration, protection, and development of the national forests, \$987,084, of which amount \$96,800 is reserved for expenditure for the Angeles, Cleveland, Santa Barbara, and San Bernardino National Forests in southern California: *Provided*, That such sum of \$96,800 shall not be expended unless an equal amount is contributed for such work by State, county, municipal, and/or other local interests, to be paid, in whole or in part, in advance of the performance of the work for which this appropriation provides: *Provided further*, That where, in the opinion of the Secretary of Agriculture, direct purchase will be more economical than construction, telephone lines, cabins, fences, and other improvements may be purchased: *Provided further*, That not to exceed \$109,000 may be expended for the construction and maintenance of boundary and range division fences, counting corrals, stock driveways and bridges, the development of stock watering places, and the eradication of poisonous plants on the national forests: *Provided further*, That not to exceed \$1,000 of this appropriation may be used for the repair and maintenance of the dam at Cass Lake, Minnesota.

Seeding, tree planting, etc.

Appraising timber, etc., for sale.

Permanent improvements.

Amounts for southern California forests.

Provisos. Local cooperation required.

Purchase of telephone lines, etc.

Division fences, stock driveways, watering places, etc.

Dam at Cass Lake, Minn.

FOREST RESEARCH

Forest research.

For forest research in accordance with the provisions of sections 1, 2, 7, 8, 9, and 10 of the Act entitled "An Act to insure adequate supplies of timber and other forest products for the people of the United States, to promote the full use for timber growing and other purposes of forest lands in the United States, including farm wood lots and those abandoned areas not suitable for agricultural production, and to secure the correlation and the most economical conduct of forest research in the Department of Agriculture through research in reforestation, timber growing, protection, utilization, forest economics, and related subjects," approved May 22, 1928 (U. S. C., Supp. V, title 16, secs. 581, 581a, 581f-581i), as follows:

Development of timber, etc.
Vol. 45, p. 699.
U. S. C., Supp. VI, p. 224.

Forest management: Fire, silvicultural, and other forest investigations and experiments under section 2, at forest experiment stations or elsewhere, \$492,671.

Experiments, investigations, etc., at stations.
Vol. 45, p. 700.

Range investigations: Investigations and experiments to develop improved methods of management of forest and other ranges under section 7, at forest or range experiment stations or elsewhere, \$100,000.

Management of ranges, etc.
Vol. 45, p. 701.

Forest products: Experiments, investigations, and tests of forest products under section 8, at the Forest Products Laboratory, or elsewhere, \$566,791.

Forest products experiments.
Vol. 45, p. 701.

Forest survey: A comprehensive forest survey under section 9, \$160,067.

Forest survey.
Vol. 45, p. 702.

Forest economics: Investigations in forest economics under section 10, \$60,000.

Forest economics.
Vol. 45, p. 702.

Aggregate.
Additional, from co-
operative forest fund
contributions.

Vol. 43, p. 1132.
U. S. C., p. 428.

Vol. 38, p. 430.
U. S. C., p. 422.

Provisos.
Services in the Dis-
trict.

International Union
of Forest Research Sta-
tions, contribution.

Forest-fire preven-
tion.

Cooperation with
States, etc., for pro-
tecting timber on their
lands.

Vol. 43, p. 653.
U. S. C., p. 427.

Tax laws and timber
insurance.

Services in the Dis-
trict.
Supplies and equip-
ment.

Forest planting
stock.

Cooperation with
States, etc., in procur-
ing forest tree seeds,
etc., for denuded or
nonforested lands.

Vol. 43, p. 654.
U. S. C., p. 427.

Services in the Dis-
trict.

Additional forest
lands.

Acquiring, under
Forest Conservation
Act.

Vol. 36, p. 961; Vol. 43,
p. 654.
U. S. C., pp. 424, 427.

Vehicles for field
service.

Motor vehicles for
road-construction serv-
ice.

Vol. 42, p. 217.
U. S. C., pp. 667, 668.

In all, salaries and expenses, \$9,782,942; and in addition thereto there are hereby appropriated all moneys received as contributions toward cooperative work under the provisions of section 1 of the Act approved March 3, 1925 (U. S. C., title 16, sec. 572), which funds shall be covered into the Treasury and constitute a part of the special funds provided by the Act of June 30, 1914 (U. S. C. title 16, sec. 498): *Provided*, That not to exceed \$413,188 may be expended for departmental personal services in the District of Columbia: *Provided further*, That not to exceed \$1,000 may be expended for the contribution of the United States to the cost of the office of the secretariat of the International Union of Forest Research Stations.

FOREST-FIRE COOPERATION

For cooperation with the various States or other appropriate agencies in forest-fire prevention and suppression and the protection of timbered and cut-over lands in accordance with the provisions of sections 1, 2, and 3 of the Act entitled "An Act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of national forests, and for other purposes, in order to promote continuous production of timber on lands chiefly valuable therefor," approved June 7, 1924 (U. S. C., title 16, secs. 564-570), as amended, including also the study of the effect of tax laws and the investigation of timber insurance as provided in section 3 of said Act, \$1,587,513, of which \$21,735 shall be available for departmental personal services in the District of Columbia and not to exceed \$1,500 for the purchase of supplies and equipment required for the purposes of said Act in the District of Columbia.

COOPERATIVE DISTRIBUTION OF FOREST PLANTING STOCK

For cooperation with the various States in the procurement, production, and distribution of forest-tree seeds and plants in establishing windbreaks, shelter belts, and farm wood lots upon denuded or nonforested lands within such cooperating States, under the provisions of section 4 of the Act entitled "An Act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of national forests, and for other purposes, in order to promote the continuous production of timber on lands chiefly suitable therefor," approved June 7, 1924 (U. S. C., title 16, sec. 567), and Acts supplementary thereto, \$74,730, of which amount not to exceed \$1,650 may be expended for departmental personal services in the District of Columbia.

ACQUISITION OF ADDITIONAL FOREST LANDS

For the acquisition of additional lands under the provisions of the Act of March 1, 1911 (U. S. C., title 16, secs. 513-519), as amended by the Act of June 7, 1924 (U. S. C., title 16, secs. 564-570), \$85,854, of which amount not to exceed \$16,273 may be expended for departmental personal services and supplies and equipment in the District of Columbia.

Total, Forest Service, \$11,531,039, of which amount not to exceed \$26,835 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia, and in addition thereto there is authorized for expenditure from funds provided for carrying out the provisions of the Federal Highway Act of November 9, 1921 (U. S. C., title 23, secs. 21, 23), not to exceed \$4,250 for the

purchase of motor-propelled passenger-carrying vehicles for use by the Forest Service in the construction and maintenance of national forest roads.

BUREAU OF CHEMISTRY AND SOILS

SALARIES AND GENERAL EXPENSES

For all necessary expenses connected with the investigations, experiments, and demonstrations hereinafter authorized, independently or in cooperation with other branches of the Department of Agriculture, other departments or agencies of the Federal Government, States, State agricultural experiment stations, universities and other State agencies and institutions, counties, municipalities, business or other organizations and corporations, individuals, associations, and scientific societies, including the employment of necessary persons and means in the city of Washington and elsewhere; rent outside the District of Columbia, and other necessary supplies and expenses, and for erection, alteration, and repair of buildings outside of the District of Columbia at a total cost not to exceed \$5,000, as follows:

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$89,903.

Agricultural chemical investigations: For conducting the investigations contemplated by the Act of May 15, 1862 (U. S. C., title 5, secs. 511, 512), relating to the application of chemistry to agriculture; for the biological, chemical, physical, microscopical, and technological investigation of foods, feeds, drugs, and insecticides and substances used in the manufacture thereof, including investigations of the physiological effects of such products; for the investigation and development of methods for the manufacture of sugars and sugar sirups and the utilization of new agricultural materials for such purposes; for investigation of the action and changes produced by microorganisms, including molds and fungi; for investigation and development of methods for the utilization of agricultural wastes and residues, in cooperation with the Bureau of Standards, Department of Commerce, without duplication of work; for investigation and development of methods for the prevention of heating of agricultural products and the prevention of farm fires and fires in cotton gins, cotton-oil mills, grain elevators, and other structures, and to cooperate with associations and scientific societies in the development of methods of analysis, \$410,000.

Color investigations: For investigation and experiment in the utilization, for coloring, medicinal, and technical purposes, of raw materials grown or produced in the United States, \$69,000.

Insecticide and fungicide investigations: For the investigation and development of methods of manufacturing insecticides and fungicides, and for investigating chemical problems relating to the composition, action, and application of insecticides and fungicides, \$109,563.

Plant dust explosions: For the investigation and development of methods for the prevention of grain-dust, smut-dust, and other dust explosions not otherwise provided for and resulting fires, including fires in cotton gins, cotton-oil mills, and grain elevators, \$33,880.

Naval stores investigations: For the investigation and demonstration of improved methods or processes of preparing naval stores, the weighing, handling, transportation, and the uses of same, \$65,106,

Chemistry and Soils Bureau.

General expenses.

Investigations, demonstrations, etc.

Employees, etc.

Chief of bureau and office personnel.

Chemical investigations.
Vol. 12, p. 387.
U. S. C., p. 56.

Biological, etc., investigations.

Methods of sugar manufacture.

Utilizing wastes.

Cooperation with scientific societies, etc.

Utilizing raw materials for colorants.

Insecticide and fungicide investigations.

Plant dust explosions, etc.
Methods for preventing.

Naval stores investigations, etc.

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| Field laboratory. | of which \$10,000 shall be available for continuing the establishment of a field laboratory for naval stores research work in the pine regions of the South: <i>Provided</i> , That not more than \$10,000 of this appropriation shall be expended for the erection of buildings. |
| <i>Proviso.</i> Building construction. Fertilizers. | Fertilizer investigations: For investigations within the United States of fertilizers, fertilizer ingredients, including phosphoric acid and potash, and other soil amendments and their suitability for agricultural use, \$325,000. |
| Soil types, composition, etc., investigations. | Soil chemical and physical investigations: For chemical, physical, and physical-chemical investigations of soil types, soil composition, and soil minerals, the soil solution, solubility of soil, and all chemical and physical properties of soils in their relation to soil formation, soil texture, erodibility, and soil productivity, \$56,545. |
| Cooperative soils survey. | Soil survey: For the investigation of soils and their origin, for survey of the extent of classes and types, and for indicating upon maps and plats, by coloring or otherwise, the results of such investigations and surveys, \$275,000. |
| Soil microbiology investigations. | Soil microbiology investigations: For investigations of the microorganisms of the soil and their activities, including the testing of samples procured in the open market, of cultures for inoculating legumes, other crops, or soil, and the publication of results, and if any such samples are found to be impure, nonviable, or misbranded, the results of the tests may be published, together with the names of the manufacturers and of the persons by whom the cultures were offered for sale, \$40,641. |
| Soil fertility investigations. | Soil-fertility investigations: For soil investigations into causes of infertility; maintenance of productivity; effects of soil composition, cultural methods, fertilizers, and soil amendments on yield and quality of crops; and the properties, composition, formation, and transformation of soil organic matter, \$195,556. |
| Services in the District. | Total, Bureau of Chemistry and Soils, \$1,670,194, of which amount not to exceed \$1,095,695 may be expended for personal services in the District of Columbia, and not to exceed \$650 shall be available |
| Vehicles. | for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia. |

Entomology Bureau.

BUREAU OF ENTOMOLOGY

General expenses.

SALARIES AND GENERAL EXPENSES

Investigation of insects, etc.

For necessary expenses connected with the investigations, experiments, and demonstrations in reference to the items hereinafter enumerated for the promotion of economic entomology, for investigating the history and habits of insects injurious and beneficial to agriculture, horticulture, arboriculture, for studying insects affecting man and animals, and for ascertaining the best means of destroying insects found to be injurious, independently or in cooperation with other branches of the Federal Government, States, counties, and municipalities, organizations, corporations, and individuals concerned, or with foreign governments, including the employment of necessary persons and means in the city of Washington and elsewhere, rent outside of the District of Columbia, and not to exceed \$5,000 for the erection of necessary buildings: *Provided*, That the cost of any such building shall not exceed \$1,500, as follows:

Outside rent.

Proviso.
Building limitation.
Chief of bureau, and office personnel.

General administrative expenses: For general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$136,358.

Fruit and shade tree insects: For insects affecting fruits, grapes, nuts, shade trees, and hardy shrubs, and including research on the Japanese and Asiatic beetles, the Parlatoria date scale, and fruit flies, \$366,000, together with \$55,000 of the unexpended balance of the appropriation for the Mediterranean fruit fly contained in the Agricultural Appropriation Act for the fiscal year 1931.

Truck and garden crop insects: For insects affecting truck and garden crops, including tobacco, sugar beets, and ornamental plants, \$390,000.

Forest insects: For insects affecting forests under section 4 of the Act approved May 22, 1928 (U. S. C., Supp. V, title 16, sec. 581c), entitled "An Act to insure adequate supplies of timber and other forest products for the people of the United States, to promote the full use for timber growing and other purposes of forest lands in the United States, including farm wood lots and those abandoned areas not suitable for agricultural production, and to secure the correlation and the most economical conduct of forest research in the Department of Agriculture, through research in reforestation, timber growing, protection, utilization, forest economics, and related subjects," \$179,970.

Cereal and forage insects: For insects affecting cereal and forage crops, including sugarcane and rice, and including research on the European corn borer, \$451,640.

Cotton insects: For insects affecting cotton and including research on the pink bollworm of cotton, \$175,000.

For insects affecting man and animals, \$130,000.

Household and stored products insects: For household insects and insects affecting stored products, including \$4,517 for insects affecting forest products under section 4 of the Act approved May 22, 1928 (U. S. C., Supp. V, title 16, sec. 581c), \$130,000.

Identification and classification of insects: For the identification and classification of insects, including taxonomic, toxicological, and related phases of insect pest control, the importation and exchange of useful insects, and the maintenance of an insect pest survey for the collection and dissemination of information to Federal, State, and other agencies concerned with insect pest control, \$190,000.

For bee culture and apiary management, \$65,000.

Total, Bureau of Entomology, \$2,213,968, of which amount not to exceed \$435,720 may be expended for personal services in the District of Columbia, and not to exceed \$21,075 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

BUREAU OF BIOLOGICAL SURVEY

SALARIES AND GENERAL EXPENSES

For salaries and employment of labor in the city of Washington and elsewhere, furniture, supplies, including the purchase of bags, tags, and labels printed in the course of manufacture, traveling and all other expenses necessary in conducting investigations and carrying out the work of the bureau, including cooperation with Federal, State, county, or other agencies or with farm bureaus, organizations, or individuals, as follows:

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$76,865.

Fruit and shade tree insects.

Sum from balance for Mediterranean fruit fly, fiscal year, 1931. Vol. 46, p. 422.

Truck and garden crops.

Forest insects. Methods for preventing infestations, etc. Vol. 45, p. 701. U. S. C., Supp. VI, p. 225.

Cereal and forage insects.

Cotton; pink bollworm, etc.

Man and animals.

Stored products. Vol. 45, p. 701. U. S. C., Supp. VI, p. 225.

Identification and classification of insects.

Disseminating information.

Bee culture.

Services in the District.

Vehicles.

Biological Survey Bureau.

General expenses.

Salaries, supplies, etc.

Chief of bureau and office personnel.

Game, etc., reser-
vations.
Montana National
Bison Range.

Maintenance of mammal and bird reservations: For the maintenance of the Montana National Bison Range and other reservations and for the maintenance of game introduced into suitable localities on public lands, under supervision of the Biological Survey, including construction of fencing, wardens' quarters, shelters for animals, landings, roads, trails, bridges, ditches, telephone lines, rockwork, bulkheads, and other improvements necessary for the economical administration and protection of the reservations, and for the enforcement of section 84 of the Act approved March 4, 1909 (U. S. C., title 18, sec. 145), entitled "An Act to codify, revise, and amend the penal laws of the United States," and Acts amendatory thereto, and section 10 of the Migratory Bird Conservation Act of February 18, 1929 (U. S. C., Supp. V, title 16, sec. 715i), \$75,000: *Provided*, That \$2,500 may be used for the purchase, capture, and transportation of game for national reservations.

Protection of re-
serves.
Vol. 35, p. 1104.
U. S. C., p. 471.

Vol. 45, p. 1224.
U. S. C., Supp. VI,
p. 231.
Proviso.
Game for reserves.

Food habits of birds
and animals.

Food habits of birds and animals: For investigating the food habits and economic value of North American birds and animals in relation to agriculture, horticulture, and forestry, including methods of conserving beneficial and controlling injurious birds and animals, \$75,000.

Control of predatory
animals, etc.

Control of predatory animals and injurious rodents: For demonstrations and cooperation in destroying animals injurious to agriculture, horticulture, forestry, animal husbandry, and wild game; and in protecting stock and other domestic animals through the suppression of rabies and other diseases in predatory wild animals, \$530,000.

Suppressing rabies,
etc.

Fur-bearing animals.
Investigating produc-
tion, etc.

Production of fur-bearing animals: For investigations, experiments, demonstrations, and cooperation in connection with the production and utilization of fur-bearing animals raised for meat and fur, in the United States and Alaska, \$55,000.

Biological investiga-
tions.

Biological investigations: For biological investigations, including the relations, habits, geographic distribution, and migration of animals and plants, and the preparation of maps of the life zones, and including \$16,000 for investigations of the relations of wild animal life to forests, under section 5 of the Act approved May 22, 1928 (U. S. C., Supp. V, title 16, sec. 581d), and for investigations, experiments, and demonstrations in the establishment, improvement, and increase of the reindeer industry and of musk oxen and mountain sheep in Alaska, including the erection of necessary buildings and other structures, \$85,000.

Vol. 45, p. 701.
U. S. C., Supp. VI,
p. 225.

Reindeer and musk
oxen in Alaska.

Migratory bird pro-
tection.
Vol. 40, p. 755.
U. S. C., p. 436.

Protection of migratory birds: For all necessary expenses for enforcing the provisions of the Migratory Bird Treaty Act of July 3, 1918 (U. S. C., title 16, secs. 703-711), and for cooperation with local authorities in the protection of migratory birds, and for necessary investigations connected therewith, \$198,190: *Provided*, That of this sum not more than \$20,500 may be used for the enforcement of sections 241, 242, 243, and 244 of the Act approved March 4, 1909 (U. S. C., title 18, secs. 391-394), entitled "An Act to codify, revise, and amend the penal laws of the United States," and for the enforcement of section 1 of the Act approved May 25, 1900 (U. S. C., title 16, sec. 701), entitled "An Act to enlarge the powers of the Department of Agriculture, prohibit the transportation by interstate commerce of game killed in violation of local laws, and for other purposes," including all necessary investigations in connection therewith.

Proviso.
Preventing shipment
of prohibited birds, etc.
Vol. 35, p. 1137.
U. S. C., pp. 492-493.

Carrying illegally
killed game.
Vol. 31, p. 187.
U. S. C., p. 436.

Enforcing Alaska
game law.
Vol. 43, p. 739; Vol. 45,
p. 1111.
U. S. C., p. 1573;
Supp. VI, p. 835.

Enforcement of Alaska game law: For the enforcement of the provisions of the Alaska game law, approved January 13, 1925 (U. S. C., title 48, secs. 192-211), and as amended by the Act of February 14, 1931 (46 Stat., pp. 1111-1115), \$90,000.

In all, salaries and expenses, \$1,185,055.

UPPER MISSISSIPPI RIVER REFUGE

Upper Mississippi
River refuge.

For the acquisition of areas of land or land and water pursuant to the Act entitled "An Act to establish the Upper Mississippi River Wild Life and Fish Refuge," approved June 7, 1924 (U. S. C., title 16, secs. 721-731), as amended, and for all necessary expenses incident thereto, including the employment of persons and means in the city of Washington and elsewhere, \$18,500, which shall be available until expended, being part of the sum of \$1,500,000 authorized to be appropriated for such purpose by section 10 of said Act; and for all necessary expenses of the Secretary of Agriculture authorized by section 9 of said Act, \$43,200; in all, \$61,700.

Acquiring areas for.
Vol. 43, p. 650, 1354.
U. S. C., p. 437.

Vol. 43, p. 652.

BEAR RIVER MIGRATORY-BIRD REFUGE

Bear River migra-
tory bird refuge.

For the establishment of a suitable refuge and feeding and breeding grounds for migratory wild fowl, including the acquisition of water rights and privately owned lands pursuant to the Act entitled "An Act to establish the Bear River migratory-bird refuge," approved April 23, 1928 (U. S. C., Supp. V, title 16, secs 690-690h), and the resolution approved February 15, 1929 (45 Stat., p. 1186), and for all expenses incident thereto, including the employment of persons and means in the District of Columbia and elsewhere, the unexpended balance of the appropriation of \$75,000 for this purpose contained in the Agricultural Appropriation Act for the fiscal year 1931 shall remain available until June 30, 1934; for administration and maintenance, including the construction of necessary buildings and for personal services in the District of Columbia and elsewhere, \$20,000.

Establishment, etc.
Vol. 45, p. 448.
U. S. C., Supp. VI,
p. 228.Vol. 45, p. 1186.
All expenses.Balance available.
Vol. 46, p. 416.

Administration.

MIGRATORY BIRD CONSERVATION ACT

Migratory Bird Con-
servation Act.

For carrying into effect the provisions of the Act entitled "An Act to more effectively meet the obligations of the United States under the migratory-bird treaty with Great Britain (39 Stat., pt. 2, p. 1702) by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservation for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement, and for other purposes," approved February 18, 1929 (U. S. C., Supp. V, title 16, secs. 715-715r), \$89,525, authorized by section 12 of the Act, which sum is a part of the remaining \$882,000 of the \$1,000,000 authorized to be appropriated for the fiscal year ending June 30, 1933, and in addition thereto the unexpended balances of the sums made available in the Agricultural Appropriation Act for the fiscal year 1933 for the purposes of sections 12 and 18 of the Act of February, 18, 1929, are continued available for the same purposes for the fiscal year 1934.

Acquiring areas to
furnish reservations in
perpetuity.
Vol. 45, p. 1222.
U. S. C., Supp. VI,
p. 230.Commission's ex-
penses.
Vol. 45, p. 1225.Authorizations.
Balance available.
Ante, p. 633.Services in the Dis-
trict.

Vehicles.

Public Roads Bu-
reau.

Salaries and expenses.

Total, Bureau of Biological Survey, \$1,356,280, of which amount not to exceed \$269,958 may be expended for departmental personal services in the District of Columbia, and not to exceed \$15,250 shall be available for the purchase of motor-propelled passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

BUREAU OF PUBLIC ROADS

For necessary expenses of the Bureau of Public Roads, including salaries and the employment of labor in the city of Washington and elsewhere, supplies, office and laboratory fixtures and apparatus, traveling and other necessary expenses; for conducting research and

Road making.

investigational studies, either independently or in cooperation with State highway departments, or other agencies, including studies of highway administration, legislation, finance, economics, transport, construction, operation, maintenance, utilization, and safety, and of street and highway traffic control; investigations and experiments in the best methods of road making, especially by the use of local materials; studies of types of mechanical plants and appliances used for road building and maintenance and of methods of road repair and maintenance suited to the needs of different localities; and maintenance and repairs of experimental highways, including the purchase of materials and equipment; for furnishing expert advice on these subjects; for collating, reporting, and illustrating the results of same; and for preparing, publishing, and distributing bulletins and reports; to be paid from any moneys available from the administrative funds provided under the Act of July 11, 1916 (U. S. C., title 23, sec. 21), as amended, or as otherwise provided.

Vol. 39, p. 355; Vol. 42, p. 217.
U. S. C., p. 662.

Federal-aid high-ways.

FEDERAL-AID HIGHWAY SYSTEM

Cooperating with States in constructing rural post roads.
Vol. 39, p. 355; Vol. 40, p. 1201; Vol. 42, pp. 660, 1157; Vol. 43, p. 889; Vol. 44, pp. 760, 1398.
U. S. C., p. 422; Supp. VI, p. 371.

For carrying out the provisions of the Act entitled "An Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916 (39 Stat., pp. 355-359), and all Acts amendatory thereof and supplementary thereto, to be expended in accordance with the provisions of said Act, as amended, including not to exceed \$672,009 for departmental personal services in the District of Columbia, \$35,000,000, to be immediately available and to remain available until expended, which sum is a part of the sum of \$125,000,000 authorized to be appropriated for the fiscal year ending June 30, 1933 by section 1 of the Act approved April 4, 1930 (46 Stat., p. 141), after deducting \$15,840,743.86 in making the apportionment of said authorization to the States, in accordance with the Act of December 20, 1930 (46 Stat., p. 1031): *Provided*, That none of the money herein appropriated shall be paid to any State on account of any project on which convict labor shall be employed, except this provision shall not apply to convict labor performed by convicts on parole or probation: *Provided further*, That not to exceed \$45,000 of the funds provided for carrying out the provisions of the Federal Highway Act of November 9, 1921 (U. S. C., title 23, secs. 21 and 23), shall be available for the purchase of motor-propelled passenger-carrying vehicles necessary for carrying out the provisions of said Act, including the replacement of not to exceed one such vehicle for use in the administrative work of the Bureau of Public Roads in the District of Columbia: *Provided further*, That whenever performing authorized engineering or other services in connection with the survey, construction and maintenance, or improvement of roads for other Government agencies the charge for such services may include depreciation on engineering and road building equipment used, and the amounts received on account of such charges shall be credited to the appropriation concerned: *Provided*, That hereafter in the administration of the Federal Highway Act and Acts amendatory thereof or supplementary thereto, the first paragraph of section 9 of the Act of November 9, 1921, shall not apply to publicly owned toll bridges or approaches thereto, constructed and operated by the highway department of any State, subject, however, to the condition that all tolls received from the operation of any such bridge, less the actual cost of operation and maintenance, shall be applied to the repayment of the cost of its construction, and when

Vol. 46, p. 141.

Vol. 46, p. 1031.
Provisos.
Convict labor forbidden.

Vehicles.
Vol. 42, p. 217.
U. S. C., p. 667.

Charges allowed against engineering services.

Tolls on publicly owned bridges.
Vol. 42, p. 214, waived.

Application of, to construction, etc., costs.

the cost of its construction shall have been repaid in full, such bridge thereafter shall be maintained and operated as a free bridge.

The appropriation of \$3,000,000 for roads on unappropriated or unreserved public lands, nontaxable Indian lands, and so forth, contained in the Act entitled "An Act making supplemental appropriations to provide for emergency construction on certain public works during the remainder of the fiscal year ending June 30, 1931, with a view to increasing employment," approved December 20, 1930, is hereby continued available during the fiscal year 1934.

The appropriation of \$2,000,000 for roads on unappropriated or unreserved public lands, nontaxable Indian lands, and so forth, contained in the Act entitled "An Act to relieve destitution, to broaden the lending powers of the Reconstruction Finance Corporation, and to create employment by providing for and expediting a public-works program," approved July 21, 1932, is hereby continued available during the fiscal year 1934, and not to exceed \$4,373 may be used for personal services in the District of Columbia.

Road and bridge flood relief, Georgia and South Carolina: To enable the Secretary of Agriculture to carry into effect the provisions of the Act entitled "An Act for the relief of the State of Georgia for damage to and destruction of roads and bridges by floods in 1929," approved May 27, 1930, and the Act entitled "An Act for the relief of the State of South Carolina for damage to and destruction of roads and bridges by floods in 1929," approved June 2, 1930, the unexpended balances of the appropriations for these purposes contained in the Second Deficiency Act, 1930, shall remain available until June 30, 1934.

Road and bridge flood relief, State of Alabama: The unexpended balance of the appropriation contained in the First Deficiency Act, fiscal year 1930, for carrying out the provisions of the Act entitled "An Act for the relief of the State of Alabama for damage to and destruction of roads and bridges by floods in 1929," approved March 12, 1930, shall remain available until June 30, 1934.

That paragraph (1) of subsection (a) of section 301 of title 3 of the Emergency Relief and Construction Act of 1932 is amended by striking out the date "July 1, 1933" where it appears in said paragraph and inserting in lieu thereof the date "January 1, 1934."

Total, Bureau of Public Roads, \$35,000,000.

BUREAU OF AGRICULTURAL ENGINEERING

SALARIES AND EXPENSES

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$36,810.

Agricultural engineering: For investigations, experiments, and demonstrations involving the application of engineering principles to agriculture, independently or in cooperation with Federal, State, county, or other public agencies or with farm bureaus, organizations, or individuals; for investigating and reporting upon the utilization of water in farm irrigation and the best methods to apply in practice, the different kinds of power and appliances, the flow of water in ditches, pipes, and other conduits, the duty, apportionment, and measurement of irrigation water, the customs, regulations, and laws affecting irrigation, and the drainage of farms and of swamps and other wet lands which may be made available for agricultural purposes; for preparing plans for the removal of surplus water by drainage; for developing equipment for farm irrigation and drainage; for investigating and reporting upon farm domestic water supply and drainage

Free bridge thereafter.

Emergency appropriation for highways improvements continued. Vol 46, p. 1031.

Emergency road construction on Indian reservations, etc. *Ante*, p. 717.

Services in the District.

Georgia and South Carolina. Road and bridge flood relief. Vol. 46, pp. 386, 489.

Balance available. Vol. 46, p. 872.

Ante, p. 635.

Alabama flood relief. Vol. 46, p. 100.

Vol. 46, p. 84.

Emergency road construction. Available until January 1, 1934. *Ante*, p. 716, amended.

Agricultural Engineering Bureau.

General expenses.

Chief of bureau and office personnel.

Investigations, etc.

disposal, upon the design and construction of farm buildings and their appurtenances and of buildings for processing and storing farm products, upon farm power and mechanical farm equipment, upon the engineering problems relating to the processing, transportation, and storage of perishable and other agricultural products, and upon the engineering problems involved in adapting physical characteristics of farm land to the use of modern farm machinery; for investigations of cotton ginning under the Act approved April 19, 1930 (U. S. C., Supp. V, title 7, secs. 424, 425); for giving expert advice and assistance in agricultural engineering; for collating, reporting, and illustrating the results of investigations and preparing, publishing, and distributing bulletins, plans, and reports; and for other necessary expenses, including travel, rent, repairs, and not to exceed \$5,000 for construction of buildings, \$375,000.

Cotton ginning.
Vol. 46, p. 248.
U. S. C., Supp. VI,
p. 58.

Services in the Dis-
trict.

Vehicles.

Total, Bureau of Agricultural Engineering, \$411,810, of which amount not to exceed \$125,800 may be expended for personal services in the District of Columbia, and not to exceed \$3,115 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

Agricultural Econo-
mics Bureau.

BUREAU OF AGRICULTURAL ECONOMICS

General expenses.

SALARIES AND GENERAL EXPENSES

Salaries, supplies, etc.

For salaries and the employment of labor in the city of Washington and elsewhere, furniture, supplies, traveling expenses, rent outside of the District of Columbia, and all other expenses necessary in conducting investigations, experiments, and demonstrations, as follows:

Chief of bureau, and
office personnel.

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$267,750.

Farm management
and practice.

Farm management and practice: To investigate and encourage the adoption of improved methods of farm management and farm practice, and for ascertaining the cost of production of the principal staple agricultural products, \$375,000.

Distributing ac-
quired information of
farm products, market-
ing, etc.

Marketing and distributing farm products: For acquiring and diffusing among the people of the United States useful information, on subjects connected with the marketing, handling, utilization, grading, transportation, and distributing of farm and nonmanufactured food products and the purchasing of farm supplies, including the demonstration and promotion of the use of uniform standards of classification of American farm products throughout the world, including scientific and technical research into American-grown cotton and its by-products and their present and potential uses, including new and additional commercial and scientific uses for cotton and its by-products, and including investigations of cotton ginning under the Act approved April 19, 1930 (U. S. C., Supp. V, title 7, secs. 424, 425), and for collecting and disseminating information on the adjustment of production to probable demand for the different farm and animal products, independently and in cooperation with other branches of the department, State agencies, purchasing and consuming organizations, and persons engaged in the marketing, handling, utilization, grading, transportation, and distributing of farm and food products, and for investigation of the economic costs of retail marketing of meat and meat products, \$725,000: *Provided*, That practical forms of the grades recommended or promulgated by the Secretary for wool and mohair may be sold under such rules and regulations as he may

Promoting classified
standards.

Cotton and by-prod-
ucts research.

Vol. 46, p. 248.
U. S. C., Supp. VI,
p. 58.

Proviso.
Forms of wool and
mohair grades to be
sold.

prescribe, and the receipts therefrom deposited in the Treasury to the credit of miscellaneous receipts.

Crop and livestock estimates: For collecting, compiling, abstracting, analyzing, summarizing, interpreting, and publishing data relating to agriculture, including crop and livestock estimates, acreage, yield, grades, staples of cotton, stocks, and value of farm crops, and numbers, grades, and value of livestock and livestock products on farms, in cooperation with the Extension Service and other Federal, State, and local agencies, \$700,000: *Provided*, That no part of the funds herein appropriated shall be available for any expense incident to ascertaining, collating, or publishing a report stating the intentions of farmers as to the acreage to be planted in cotton.

Crop and livestock estimates.
Collecting, etc., data.

Proviso.
Issuing predictions forbidden.

Foreign competition and demand: To enable the Secretary of Agriculture to carry into effect the provisions of the Act entitled "An Act to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture, and for other purposes." approved June 5, 1930 (U. S. C., Supp. V, title 7, secs. 541-545), and for collecting and disseminating to American producers, importers, exporters, and other interested persons information relative to the world supply of and need for American agricultural products, marketing methods, conditions, prices, and other factors, a knowledge of which is necessary to the advantageous disposition of such products in foreign countries, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, and persons engaged in the transportation, marketing, and distribution of farm and food products, including the purchase of such books and periodicals and not to exceed \$1,000 for newspapers as may be necessary in connection with this work, \$292,870.

Securing information as to foreign competition and demand.
Vol. 46, p. 497.

U. S. C., Supp. VI,
P. 66.

Disseminating information of world's supply and need of American agricultural products, etc.

Market inspection of farm products: For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and/or condition of cotton, tobacco, fruits and vegetables, whether raw, dried, or canned, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained, \$500,286.

Market inspection of farm products.

Certifying condition of shipment.

Proviso.
Legal effect of certificates.

Market news service: For collecting, publishing, and distributing, by telegraph, mail, or otherwise, timely information on the market supply and demand, commercial movement, location, disposition, quality, condition, and market prices of livestock, meats, fish, and animal products, dairy and poultry products, fruits and vegetables, peanuts and their products, grain, hay, feeds, tobacco, and seeds, and other agricultural products, independently and in cooperation with

Market news service.
Livestock, dairy, agriculture, etc., products.

other branches of the Government, State agencies, purchasing and consuming organizations, and persons engaged in the production, transportation, marketing, and distribution of farm and food products, \$1,300,000.

Cotton statistics.
Vol. 44, p. 1372.
U. S. C., Supp. VI,
p. 60.

Cotton statistics: To enable the Secretary of Agriculture to carry into effect the Act entitled "An Act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton," approved March 3, 1927 (U. S. C., Supp. V, title 7, secs. 471-476), \$350,000.

Tobacco stocks and standards.
Vol. 45, p. 1079.
U. S. C., Supp. VI,
p. 61.

Tobacco stocks and standards: To enable the Secretary of Agriculture to carry into effect the provisions of the Act entitled "An Act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture," approved January 14, 1929 (U. S. C., Supp. V, title 7, secs. 501-508), including the employment of persons and means in the city of Washington and elsewhere, \$23,200.

Perishable Agricultural Commodities Act.
Vol. 46, p. 531.
U. S. C., Supp. VI,
p. 67.

Perishable agricultural commodities Act: To enable the Secretary of Agriculture to carry into effect the provisions of the Act entitled "An Act to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce" (U. S. C., Supp. V, title 7, secs. 551-568), \$165,000.

In all, salaries and expenses, \$4,699,106.

Cotton Futures and Cotton Standards Acts.

ENFORCEMENT OF THE UNITED STATES COTTON FUTURES ACT AND UNITED STATES COTTON STANDARDS ACT

Enforcement expenses.
Vol. 39, p. 476; Vol. 40, p. 1351.
U. S. C., p. 788;
Supp. VI, p. 487.
Vol. 42, p. 1517.
U. S. C., p. 90.

To enable the Secretary of Agriculture to carry into effect the provisions of the United States Cotton Futures Act, as amended March 4, 1919 (U. S. C., title 26, secs. 731-752), and to carry into effect the provisions of the United States Cotton Standards Act, approved March 4, 1923 (U. S. C., title 7, secs. 51-65), including all expenses necessary for the purchase of equipment and supplies; for travel; for the employment of persons in the city of Washington and elsewhere; and for all other expenses, including rent outside of the District of Columbia, that may be necessary in executing the provisions of these Acts, including such means as may be necessary for effectuating agreements heretofore or hereafter made with cotton associations, cotton exchanges, and other cotton organizations in foreign countries, for the adoption, use, and observance of universal standards of cotton classification, for the arbitration or settlement of disputes with respect thereto, and for the preparation, distribution, inspection, and protection of the practical forms or copies thereof under such agreements, \$268,000.

Grain Standards Act.

ENFORCEMENT OF THE UNITED STATES GRAIN STANDARDS ACT

Enforcement expenses.
Vol. 39, p. 482.
U. S. C., p. 92.

To enable the Secretary of Agriculture to carry into effect the provisions of the United States Grain Standards Act, including rent outside of the District of Columbia and the employment of such persons and means as the Secretary of Agriculture may deem necessary, in the city of Washington and elsewhere, \$765,000.

Warehouse Act.

ADMINISTRATION OF THE UNITED STATES WAREHOUSE ACT

Administration expenses.
Vol. 39, p. 486; Vol. 42, p. 1282; Vol. 46, p. 1468.
U. S. C., p. 107;
Supp. VI, p. 53.

To enable the Secretary of Agriculture to carry into effect the provisions of the United States Warehouse Act, including the payment of such rent outside of the District of Columbia and the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere, \$296,220.

ENFORCEMENT OF THE STANDARD CONTAINER, HAMPER AND PRODUCE
AGENCY ACTS

Standard Container,
Hamper, and Produce
Agency Acts.

To enable the Secretary of Agriculture to carry into effect the Act entitled "An Act to fix standards for Climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables, and for other purposes," approved August 31, 1916 (U. S. C., title 15, secs. 251-256), the Act entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes," approved May 21, 1928 (U. S. C., Supp V, title 15, secs. 257-257i), and the Act entitled "An Act to prevent the destruction or dumping, without good and sufficient cause therefor, of farm produce received in interstate commerce by commission merchants and others and to require them truly and correctly to account for all farm produce received by them," approved March 3, 1927 (U. S. C., Supp. V. title 7, secs. 491-497), including the purchase of such perishable farm products as may be necessary for detection of violations of the latter Act: *Provided*, That all receipts from the sale of such products shall be credited to this appropriation, and shall be reexpendable therefrom, and including the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere, \$34,120.

Enforcement ex-
penses.
Vol. 39, p. 673; Vol.
45, p. 685; Vol. 44, p.
1355.
U. S. C., p. 377;
Supp. VI, pp. 166, 61.

Purchase of perish-
able products.
Proviso.
Receipts from sales
credited to appropriate
fund.

COMPLETION OF WOOL WORK

Wool clip of 1918.

To enable the Bureau of Agricultural Economics to complete the work of the domestic wool section of the War Industries Board and to enforce Government regulations for handling the wool clip of 1918 as established by the wool division of said board, pursuant to the Executive order dated December 31, 1918, transferring such work to the said bureau, \$2,814, and to continue, as far as practicable, the distribution among the growers of the wool clip of 1918 of all sums heretofore or hereafter collected or recovered with or without suit by the Government from all persons, firms, or corporations, which handled any part of the wool clip of 1918.

Completing the dis-
tribution from, among
owners of sums col-
lected.

WOOL MARKETING STUDIES

Wool marketing
studies.

Not to exceed \$30,000 of the funds collected from persons, firms, or corporations which handled any part of the wool clip of 1918, which the Secretary of Agriculture finds it impracticable to distribute among woolgrowers, shall be deposited in the Treasury to the credit of a special fund which is hereby appropriated for the fiscal year 1934 for the purpose of carrying into effect the provisions of the Act entitled "An Act to authorize the appropriation for use by the Secretary of Agriculture of certain funds for wool standards, and for other purposes," approved May 17, 1928 (U. S. C., Supp. V, title 7, secs. 415b-415d), including personal services and other necessary expenses in the District of Columbia and elsewhere.

Fund created for,
from collections of wool
clip of 1918.

Use for standardizing
wools.
Vol. 45, p. 593.
U. S. C., Supp. VI,
p. 57.

Total, Bureau of Agricultural Economics, \$6,095,260, of which amount not to exceed \$2,172,989 may be expended for personal services in the District of Columbia, and not to exceed \$22,200 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

Services in the Dis-
trict.

Vehicles.

Home Economics
Bureau.

BUREAU OF HOME ECONOMICS

General expenses.

SALARIES AND GENERAL EXPENSES

Chief of bureau, and
office personnel.

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$26,049.

Utilizing farm prod-
ucts in the home, etc.

Home-economics investigations: For conducting, either independently or in cooperation with other agencies, investigations of the relative utility and economy of agricultural products for food, clothing, and other uses in the home, with special suggestions of plans and methods for the more effective utilization of such products for these purposes, and for disseminating useful information on this subject, including travel and all other necessary expenses, \$186,700.

Services in the Dis-
trict.

Total, Bureau of Home Economics, \$212,749, of which amount not to exceed \$180,478 may be expended for personal services in the District of Columbia.

Plant Quarantine
Bureau.

BUREAU OF PLANT QUARANTINE

General expenses.

SALARIES AND GENERAL EXPENSES

Plant quarantine en-
forcement.

Vol. 37, p. 315; Vol.
39, p. 1165; Vol. 44, p.
250.
U. S. C., p. 99; Supp.
VI, p. 52.

To enable the Secretary of Agriculture to carry into effect the provisions of the Plant Quarantine Act of August 20, 1912, as amended, and to conduct the other activities hereinafter authorized, independently or in cooperation with the States and other agencies, organizations, and individuals concerned, including necessary expenses for supplies and equipment, rent outside the District of Columbia, and the employment of necessary persons and means in the city of Washington and elsewhere, as follows:

Chief of bureau, and
office personnel.

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of bureau and other personal services in the District of Columbia, \$81,196.

Foreign plant quar-
antines.

Foreign plant quarantines: For enforcement of foreign plant quarantines, at the port of entry and/or port of export, and to prevent the movement of cotton and cottonseed from Mexico into the United States, including the regulation of the entry into the United States of railway cars and other vehicles, and freight, express, baggage, or other materials from Mexico, and the inspection, cleaning, and disinfection thereof, including construction and repair of necessary buildings, plants, and equipment, for the fumigation, disinfection, or cleaning of products, railway cars, or other vehicles entering the United States from Mexico, \$685,000: *Provided*, That any moneys received in payment of charges fixed by the Secretary of Agriculture on account of such cleaning and disinfection shall be covered into the Treasury as miscellaneous receipts.

Mexican cotton, etc.

Cleaning, etc.

Proviso.
Receipts covered in.

Transit inspection: For the inspection in transit or otherwise of articles quarantined under the Act of August 20, 1912 (U. S. C., Supp. V, title 7, secs. 161, 164a), as amended, and for the interception and disposition of materials found to have been transported interstate in violation of quarantines promulgated thereunder, \$30,229.

Transit inspection.
Vol. 37, p. 315; Vol. 44,
p. 250.
U. S. C., p. 100;
Supp. VI, p. 52.

Pink bollworm con-
trol.

Pink bollworm: For the control and prevention of spread of the pink bollworm, including the establishment of such cotton-free areas as may be necessary to stamp out any infestation, the erection and repair of necessary inspection stations, and for necessary surveys and control operations in Mexico in cooperation with the Mexican Government or local Mexican authorities, \$379,804: *Provided*, That the cost of each such station shall not exceed \$500, and that the total

Cooperation with
Mexico.
Proviso.
Inspection stations.

amount expended for such stations in one year shall not exceed \$2,500.

Date scale: For the control and prevention of spread of the Parlatoria date scale, \$27,925.

Thurberia weevil: For the control and prevention of spread of the Thurberia weevil, \$3,275.

Gypsy and brown-tail moths: For the control and prevention of spread of the gypsy and brown-tail moths, \$408,388.

European corn borer: For the control and prevention of spread of the European corn borer and for the certification of products out of the infested areas to meet the requirements of State quarantines on account of the European corn borer, \$40,000.

Japanese beetle: For the control and prevention of spread of the Japanese beetle, \$349,837.

Blister rust: For the control and prevention of spread of the whitepine blister rust, \$9,306.

Phony-peach disease: For the control and prevention of spread of the phony-peach disease, \$10,799 and for the certification of products out of the infected areas to meet the requirements of State quarantines.

Mexican fruit fly: For the control and prevention of spread of the Mexican fruit fly, including necessary surveys and control operations in Mexico in cooperation with the Mexican Government or local Mexican authorities, \$114,197.

Certification of exports: For the inspection, under such rules and regulations as the Secretary of Agriculture may prescribe, of domestic fresh fruits, vegetables, and seeds and nursery stock and other plants for propagation when offered for export and to certify to shippers and interested parties as to the freedom of such products from injurious plant diseases and insect pests according to the sanitary requirements of the foreign countries affected and to make such reasonable charges and to use such means as may be necessary to accomplish this object, \$18,558: *Provided*, That moneys received on account of such inspection and certification shall be covered into the Treasury as miscellaneous receipts.

The Advisory Federal Plant Quarantine Board created by the Act making appropriations for the Department of Agriculture for the fiscal year 1929, approved May 16, 1928, is hereby abolished.

Total, Bureau of Plant Quarantine, \$2,158,514, of which amount not to exceed \$236,353 may be expended for personal services in the District of Columbia, and not to exceed \$6,600 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

ENFORCEMENT OF THE GRAIN FUTURES ACT

To enable the Secretary of Agriculture to carry into effect the provisions of the Grain Futures Act, approved September 21, 1922 (U. S. C., title 7, secs. 1-17), \$200,000, of which amount not to exceed \$45,000 may be expended for personal services in the District of Columbia.

FOOD AND DRUG ADMINISTRATION

SALARIES AND GENERAL EXPENSES

For all necessary expenses, for chemical apparatus, chemicals, and supplies, repairs to apparatus, gas, electric current, official traveling expenses, telegraph and telephone service, express and freight

Control, etc.

Date scale.

Thurberia weevil.

Gypsy and brown-tail moths.

European corn borer.

Japanese beetle.

Blister rust.

Phony-peach disease.

Mexican fruit fly.

Cooperation with Mexico.

Export inspection and certificates.

Proviso.
Receipts covered in.

Advisory Board abolished.
Vol. 45, p. 565, repealed.

Services in the District.

Vehicles.

Grain Futures Act.

Enforcement expenses.
Vol. 42, p. 998.
U. S. C., p. 87.

Food and Drug Administration.

General expenses.

Items specified.

charges, for the employment of such assistants, clerks, and other persons as the Secretary of Agriculture may consider necessary for the purposes named, in the city of Washington, and elsewhere, in conducting investigations; collecting, reporting, and illustrating the results of such investigations; and for rent outside of the District of Columbia for carrying out the investigations and work herein authorized as follows:

Outside rent.

General administrative expenses.

General administrative expenses: For necessary expenses for general administrative purposes, including the salary of chief of administration and other personal services in the District of Columbia, \$96,827.

Pure food, drug, etc., inspection.
Vol. 34, p. 768.
U. S. C., p. 621.

Enforcement of the Food and Drugs Act: For enabling the Secretary of Agriculture to carry into effect the provisions of the Act of June 30, 1906 (U. S. C., title 21, secs. 1-15), entitled "An Act for preventing the manufacture, sale, or transportation of adulterated, or misbranded, or poisonous, or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes"; to cooperate with associations and scientific societies in the revision of the United States Pharmacopœia and development of methods of analysis, and for investigating the character of the chemical and physical tests which are applied to American food products in foreign countries, and for inspecting the same before shipment when desired by the shippers or owners of these products intended for countries where chemical and physical tests are required before the said products are allowed to be sold therein, \$1,185,000: *Provided*, That not more than \$4,280 shall be used for travel outside of the United States.

Revision of Pharmacopœia.

Examining foreign tests of American food products.

Proviso.
Outside travel.

Tea Importation Act, enforcement.
Vol. 29, p. 604; Vol. 41, p. 712.
U. S. C., p. 625.

Enforcement of the Tea Importation Act: For enabling the Secretary of Agriculture to carry into effect the provisions of the Act approved March 2, 1897 (U. S. C., title 21, secs. 41-50), entitled "An Act to prevent the importation of impure and unwholesome tea," as amended, including payment of compensation and expenses of the members of the board appointed under section 2 of the Act and all other necessary officers and employees, \$38,000.

Naval Stores Act.
Vol. 42, p. 1435.
U. S. C., p. 93.

Naval Stores Act: For enabling the Secretary of Agriculture to carry into effect the provisions of the Naval Stores Act of March 3, 1923 (U. S. C., title 7, secs. 91-99), \$32,599.

Insecticide Act, enforcement of.
Vol. 36, p. 331.
U. S. C., p. 95.

Enforcement of the Insecticide Act: For enabling the Secretary of Agriculture to carry into effect the provisions of the Act of April 26, 1910 (U. S. C., title 7, secs. 121-134), entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded Paris greens, lead arsenates, other insecticides, and also fungicides, and for regulating traffic therein, and for other purposes," \$195,000.

Milk Importation Act, enforcement.
Vol. 44, p. 1101.
U. S. C., Supp. VI, p. 355.

Enforcement of the Milk Importation Act: For enabling the Secretary of Agriculture to carry into effect the provisions of an Act approved February 15, 1927 (U. S. C., Supp. V, title 21, secs. 141-149), entitled "An Act to regulate the importation of milk and cream into the United States for the purpose of promoting the dairy industry of the United States and protecting the public health," \$18,360.

Caustic Poison Act, enforcement.
Vol. 44, p. 1406.
U. S. C., Supp. VI, p. 168.

Enforcement of the Caustic Poison Act: For enabling the Secretary of Agriculture to carry into effect the provisions of an Act approved March 4, 1927 (U. S. C., Supp. V, title 15, secs. 401-411), entitled "An Act to safeguard the distribution and sale of certain dangerous caustic or corrosive acids, alkalies, and other substances in interstate and foreign commerce," \$23,719.

Aggregate.

Services in the District.

Total, Food and Drug Administration, \$1,589,505, of which amount not to exceed \$502,464 may be expended for personal services in the District of Columbia, and not to exceed \$9,200 shall be available for

the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

Vehicles.

INTERCHANGE OF APPROPRIATIONS

Interchange of appropriations.

Allowance for miscellaneous expenses.

Not to exceed 10 per centum of the foregoing amounts for the miscellaneous expenses of the work of any bureau, division, or office herein provided for shall be available interchangeably for expenditures on the objects included within the general expenses of such bureau, division, or office, but no more than 10 per centum shall be added to any one item of appropriation except in cases of extraordinary emergency, and then only upon the written order of the Secretary of Agriculture: *Provided*, That a statement of any transfers of appropriations made hereunder shall be included in the annual Budget.

Proviso.
Statement to be included in annual Budget.

MISCELLANEOUS

Miscellaneous.

WORK FOR OTHER DEPARTMENTS

Work for other departments.

During the fiscal year 1934 the head of any department or independent establishment of the Government requiring inspections, analyses, and tests of food and other products, within the scope of the functions of the Department of Agriculture and which that department is unable to perform within the limits of its appropriations, may, with the approval of the Secretary of Agriculture, transfer to the Department of Agriculture for direct expenditure such sums as may be necessary for the performance of such work.

Transfers for inspection, etc., by Agricultural Department, of necessary funds.

EXPERIMENTS IN LIVESTOCK PRODUCTION IN SOUTHERN UNITED STATES

Livestock production in Southern States.

To enable the Secretary of Agriculture, in cooperation with the authorities of the States concerned, or with individuals, to make such investigations and demonstrations as may be necessary in connection with the development of livestock production in the cane-sugar and cotton districts of the United States, \$39,560.

Cooperative experiments, etc., in developing.

PASSENGER-CARRYING VEHICLES

Passenger vehicles.

Within the limitations specified under the several headings the lump-sum appropriations herein made for the Department of Agriculture shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of the field work of the Department of Agriculture outside the District of Columbia: *Provided*, That such vehicles shall be used only for official service outside the District of Columbia, but this shall not prevent the continued use for official service of motor trucks in the District of Columbia: *Provided further*, That the limitation on expenditures for purchase of passenger-carrying vehicles in the field service shall be interchangeable between the various bureaus and offices of the department, to such extent as the exigencies of the service may require: *Provided further*, That appropriations contained in this Act shall be available for the maintenance, operation, and repair of motor-propelled and horse-drawn passenger-carrying vehicles: *Provided further*, That the Secretary of Agriculture may exchange motor-propelled and horse-drawn vehicles, tractors, road equipment, and boats, and parts, accessories, tires, or equipment thereof, in whole or in part payment for vehicles, tractors, road equipment, or boats, or parts, accessories, tires, or equipment of such vehicles, tractors, road equipment, or boats purchased by him.

Allowance for, from lump-sum appropriations for field work.

Proviso.
Use restricted.

Interchangeable funds.

Use of funds for maintenance, etc.

Exchanges allowed.

Seed grain loans.

COLLECTION OF SEED-GRAIN LOANS

Expenses collecting.
Vol. 41, p. 1347; Vol. 42, p. 467; Vol. 43, p. 110; Vol. 44, p. 1251; Vol. 45, p. 1306; Vol. 46, pp. 3, 78, 1032, 1039, 1160, 1276.

To enable the Secretary of Agriculture to collect moneys due the United States on account of loans made under the provisions of the Acts of March 3, 1921 (41 Stat., p. 1347), March 20, 1922 (42 Stat., p. 467), April 26, 1924 (43 Stat., p. 110), February 28, 1927 (44 Stat., p. 1251), February 25, 1929 (45 Stat., p. 1306), as amended May 17, 1929 (46 Stat., p. 3), March 3, 1930 (46 Stat., pp. 78, 79), December 20, 1930 (46 Stat., p. 1032), February 14, 1931 (46 Stat., p. 1160), and February 23, 1931 (46 Stat., p. 1276), not to exceed \$350,000 of the repayments made during the fiscal year 1933 to the appropriations contained in Public Resolution Numbered 114, approved January 15, 1931, and in the Interior Department Appropriation Act for the fiscal year 1932, approved February 14, 1931, to carry out the provisions of Public Resolution Numbered 112, approved December 20, 1930, as amended (46 Stat., pp. 1032, 1160, 1167), is hereby made available, of which amount not to exceed \$55,000 may be expended for departmental personal services in the District of Columbia.

Funds available.

Soil erosion.

SOIL-EROSION INVESTIGATIONS

Investigations, etc.,
for control.

To enable the Secretary of Agriculture to make investigation not otherwise provided for of the causes of soil erosion and the possibility of increasing the absorption of rainfall by the soil in the United States, and to devise means to be employed in the preservation of soil, the prevention or control of destructive erosion and the conservation of rainfall by terracing or other means, independently or in cooperation with other branches of the Government, State agencies, counties, farm organizations, associations of business men, or individuals, including necessary expenses, \$276,474, of which amount not to exceed \$14,758 may be expended for personal services in the District of Columbia, and not to exceed \$1,120 shall be available for the purchase of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of field work outside the District of Columbia.

Cooperation with
other activities.

Services in the Dis-
trict.

Vehicles.

Federal highways.
Forest roads and
trails.

FOREST ROADS AND TRAILS

For carrying out the provisions of section 23 of the Federal Highway Act approved November 9, 1921 (U. S. C., title 23, sec. 23), including not to exceed \$74,269 for departmental personal services in the District of Columbia, \$4,457,400, a part of the amount authorized to be appropriated for the fiscal year 1933 by the Act approved May 5, 1930: *Provided*, That this appropriation shall be available for the rental, purchase, or construction of buildings necessary for the storage of equipment and supplies used for road and trail construction and maintenance, but the total cost of any such building purchased or constructed under this authorization shall not exceed \$2,500: *Provided further*, That during the fiscal year ending June 30, 1934, the expenditures on forest highways in Alaska from the amount herein appropriated or from similar appropriations heretofore made shall not exceed \$350,000.

Vol. 46, p. 261.

Provisos.
Storage facilities.

Alaska highways.

Government Island,
Alameda, Calif.
Construction ex-
penses.
Appropriation con-
tinued.
Vol. 46, p. 1563.
Ante, p. 645.

The appropriation of \$800,000 for the construction on Government Island, Alameda, California, of buildings required by the Bureau of Public Roads and Forest Service of the Department of Agriculture and the Coast Guard of the Treasury Department, contained in the Act entitled "An Act making supplemental appropriations for the fiscal years ending June 30, 1931, and June 30, 1932," approved March 4, 1931, is hereby continued available during the fiscal year 1934.

The appropriation of \$5,000,000 for construction and improvement of national forest highways contained in the Act entitled "An Act to relieve destitution, to broaden the lending powers of the Reconstruction Finance Corporation, and to create employment by providing for and expediting a public-works program," approved July 21, 1932, is hereby continued available during the fiscal year 1934.

National forest highways.
Appropriation continued.
Ante, p. 717.

Total, Department of Agriculture, \$100,209,091.

Approved, March 3, 1933.

[CHAPTER 204.]

AN ACT

To amend an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and Acts amendatory thereof and supplementary thereto.

March 3, 1933.
[H. R. 14369.]
[Public, No. 420.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 1, 1898, entitled "An Act to establish a uniform system of bankruptcy throughout the United States," as amended by the Acts of February 5, 1903, June 15, 1906, June 25, 1910, March 2, 1917, January 7, 1922, May 27, 1926, and February 11, 1932, be, and it is hereby, amended by adding thereto a new chapter to read as follows:

Bankruptcy Act, July 1, 1898; amendments.
Vol. 30, pp. 544-566; Vol. 32, p. 797; Vol. 34, p. 267; Vol. 36, p. 838; Vol. 39, p. 999; Vol. 42, p. 354; Vol. 44, p. 662.
Ante, p. 47.

"CHAPTER VIII

"PROVISIONS FOR THE RELIEF OF DEBTORS

"SEC. 73. ADDITIONAL JURISDICTION.—In addition to the jurisdiction exercised in voluntary and involuntary proceedings to adjudge persons bankrupt, courts of bankruptcy shall exercise original jurisdiction in proceedings for the relief of debtors, as provided in sections 74, 75, and 77 of this Act.

Provisions for relief of debtors.

"SEC. 74. COMPOSITIONS AND EXTENSIONS.—(a) Any person excepting a corporation may file a petition, or, in an involuntary proceeding before adjudication, an answer within the time limited by section 18(b) of this Act, accompanied in either case, unless further time is granted, by his schedules, stating that he is insolvent or unable to meet his debts as they mature, and that he desires to effect a composition or an extension of time to pay his debts. The term 'debt' for the purposes of an extension proposal under this section shall include all claims of whatever character against the debtor or his property, including a claim for future rent, whether or not such claims would otherwise constitute provable claims under this Act. Upon the filing of such a petition or answer the judge shall enter an order either approving it as properly filed under this section, if satisfied that such petition or answer complies with this section and has been filed in good faith, or dismissing it. If such petition or answer is approved, an order of adjudication shall not be entered except as provided in subdivision (1) of this section: *Provided, however*, That in staying the action for adjudication in an involuntary proceeding the court shall make such stay conditional upon such terms for the protection and indemnity against loss by the estate as may be proper, and that in any other proceeding under this section the court may, as the creditors at the first meeting may direct, impose similar terms as a condition of delaying the appointment of a trustee and the liquidation of the estate. Any person by or against whom a petition is filed shall be referred to in the proceedings under this section as 'debtor.' The term 'creditor' shall include for the purposes of an extension proposal under this section all holders of claims of whatever character

Courts of bankruptcy. U. S. C., pp. 249-256; Supp. VI, pp. 125-128.
Additional jurisdiction.
Post, pp. 1470, 1474.

Compositions and extensions.
Who may file petition; corporations excepted.
Vol. 30, p. 551.

"Debt," construed.

Approval, etc., of petition.
Post, p. 1470.

Proviso.
Conditional stay, involuntary adjudication.

Other proceedings.

Terms construed.

"Debtor."

"Creditor."

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| <p>Claim for future rent. Vol. 30, p. 563.</p> | <p>against the debtor or his property including a claim for future rent, whether or not such claims would otherwise constitute provable claims under this Act. A claim for future rent shall constitute a provable debt and shall be liquidated under section 63(b) of this Act.</p> |
| <p>Receiver. Appointment when, duties.</p> | <p>“(b) After the filing of such petition or answer the court may upon reasonable notice to creditors and attorneys of record appoint a custodian or receiver, who shall inventory the debtor’s estate and exercise such supervision and control over the conduct of the debtor’s business as the creditors at any meeting or the court shall direct.</p> |
| <p>Creditors’ meeting.</p> | <p>“(c) The custodian or receiver, or if none has been appointed, the court, shall promptly call the first meeting of creditors, stating in the notice that the debtor proposes to offer terms of composition or extension, and inclosing with the notice a summary of the inventory, a brief statement of the debtor’s indebtedness as shown by the schedules, and a list of the names and addresses of the secured creditors and the fifteen largest unsecured creditors, with the amounts owing to each as shown by the schedules. Any creditor may appear at or before the first meeting and controvert the facts alleged in the petition. In such case the court shall determine as soon as may be the issues presented, without the intervention of a jury, and unless the material allegations are sustained by the proofs shall dismiss the petition.</p> |
| <p>Notice and inclusions.</p> | |
| <p>Appearance of creditor to controvert facts in petition. Determination of.</p> | |
| <p>Procedure at first meeting. Examination of debtor; appointment of trustee, etc.</p> | <p>“(d) At the first meeting (1) the debtor may be examined; (2) the creditors may nominate a trustee, who shall thereafter be appointed by the court in case it becomes necessary to liquidate the estate as provided in subdivision (1) of this section; and (3) the court shall, after hearing the parties in interest, fix a reasonable time within which application for confirmation shall be made. The court may later extend such time for cause shown, and may require, as a condition of such extension, additional terms for the protection of and indemnity against loss by the estate as may be proper.</p> |
| <p>Application for confirmation of composition. When may file.</p> | <p>“(e) An application for the confirmation of a composition or extension proposal may be filed in the court of bankruptcy after, but not before, it has been accepted in writing by a majority in number of all creditors whose claims if unsecured have been allowed, or if secured are proposed to be affected by an extension proposal, which number must represent a majority in amount of such claims; and the money or security necessary to pay all debts which have priority unless waived and the costs of the proceedings, and in case of a composition the consideration to be paid by the debtor to his creditors, have been deposited in such place as shall be designated by and subject to the order of the court.</p> |
| <p>Date and place of hearing on.</p> | <p>“(f) A date and place, with reference to the convenience of the parties in interest, shall be fixed for a hearing upon each application for the confirmation of the composition or extension proposal, and such objections as may be made to its confirmation.</p> |
| <p>Confirmation of proposal.</p> | <p>“(g) The court shall confirm the proposal if satisfied that (1) it includes an equitable and feasible method of liquidation for secured creditors whose claims are affected and of financial rehabilitation for the debtor; (2) it is for the best interests of all creditors; (3) that the debtor has not been guilty of any of the acts, or failed to perform any of the duties, which would be a ground for denying his discharge; and (4) the offer and its acceptance are in good faith, and have not been made or procured except as herein provided, or by any means, promises, or acts herein forbidden. In application for extensions the court shall require proof from each creditor filing a claim that such claim is free from usury as defined by the laws of the place where the debt is contracted.</p> |
| <p>Application for extension, proof required.</p> | |

“(h) The terms of an extension proposal may extend the time of payment of either or both unsecured debts and secured debts the security for which is in the actual or constructive possession of the debtor or of the custodian or receiver, and may provide for priority of payments to be made during the period of extension as between secured and unsecured creditors. It may also include specific undertakings by the debtor during the period of the extension, including provisions for payments on account, and may provide for supervisory or other control over the debtor’s business or affairs during such period by a creditors’ committee or otherwise, and for the termination of such period under certain specified conditions: *Provided*, That the provisions of this section shall not affect the allowances and exemptions to debtors as are provided for bankrupts under title 11, chapter 3, section 24, of the United States Code, and such allowances and exemptions shall be set aside for the use of the debtor in the manner provided for bankrupts.

“(i) Upon its confirmation an extension proposal shall be binding upon the debtor and his unsecured and secured creditors affected thereby: *Provided, however*, That such extension or composition shall not reduce the amount of or impair the lien of any secured creditor, but shall affect only the time and method of its liquidation.

“(j) Upon the confirmation of a composition the consideration shall be distributed as the court shall direct, and the case dismissed: *Provided*, That the debts having priority of payment under title 11, chapter 7, section 104, of the United States Code, for bankrupt estates, shall have priority of payment in the same order as set forth in said section 104 under the provisions of this section in any distribution, assignment, composition, or settlement herein provided for. Upon the confirmation of an extension proposal the court may dismiss the proceeding or retain jurisdiction of the debtor and his property during the period of the extension in order to protect and preserve the estate and enforce the terms of the extension proposal.

“(k) The judge may, upon the application of the parties in interest, filed at any time within six months after the composition or extension proposal has been confirmed, set the same aside and reinstate the case, if it shall be made to appear upon a trial that fraud was practiced in the procuring of such composition or extension, and that knowledge thereof has come to the petitioners since the confirmation thereof.

“(l) If (1) the debtor shall fail to comply with any of the terms required of him for the protection of and indemnity against loss by the estate; or (2) the debtor has failed to make the required deposit in case of a composition; or (3) the debtor’s proposal has not been accepted by the creditors; or (4) confirmation has been denied; or (5) without sufficient reason the debtor defaults in any payment required to be made under the terms of an extension proposal when the court has retained jurisdiction of the debtor or his property, the court may appoint the trustee nominated by the creditors at the first meeting, and if the creditors shall have failed to so nominate, may appoint any other qualified person as trustee to liquidate the estate. The court shall in addition adjudge the debtor a bankrupt if satisfied that he commenced or prolonged the proceeding for the purpose of delaying creditors and avoiding an adjudication in bankruptcy, or if the confirmation of his proposal has been denied. No order of liquidation or adjudication shall be entered in any proceeding under this section instituted by or against a wage earner or a person engaged chiefly in farming or the tillage of the soil unless the wage earner or a person engaged chiefly in farming or the tillage of the soil consents.

Terms of.

Proviso.
Exemptions not affected.
Vol. 30, p. 548.
U. S. C., p. 245.

Effect of confirmation.

Proviso.
Lien of secured creditor.

Distribution of consideration, confirmation of composition.

Proviso.
Order of payments, debts having priority.
U. S. C., p. 254.

Dismissal of proceeding, when extension confirmed.

Reinstatement of case, within six months, if fraud at trial.

Appointment of trustee upon default of debtor.

Liquidation of estate.

Wage earner and person in farming excepted.

Jurisdiction over debtor, etc., when petition filed.
Ante, p. 1467.

“(m) The filing of a debtor’s petition or answer seeking relief under this section shall subject the debtor and his property, wherever located, to the exclusive jurisdiction of the court in which the order approving the petition or answer as provided in subdivision (a) is filed. In proceedings under this section, except as otherwise provided therein, the jurisdiction and powers of the court, the title, powers, and duties of its officers and, subject to the approval of the court, their fees, the duties of the debtor, and the rights and liabilities of creditors, and of all persons with respect to the property of the debtor and the jurisdiction of appellate courts shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the debtor’s petition or answer was filed and any decree of adjudication thereafter entered shall have the same effect as if it had been entered on that day.

Secured creditors. Enjoining from enforcing claims.

“(n) In addition to the provisions of section 11 of this Act for the staying of pending suits, the court, on such notice and on such terms, if any, as it deems fair and equitable, may enjoin secured creditors who may be affected by the extension proposal from proceeding in any court for the enforcement of their claims until the extension has been confirmed or denied by the court.

Referees. Appointment.

“(o) The judges of the courts of bankruptcy shall appoint sufficient referees to sit in convenient places to expedite the proceedings under this section.

Wage earner. Involuntary proceedings against, denied.

“(p) Involuntary proceedings under this section shall not be taken against a wage earner.

Agricultural compositions and extensions.

“SEC. 75. AGRICULTURAL COMPOSITIONS AND EXTENSIONS.—(a) Courts of bankruptcy are authorized, upon petition of at least fifteen farmers within any county who certify that they intend to file petitions under this section, to appoint for such county one or more referees to be known as conciliation commissioners, or to designate for service in such county a conciliation commissioner previously appointed for an adjacent county. In case more than one conciliation commissioner is appointed for a county, each commissioner shall act separately and shall have such territorial jurisdiction within the county as the court shall specify. A conciliation commissioner shall have a term of office of one year and may be removed by the court if his services are no longer needed or for other cause. No individual shall be eligible to appointment as a conciliation commissioner unless he is eligible for appointment as a referee and in addition is a resident of the county, familiar with agricultural conditions therein and not engaged in the farm-mortgage business, the business of financing farmers or transactions in agricultural commodities or the business of marketing or dealing in agricultural commodities or of furnishing agricultural supplies. In each judicial district the court may, if it finds it necessary or desirable, appoint a suitable person as a supervising conciliation commissioner. The supervising conciliation commissioner shall have such supervisory functions under this section as the court may by order specify.

Referees, appointment. Known as conciliation commissioners.

Term of office. Qualifications.

Supervising commissioner. Functions.

Fee with petition filed.

“(b) Upon filing of any petition by a farmer under this section there shall be paid a fee of \$10 to be transmitted to the clerk of the court and covered into the Treasury. The conciliation commissioner shall receive as compensation for his services, including all expenses, a fee of \$10 for each case docketed and submitted to him, to be paid out of the Treasury. A supervising conciliation commissioner shall receive, as compensation for his services, a per diem allowance to be fixed by the court, in an amount not in excess of \$5 per day, together with subsistence and travel expenses in accordance with the law applicable to officers of the Department of

Compensation.

Per diem allowance.

Subsistence and travel expenses.
Vol. 42, p. 1503.

Justice. Such compensation and expenses shall be paid out of the Treasury. If the creditors at any time desire supervision over the farming operations of a farmer, the cost of such supervision shall be borne by such creditors or by the farmer, as may be agreed upon by them, but in no instance shall the farmer be required to pay more than one-half of the cost of such supervision. Nothing contained in this section shall prevent a conciliation commissioner who supervises such farming operations from receiving such compensation therefor as may be so agreed upon. No fees, costs, or other charges shall be charged or taxed to any farmer or his creditors by any conciliation commissioner or with respect to any proceeding under this section, except as hereinbefore in this section provided. The conciliation commissioner may accept and avail himself of office space, equipment, and assistance furnished him by other Federal officials, or by any State, county, or other public officials. The Supreme Court is authorized to make such general orders as it may find necessary properly to govern the administration of the office of conciliation commissioner and proceedings under this section; but any district court of the United States may, for good cause shown and in the interests of justice, permit any such general order to be waived.

“(c) At any time within five years after this section takes effect, a petition may be filed by any farmer, stating that the farmer is insolvent or unable to meet his debts as they mature, and that it is desirable to effect a composition or an extension of time to pay his debts. The petition or answer of the farmer shall be accompanied by his schedules. The petition and answer shall be filed with the court, but shall, on request of the farmer or creditor, be received by the conciliation commissioner for the county in which the farmer resides and promptly transmitted by him to the clerk of the court for filing. If any such petition is filed, an order of adjudication shall not be entered except as provided hereinafter in this section.

“(d) After the filing of such petition or answer by the farmer, the farmer shall, within such time and in such form as the rules provide, file an inventory of his estate.

“(e) The conciliation commissioner shall promptly call the first meeting of creditors, stating in the notice that the farmer proposes to offer terms of composition or extension, and inclosing with the notice a summary of the inventory, a brief statement of the farmer's indebtedness as shown by the schedules, and a list of the names and addresses of the secured creditors and unsecured creditors, with the amounts owing to each as shown by the schedules. At the first meeting of the creditors the farmer may be examined, and the creditors may appoint a committee to submit to the conciliation commissioner a supplementary inventory of the farmer's estate. The conciliation commissioner shall, after hearing the parties in interest, fix a reasonable time within which application for confirmation shall be made, and may later extend such time for cause shown. After the filing of the petition and prior to the confirmation or other disposition of the composition or extension proposal by the court, the court shall exercise such control over the property of the farmer as the court deems in the best interests of the farmer and his creditors.

“(f) There shall be prepared by, or under the supervision of, the conciliation commissioner a final inventory of the farmer's estate, and in the preparation of such inventory the commissioner shall give due consideration to the inventory filed by the farmer and to any supplementary inventory filed by a committee of the creditors.

Costs of supervision over farming operations.

Additional fees, etc., prohibited.

Office space, equipment, etc.

General orders by Supreme Court governing administration.

Petition by farmer. Contents.

Procedure.

Inventory of estate.

Creditors' meeting. Notice and inclosures.

Procedure at first meeting.

Application for confirmation after hearing.

Control over property.

Final inventory. Preparation of.

Application for confirmation of composition or extension.

When may be filed.

“(g) An application for the confirmation of a composition or extension proposal may be filed in the court of bankruptcy after but not before (1) it has been accepted in writing by a majority in number of all creditors whose claims have been allowed, including secured creditors whose claims are affected, which number shall represent a majority in amount of such claims, and (2) the money or security necessary to pay all debts which have priority unless waived, and in case of a composition, the consideration to be paid by the farmer to his creditors has been deposited in such place as shall be designated by and subject to the order of the court.

Date and place of hearing.

“(h) A date and place, with reference to the convenience of the parties in interest, shall be fixed for a hearing upon each application for the confirmation of the composition or extension proposal and upon such objections as may be made to its confirmation.

Confirmation of proposal.

“(i) The court shall confirm the proposal if satisfied that (1) it includes an equitable and feasible method of liquidation for secured creditors and of financial rehabilitation for the farmer; (2) it is for the best interests of all creditors; and (3) the offer and its acceptance are in good faith, and have not been made or procured except as herein provided, or by any means, promises, or acts herein forbidden. In applications for extensions the court shall require proof from each creditor filing a claim that such claim is free from usury as defined by the laws of the place where the debt is contracted.

Application for extension, proof required.

Terms.

“(j) The terms of a composition or extension proposal may extend the time of payment of either secured or unsecured debts, or both, and may provide for priority of payments to be made during the period of extension as between secured and unsecured creditors. It may also include specific undertakings by the farmer during the period of the extension, including provisions for payments on account, and may provide for supervisory or other control by the conciliation commissioner over the farmer's affairs during such period, and for the termination of such period of supervision or control under conditions specified: *Provided*, That the provisions of this section shall not affect the allowances and exemptions to debtors as are provided for bankrupts under title 11, chapter 3, section 24, of the United States Code, and such allowances and exemptions shall be set aside for the use of the debtor in the manner provided for bankrupts.

Proriso.
Exemptions not affected.

Vol. 30, p. 548.
U. S. C., p. 245.

Effect of confirmation.

“(k) Upon its confirmation a composition or extension proposal shall be binding upon the farmer and his secured and unsecured creditors affected thereby: *Provided*, That such composition or extension shall not reduce the amount of nor impair the lien of any secured creditor, but shall affect only the time and method of its liquidation.

Proriso.
Lien of secured creditors.

Distribution of consideration, confirmation of composition.

“(l) Upon the confirmation of a composition the consideration shall be distributed under the supervision of the conciliation commissioner as the court shall direct, and the case dismissed: *Provided*, That the debts having priority of payment under title 11, chapter 7, section 104, of the United States Code, for bankrupt estates, shall have priority of payment in the same order as set forth in said section 104 under the provisions of this section in any distribution, assignment, composition or settlement herein provided for. Upon the confirmation of an extension proposal the court may dismiss the proceeding or retain jurisdiction of the farmer and his property during the period of the extension in order to protect and preserve the estate and enforce through the conciliation commissioner the terms of the extension proposal. The court may, after hearing and for good cause shown, at any time during the period covered by an extension proposal that has been confirmed by the

Proriso.
Order of payments, debts having priority.
U. S. C., p. 254.

Dismissal of proceeding, when extension confirmed.

Reinstatement of case, for cause shown; when.

court, set the same aside, reinstate the case, and modify the terms of the extension proposal.

"(m) The judge may, upon the application of any party in interest, file¹ at any time within six months after the composition or extension proposal has been confirmed, set the same aside and reinstate the case, if it shall be made to appear upon a trial that fraud was practiced in the procuring of such composition or extension, and that knowledge thereof has come to the petitioners since the confirmation thereof.

Within six months, if fraud practiced.

"(n) The filing of a petition pleading for relief under this section shall subject the farmer and his property, wherever located, to the exclusive jurisdiction of the court. In proceedings under this section, except as otherwise provided herein, the jurisdiction and powers of the court, the title, powers, and duties of its officers, the duties of the farmer, and the rights and liabilities of creditors, and of all persons with respect to the property of the farmer and the jurisdiction of the appellate courts, shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the farmer's petition or answer was filed.

Jurisdiction over farmer, etc., when petition filed.

"(o) Except upon petition made to and granted by the judge after hearing and report by the conciliation commissioner, the following proceedings shall not be instituted, or if instituted at any time prior to the filing of a petition under this section, shall not be maintained, in any court or otherwise, against the farmer or his property, at any time after the filing of the petition under this section, and prior to the confirmation or other disposition of the composition or extension proposal by the court:

Proceedings not to be instituted against farmer or after petition filed.

"(1) Proceedings for any demand, debt, or account, including any money demand;

Debts, etc.

"(2) Proceedings for foreclosure of a mortgage on land, or for cancellation, rescission, or specific performance of an agreement for sale of land or for recovery of possession of land;

Foreclosure.

"(3) Proceedings to acquire title to land by virtue of any tax sale;

Tax sale titles.

"(4) Proceedings by way of execution, attachment, or garnishment;

Executions, attachments, etc.

"(5) Proceedings to sell land under or in satisfaction of any judgment or mechanic's lien; and

Judgment sales, etc.

"(6) Seizure, distress, sale, or other proceedings under an execution or under any lease, lien, chattel mortgage, conditional sale agreement, crop payment agreement, or mortgage.

Seizure, etc., under execution, etc.

"(p) The prohibitions of subdivision (o) shall not apply to proceedings for the collection of taxes, or interest or penalties with respect thereto, nor to proceedings affecting solely property other than that used in farming operations or comprising the home or household effects of the farmer or his family.

Tax collection proceedings, etc., excepted.

"(q) A conciliation commissioner shall upon request assist any farmer in preparing and filing a petition under this section and in all matters subsequent thereto arising under this section and farmers shall not be required to be represented by an attorney in any proceeding under this section.

Assistance in preparation of petition, etc.

"(r) For the purpose of this section and section 74, the term 'farmer' means any individual who is personally bona fide engaged primarily in farming operations or the principal part of whose income is derived from farming operations, and includes the personal representative of a deceased farmer; and a farmer shall be deemed a resident of any county in which such farming operations occur.

"Farmer," construed.

Residence.

¹ So in original.

Obligations of persons secondarily liable.

"SEC. 76. Extensions made pursuant to the foregoing provisions of this chapter shall extend the obligation of any person who is secondarily liable to any person for the prompt payment of such debt or debts, or any part thereof, and a copy of the order confirming such extension, certified as required by the provisions of law with reference to judgments and proceedings in courts of the United States, shall be sufficient evidence that such extension has been confirmed in any suit or proceeding brought against any such person so liable.

Evidence of confirmation of extension.

Reorganization of railroads engaged in interstate commerce. Petition for.

"SEC. 77. REORGANIZATION OF RAILROADS ENGAGED IN INTERSTATE COMMERCE.—(a) Any railroad corporation may file a petition stating that the railroad corporation is insolvent or unable to meet its debts as they mature and that it desires to effect a plan of reorganization. The petition shall be filed with the court in whose territorial jurisdiction the railroad corporation, during the preceding six months or the greater portion thereof, has had its principal executive or operating office, and a copy of the petition shall at the same time be filed with the Interstate Commerce Commission hereinafter called the commission: *Provided*, That when any railroad, although engaged in interstate commerce, lies wholly within one State, such proceedings shall be brought in the Federal district court within the State in which the railroad is located. The petition shall be accompanied by payment to the clerk of a filing fee of \$100, which shall be in addition to the fees required to be collected by the clerk under other sections of this Act. Upon the filing of such a petition, the judge shall enter an order either approving it as properly filed under this section, if satisfied that such petition complies with this section and has been filed in good faith, or dismissing it if not so satisfied. If the petition is so approved, the court in which such order approving the petition is entered shall, during the pendency of the proceedings under this section and for the purposes thereof, have exclusive jurisdiction of the debtor and its property wherever located. The railroad corporation shall be referred to in the proceedings as a 'debtor.' Any corporation, the majority of the capital stock of which having power to vote for the election of directors is owned, either directly or indirectly through an intervening medium, by any railroad corporation filing a petition as a debtor under this section, or substantially all of whose properties are operated by such a debtor under lease or operating agreement may file, with the court in which such other debtor had filed such a petition, and in the proceeding upon such petition under this section, a petition stating that it is insolvent or unable to meet its debts as they mature and that it desires to effect a plan of reorganization in connection with, or as a part of, the plan of reorganization of such other debtor; and thereupon such court shall have the same jurisdiction with respect to it, its property and its creditors and stockholders as the court has with respect to such other debtor. Creditors of any railroad corporation having claims or interests aggregating not less than 5 per centum of all the indebtedness of such railroad corporation as shown in the latest annual report which it has filed with the commission at the time when the petition is filed, may, if the railroad corporation has not filed a petition under this section, but subject to first having obtained the approval of the Interstate Commerce Commission, after hearing, upon notice to such railroad corporation, file with the court in which such railroad corporation might file a petition under the provisions of this section, a petition stating that such railroad corporation is insolvent or unable to meet its debts as they mature and that such creditors propose that it shall effect a reorganization; upon such filing of such a petition

Filing.

Copy to Interstate Commerce Commission.

Proviso. When railroad wholly in one State.

Filing fee.

Order of approval, etc.

Jurisdiction over debtor, etc.

"Debtor," construed.

Petition by corporation owned by railroad corporation filing same.

Jurisdiction over.

Creditors' petition.

Approval of Interstate Commerce Commission.

Hearing and notice.

Copies of petition.

copies thereof shall be filed with the commission and served by the petitioning creditors forthwith upon the railroad corporation; the railroad corporation shall, within ten days after such service, answer such petition; if such answer shall admit the jurisdiction of the court, that the claims of the petitioning creditors constitute the amounts necessary to entitle them to file such petition under this section, and that the railroad corporation is either insolvent or unable to meet its debts as they mature, the court shall, upon the filing of the recommendations of the commission in writing, enter an order approving the petition as properly filed under this section if satisfied that it complies with this section and has been filed in good faith, or disapprove it if not so satisfied; and if so approved the proceedings thereon shall continue with like effect as if the railroad corporation had itself filed a petition under this section; if such answer shall deny either the jurisdiction of the court or that the claims of the petitioning creditors constitute such necessary amounts or that the railroad corporation is insolvent or unable to meet its debts as they mature, the court shall summarily try the issues, and if after the filing of the recommendations of the commission in writing it shall find that the petition complies with this section, and has been filed in good faith, the court shall enter an order approving the petition as properly filed under this section, and the proceedings thereon shall continue with like effect as if the railroad corporation had itself filed a petition under this section; otherwise the court shall dismiss the petition.

“(b) A plan of reorganization within the meaning of this section (1) shall include a proposal to modify or alter the rights of creditors generally, or of any class of them, secured or unsecured, either through the issuance of new securities of any character or otherwise; (2) may include, in addition, provisions modifying or altering the rights of stockholders generally, or of any class of them; (3) shall provide adequate means for the execution of the plan, which may, so far as may be consistent with the provisions of sections 1 and 5 of the Interstate Commerce Act as amended, include the transfer or conveyance of all or any part of the property of the debtor to another corporation or to other corporations or the consolidation of the properties of the debtor with those of another railroad corporation, or the merger of the debtor with any other railroad corporation and the issuance of securities of either the debtor or any such corporation or corporations, for cash, or in exchange for existing securities, or in satisfaction of claims or rights, or for other appropriate purposes; and (4) may deal with all or any part of the property of the debtor. The term ‘securities’ shall include evidences of indebtedness, either secured or unsecured, bonds, stocks, certificates of beneficial interest therein, and certificates of beneficial interest in property. The term ‘stockholders’ shall include the holders of voting trust certificates. The term ‘creditors’ shall, except as otherwise specifically provided in this section, include, for all purposes of this section and of the reorganization plan, its acceptance and confirmation, all holders of claims, interests, or securities of whatever character against the debtor or its property, including claim for future rent, whether or not such claims, interests, or securities would otherwise constitute provable claims under this Act.

“(c) Upon approving the petition as properly filed the judge (1) may temporarily appoint from a panel of standing trustees qualified for such service to be selected and designated in advance by the commission a trustee or trustees of the debtor’s estate, who shall have all the title and, subject to the control of the judge and consistently

Service of.

Answer by railroad; when.

Order of court if petition filed in good faith.

Disapproval.

Issues triable when answer denies jurisdiction, etc.

Order approving petition.

Dismissing.

Reorganization plan.

What included.

“Securities,” construed.

“Stockholders.”

“Creditors.”

Duties of judge when petition approved.

Appointment of trustees.

Powers, etc.
Vol. 30, p. 557.

Fix amount of bond,
etc.

Appoint substitute
trustees.

Compensation.
Authorize issue of cer-
tificates for cash, etc.

Require debtor to file
additional schedules.
Vol. 30, p. 548.

Determine time for
filing claims.

Notices to be given.

Dismissal of proceed-
ings for cause shown.

Allow compensation
to proper persons.

Reference to special
masters.

with the provisions of this section, shall exercise all the powers of a trustee appointed pursuant to section 44 or any other section of this Act, and, subject to the judge's control and the jurisdiction of the commission as provided by the Interstate Commerce Act as amended, shall have the power to operate the business of the railroad corporation; (2) shall fix the amount of the bond of such trustee or trustees and require the debtor, the trustee, or trustees to give such notice as the order may direct to creditors and stockholders and to cause publication thereof to be made at least once a week for two successive weeks of a hearing to be held within thirty days after such appointment, at which hearing or any adjournment thereof the judge may make permanent such appointment, or may terminate it and may, in the manner herein provided for the appointment of trustees, appoint a substitute trustee or substitute trustees, and in the same manner may appoint an additional trustee or additional trustees, and shall fix the amount of the bond of the substitute or additional trustee or trustees; the trustee or trustees and their counsel shall receive such compensation as the judge may allow within a maximum approved by the commission; (3) may for cause shown, and with the approval of the commission, in accordance with section 20 (a) of the Interstate Commerce Act as amended, authorize the trustee or trustees to issue certificates for cash, property, or other consideration approved by the judge, for such lawful purposes and upon such terms and conditions and with such security and such priority in payments over existing obligations, secured or unsecured, as might in an equity receivership be lawful; (4) shall require the debtor, at such time or times as the judge may direct and in lieu of the schedules required by section 7 of this Act, to file such schedules and submit such other information as may be necessary to disclose the conduct of the debtor's affairs and the fairness of any proposed plan; (5) shall determine a reasonable time within which the claims and interests of creditors and stockholders may be filed or evidenced and after which no such claim or interest may participate in any plan except on order for cause shown; the manner in which such claims and interests may be filed or evidenced and allowed, and, for the purposes of the plan and its acceptance, the division of creditors and stockholders into classes according to the nature of their respective claims and interests; (6) shall cause reasonable notice of such determination, or of the dismissal of the proceedings, or the allowance of fees or expenses, to be given creditors and stockholders by publication or otherwise; (7) if a plan of reorganization is not proposed or accepted, or, if proposed and accepted, is not confirmed, within such reasonable time as the judge may, upon cause shown and after considering any recommendation which has been filed by the commission, allow, may dismiss the proceeding; (8) may, within such maximum limits as are fixed by the commission, as elsewhere provided in subdivision (f) of this section, allow a reasonable compensation for the services rendered and reimbursement for the actual and necessary expenses incurred in connection with the proceeding and plan by officers, parties in interest, reorganization managers, and committees or other representatives of creditors or stockholders, and the attorneys or agents of any of the foregoing, and by such assistants as the commission with the approval of the judge may specially employ; and (9) may on his own motion or at the request of the commission refer any matters for consideration and report, either generally or upon specified issues, to one of several special masters who shall have been previously designated to act as special masters in any proceedings under this section by order of any Circuit Court of Appeals and may allow

such master a reasonable compensation for his services. The Circuit Court of Appeals of each circuit shall designate three or more members of the bar as such special masters whom they deem qualified for such services, and shall from time to time revise such designations by changing the persons designated or reducing or adding to their number, as the public interest may require: *Provided, however*, That there shall always be three of such special masters qualified for appointment in each circuit who shall in their respective circuits hear any matter referred to them under this section by a judge of any District Court. For all purposes of this section claims against a railroad corporation which would have been entitled to priority over existing mortgages if a receiver in equity of the property of the debtor had been appointed by a Federal court at the date of the filing of the petition hereunder shall be entitled to such priority, and holders of such claims shall be treated as a separate class of creditors. If in any case in which the issues have not already been tried under the provisions of subdivision (a) of this section any of the debtor's creditors shall, prior to the hearing provided for in subdivision (c), clause (2), of this section, appear and controvert the facts alleged in the petition, the judge shall determine, as soon as may be, the issues presented by the pleadings, without the intervention of a jury, and unless the material allegations of the petition are sustained by the proofs shall dismiss the petition. Any creditor or stockholder shall be heard on the question of the permanent appointment of any trustee or trustees, the proposed recommendation, approval, or confirmation of any reorganization plan, and upon filing a petition for leave to intervene on such other questions arising in the proceeding as the judge shall determine. The debtor, or the trustees if appointed, shall within fifteen days or, upon cause shown, such other time as may be directed by the judge, prepare (1) a list of all known bondholders and creditors of, or claimants against, the debtor or its property, and the amounts and character of their debts, claims, and securities, and the last known post-office address or place of business of each creditor or claimant, and (2) a list of the stockholders of the debtor, with the last known post-office address or place of business of each. The contents of such lists shall not constitute admissions by the debtor or the trustees in a proceeding under this section or otherwise. Such lists shall be open to the inspection of any creditor or stockholder of, or claimant against, the debtor, during reasonable business hours, upon application to the debtor or trustees, as the case may be.

“(d) Before creditors and stockholders of the debtor are asked finally to accept any plan of reorganization, the Interstate Commerce Commission shall after due notice hold a public hearing at which the debtor shall present its plan of reorganization and at which, also, such a plan may be presented by the trustee or trustees, or by or on behalf of creditors of the debtor, being not less than 10 per centum in amount of any class of creditors. Following such hearing, the commission shall render a report in which it shall recommend a plan of reorganization (which may be different from any which has been proposed) that will, in its opinion be equitable, will not discriminate unfairly in favor of any class of creditors or stockholders, will be financially advisable, will meet with the requirements of subdivision (g) of this section, and will be compatible with the public interest. In such report the commission shall state fully the reasons for its conclusions, and it may thereafter, upon petition for good cause shown, and upon further hearing if the commission shall deem necessary, modify any of its recommendations and conclusions in a supplemental report stating the reasons for such modification. There-

Designation of.

Proviso.
Number.Priority of certain
claims.Issues controverted
in petition to be de-
termined.Right of creditor,
etc., to be heard.

Lists to be prepared.

Bondholders, credi-
tors, etc.

Stockholders.

Not to constitute ad-
missions by debtor.
Inspection of.

Reorganization plan.

Adoption of.

Hearing by Inter-
state Commerce Com-
mission.

Report.

Recommendations.

Reasons for conclu-
sions to be stated.

Submission of plan to creditors, etc.

after the plan of reorganization recommended by the commission shall be submitted in such manner as the commission may direct to the creditors and stockholders of the debtor for acceptance or rejection, together with the report or reports of the commission thereon; and the commission may at the same time afford an opportunity to accept or reject any other plan of reorganization filed as in this subdivision (d) provided.

Acceptance in writing before final approval.

“(e) A plan of reorganization shall not be finally approved by the commission until it has been accepted in writing and such acceptance has been filed in the proceeding by or on behalf of creditors holding two-thirds in amount of the claims of each class whose claims or interests would be affected by the plan, and by or on behalf of stockholders of the debtor holding two-thirds of the stock of each class: *Provided, however,* That if adequate provision is made in the plan for the protection of the interests, claims, and liens of any class of creditors or stockholders in the manner provided in clauses (5) and (6) of subdivision (g), of this section, then the acceptance of the plan by such class of creditor or stockholders shall not be requisite to the approval of the plan: *And provided further,* That the acceptance of stockholders shall not be requisite to the confirmation of the plan if (1) the judge shall have determined (a) that the corporation is insolvent, or (b) that the interests of stockholders will not be adversely affected by the plan, or (c) that the debtor has pursuant to authorized corporate action accepted the plan, and its stockholders are bound by such acceptance. For the purposes of this section acceptance by a creditor or stockholder shall include acceptance in writing executed by him; or acceptance by his duly authorized attorney or committee acting under authority executed by him subsequent to the recommendation of the plan by the commission. Upon acceptance of the plan in accordance with the provisions of this subdivision (e) the commission may, without further proceedings, grant authority for the issue of any securities, assumption of obligations, transfer of any property, or consolidation or merger of properties, to the extent contemplated by the plan consistent with the purposes of the Interstate Commerce Act as amended. If the United States of America is directly a creditor or stockholder, the Secretary of the Treasury is hereby authorized to accept or reject a plan in respect of the interests or claims of the United States.

Provisos.
Interests of certain classes of creditors to be protected.

Post, p. 1479.

When acceptance of plan by stockholders not requisite to confirmation.

What constitutes acceptance.

Issue of securities, etc., when plan accepted.

When United States a creditor.

Certification to court.

“(f) If the plan recommended by the commission is accepted as provided in subdivision (e), the commission shall thereupon certify the plan to the court together with its approval thereof and that the same has been so accepted, together with a report of the proceedings before it and its conclusions thereon. If the plan accepted as provided in subdivision (e) differs from the plan recommended by the commission it shall, upon acceptance, be submitted to the commission, which shall hear all interested parties upon such notice and subject to such rules and regulations as it shall prescribe. If after such hearing the commission determines that the accepted plan in its opinion is equitable and will not discriminate unfairly in favor of any class of creditors or stockholders; will be financially advisable; will meet the requirements of subdivision (g) of this section; and will be compatible with the public interest; the commission shall thereupon certify the plan to the court, together with its approval thereof and that the same has been duly accepted, and together with a report of the proceedings before it and its findings and conclusions thereon. The commission shall also, after hearing if necessary, fix the maximum compensation and reimbursement which may be allowed by the court pursuant to clause (8) of subdivision (c) of this section:

Maximum compensation.

Provided, That unless good and sufficient reasons appear therefor no allowance for fees or compensation shall be made to officers of corporations who have acted as managers or in any capacity in connection with the reorganization when such corporation had an interest in the matter. No plan of reorganization shall be confirmed in any proceeding under this section except upon the approval of the Interstate Commerce Commission certified to the court. If the commission shall decline to issue such a certificate it shall file in the proceeding its decision, specifying the particular grounds upon which it bases its disapproval of the plan.

proviso.
No fees to officers acting as managers.

Approval of plan by Interstate Commerce Commission.

“(g) Upon such approval by the commission, and after hearing such objections as may be made to the approved plan, the judge shall confirm the plan if satisfied that (1) the approved plan complies with the provisions of subdivision (b) of this section, is equitable and does not discriminate unfairly in favor of any class of creditors or stockholders; (2) all amounts to be paid by the debtor or by any corporation or corporations acquiring the debtor’s assets, for services or expenses incident to the reorganization and cost of financing, have been fully disclosed and are reasonable, or are to be subject to the approval of the judge; (3) the offer of the plan and its acceptance are in good faith and have not been made or procured by any means or promises forbidden by this Act; (4) the approved plan provides for the payment of all costs of administration and other allowances made by the court, except that compensation or reimbursement provided for in subdivision (c), clause (8), of this section may be paid in securities provided for in the plan if those entitled thereto will accept such payment and the court finds such compensation reasonable; (5) the approved plan provides, with respect to stockholders of any class the acceptance of which is requisite to the confirmation of the plan, and who would not become bound by the plan under the provision of subdivision (h) of this section, and of which more than one-third have not accepted the plan, adequate protection for the realization by them of the value of their equity, if any, in the property of the debtor dealt with by the plan either by a sale of the property at not less than a fair upset price, or by appraisal and payment in cash either of the value of their stock or, at the objecting stockholder’s election, of the value of the securities, if any, allotted to such stock under the plan; (6) the plan provides with respect to any class of creditors the acceptance of which is requisite to the confirmation of the plan, and who would not become bound by the plan under the provisions of subdivision (h) of this section, adequate protection for the realization by them of the value of their securities, liens, and claims, either (a) by the sale of such property subject to their liens, if any, or (b) by the sale free of such liens at not less than a fair upset price, and the transfer of such liens to the proceeds of such sale, or (c) by appraisal and payment in cash of either the value of such liens and claims or, at the objecting creditors’ election, the value of the securities allotted to such liens and claims under the plan. Section 57, clause (h), of this Act shall be applicable to the appraisal of securities under this section, and the value of the unpaid balance shall be appraised as an unsecured claim; and (7) the debtor, and every other corporation issuing securities or acquiring property under the plan, is authorized by its charter or by applicable State or Federal laws, upon confirmation of the plan, to carry out the plan. In the case of a sale or appraisal under clause (5) or (6) of this subdivision (g) the court shall refer to the commission for its consideration and determination the amount to be fixed as the upset price and the appraisal of any securities.

Confirmation by court, when.

Appraisal of securities.
Vol. 30, p. 560.

On whom binding thereafter.

“(h) Upon such confirmation the provisions of the plan shall be binding upon (1) the corporation, (2) all stockholders if the judge shall have determined (a) that the corporation is insolvent, or (b) that the interests of stockholders will not be adversely affected by the plan, or (c) that the debtor has pursuant to authorized corporate action accepted the plan and its stockholders are bound by such acceptance, (3) all stockholders of each class of which two-thirds in amount shall have accepted the plan, (4) all creditors whose claims are payable in cash in full under the plan, (5) all creditors entitled to priority under subdivision (c) of this section, whose claims are not payable in cash in full under the plan, provided two-thirds in amount of such creditors shall have accepted the plan in writing filed in the proceeding, (6) all other unsecured creditors, provided two-thirds in amount of such creditors shall have accepted the plan in writing filed in the proceeding, and (7) all secured creditors of each class of which two-thirds in amount shall have accepted the plan. The confirmation of the plan shall discharge the debtor from its debts except as provided in the plan. Upon confirmation of the plan by the judge, the debtor and other corporations affected by the plan, or organized or to be organized for the purpose of carrying out the plan, shall, subject to the jurisdiction of the Commission, have full power and authority to put into effect and carry out the plan and the orders of the judge relative thereto, the laws of any State or the decision or order of any State authority to the contrary notwithstanding. In the event that the judge should disapprove the plan he shall file an opinion stating his reasons therefor.

Discharge of debtor.

Orders, etc., of court to be executed.

Opinion, stating reasons, filed if plan disapproved.

Revenue Act of 1932. *Ante*, p. 272.

“(i) The provisions of sections 721, 722, 723, 724, and 725 of the Revenue Act of 1932 shall not apply to the issuance, transfers, or exchange of securities or filing of conveyances to make effective any plan of reorganization confirmed under the provisions of this section.

Property thereafter free of debtors' claims.

“(j) Upon the confirmation of the plan the property dealt with by the plan, when transferred and conveyed to the debtor or other corporation or corporations provided for by the plan, or if no trustee or trustees have been appointed when held by the debtor pursuant to the plan, shall, as the court may direct, be free and clear of all claims of the debtor, its stockholders and creditors, except such as may consistently with the provisions of the plan be reserved in the order confirming the plan or directing such transfer and conveyance, and the court may direct the trustee or trustees, or if there be no trustee or trustees the debtor, to make any such transfer and conveyance, and may direct the debtor to join in any such transfer or conveyance made by the trustee or trustees. Upon the termination of the proceeding a final decree shall be entered discharging the trustee or trustees, if any, making such provisions as may be equitable, and closing the case.

Exception.

Final decree. Discharge of trustees.

Filing petition, when receiver appointed.

Trustees entitled to possession of property.

“(k) If a receiver of all or any part of the property of a corporation has been appointed by a Federal or State court, whether before or after this amendatory Act takes effect, the railroad corporation may nevertheless file a petition or answer under this section at any time thereafter, but if it does so and the petition is approved the trustee or trustees appointed under the provisions of this section shall be entitled forthwith to possession of such property, and the judge shall make such orders as he may deem equitable for the protection of obligations incurred by the receiver and for the payment of such reasonable administrative expenses and allowances in the prior proceeding as may be fixed by the court appointing said receiver within maximum limits approved by the commission. If a receiver has been appointed by a Federal or State court prior to

the dismissal under subdivision (c), clause (7), of a proceeding under this section, the judge may include in the order of dismissal appropriate provisions directing the trustee to transfer possession of the debtor's property within the territorial jurisdiction of such court to the receiver so appointed, upon such terms as the judge may deem equitable for the protection of obligations incurred by the trustee and for the payment of administrative expenses and allowances in the proceeding hereunder. For the purposes of this section the words 'Federal court' shall include the district courts of the United States and of the Territories and possessions to which this Act is or may hereafter be applicable, the Supreme Court of the District of Columbia, and the United States Court of Alaska.

Dismissal directing transfer.

"Federal court," construed.

"(l) In addition to the provisions of section 11 of this Act for the staying of pending suits against the debtor, such suits shall be further stayed until after final decree the judge may, upon notice and for cause shown, enjoin or stay the commencement or continuance of any judicial proceeding to enforce any lien upon the estate until after final decree.

Further stay of pending suits.
Vol. 30, p. 549.

"(m) A certified copy of an order confirming a plan of reorganization shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order directing the transfer and conveyance of the property dealt with by the plan as provided in subdivision (j) of this section shall be evidence of the transfer and conveyance of title accordingly, and if recorded shall impart the same notice that a deed if recorded would impart.

Certified copy of confirming order.

What evidence of.

"(n) In proceedings under this section and consistent with the provisions thereof, the jurisdiction and powers of the court, the duties of the debtor and the rights and liabilities of creditors, and of all persons with respect to the debtor and his property, shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the debtor's petition was filed.

Effect of proceedings hereunder.

"(o) No judge or trustee acting under this Act shall change the wages or working conditions of railroad employees, except in the manner prescribed in the Railroad Labor Act, or as set forth in the memorandum of agreement entered into in Chicago, Illinois, on January 31, 1932, between the executives of twenty-one standard labor organizations and the committee of nine authorized to represent Class 1 railroads.

Prohibitions. Changing railroad wages, etc.

"(p) No judge or trustee acting under this Act shall deny or in any way question the right of employees on the property under his jurisdiction to join the labor organization of their choice, and it shall be unlawful for any judge, trustee, or receiver to interfere in any way with the organizations of employees, or to use the funds of the railroad under his jurisdiction, in maintaining so-called company unions, or to influence or coerce employees in an effort to induce them to join or remain members of such company unions.

Denying right to affiliate with labor organization.

"(q) No judge, trustee, or receiver acting under this Act shall require any person seeking employment on the property under his jurisdiction to sign any contract or agreement promising to join or to refuse to join a labor organization; and if such contract has been enforced on the property prior to the property coming under the jurisdiction of said judge, trustee, or receiver, then the said judge, trustee, or receiver, as soon as the matter is called to his attention, shall notify the employees by an appropriate order that said contract has been discarded and is no longer binding on them in any way.

Requiring prospective employee to agree not to join, etc., labor organization.

"Railroad corporation," construed.

"(r) The term 'railroad corporation' as used in this Act means any common carrier by railroad engaged in the transportation of persons or property in interstate commerce, except a street, suburban, or interurban electric railway which is not operated as a part of a general railroad system of transportation or which does not derive more than 50 per centum of its operating revenues from the transportation of freight in standard steam railroad freight equipment.

Claims for personal injuries.

"(s) In proceedings under this section, claims for personal injuries to employees of a railroad corporation, and claims of personal representatives of deceased employees of a railroad corporation arising under State or Federal laws, shall be preferred claims against the assets of such railroad corporation in receivership or in reorganization as herein provided, such claims to be subordinate only to costs of administration of such receivership or reorganization."

Status of.

Effective date of Act.

SEC. 2. This Act shall take effect and be in force from and after the date of its approval, and shall apply as fully to debtors, their stockholders and creditors, whose interest or debts, whether secured or unsecured, have been acquired or incurred prior to such date, as to debtors, their stockholders and creditors, whose interest or debts have been acquired or incurred after such date. Proceedings under section 1 of this Act may be taken in proceedings in bankruptcy which are pending on the effective date of this Act.

Deposit of bankrupt funds.

SEC. 3. In all bankruptcy proceedings the officers and agents in charge of the bankrupt funds are authorized to deposit the same without limit as to amount in the postal savings depositories at the prescribed interest rate in all cases where local banks are unable or unwilling to give the required security. Such deposit or any portion thereof may be withdrawn as required in the bankruptcy proceedings.

Approved, March 3, 1933.

[CHAPTER 205.]

AN ACT

March 3, 1933.
[S. 2374.]
[Public, No. 421.]

To authorize and direct the Secretary of the Navy to convey by gift to the city of Savannah, Georgia, the naval radio station, the buildings and apparatus, located upon land owned by said city.

Savannah, Ga.
Naval radio station at, conveyed to city.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if and when the naval radio station at Savannah, Georgia, is no longer required for naval purposes, the Secretary of the Navy is authorized and directed to convey by gift, to the city of Savannah, State of Georgia, the said naval radio station, which radio station is located on land belonging to the city of Savannah, together with all the buildings and apparatus thereof; but no expense shall be caused the United States hereunder.

No Federal expense.

Approved, March 3, 1933.

[CHAPTER 206.]

AN ACT

March 3, 1933.
[S. 4082.]
[Public, No. 422.]

To regulate the business of executing bonds for compensation in criminal cases and to improve the administration of justice in the District of Columbia.

District of Columbia.
Bonds in criminal cases, etc.
Definitions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the words "bonding business" as used in this Act mean the business of becoming surety for compensation upon bonds in criminal cases in the District of Columbia, and the word "bondsman" means any person

or corporation engaged either as principal or as agent, clerk, or representative of another in such business.

SEC. 2. That the business of becoming surety for compensation upon bonds in criminal cases in the District of Columbia is impressed with a public interest.

Surety business, etc., impressed with public interest.

SEC. 3. It shall be unlawful for any person engaged, either as principal or as the clerk, agent, or representative of a corporation, or another person in the business of becoming surety upon bonds for compensation in the District of Columbia, either directly or indirectly, to give, donate, lend, contribute, or to promise to give, donate, loan or contribute any money, property, entertainment, or other thing of value whatsoever to any attorney at law, police officer, deputy United States marshal, jailer, probation officer, clerk, or other attaché of a criminal court, or public official of any character, for procuring or assisting in procuring any person to employ said bondsman to execute as surety any bond for compensation in any criminal case in the District of Columbia; and it shall be unlawful for any attorney at law, police officer, deputy United States marshal, jailer, probation officer, clerk, bailiff, or other attaché of a criminal court, or public official of any character, to accept or receive from any such person engaged in the bonding business any money, property, entertainment, or other thing of value whatsoever for procuring or assisting in procuring any person to employ any bondsman to execute as surety any bond for compensation in any criminal case in the District of Columbia.

Gift by bondsman to any public official for procuring business, unlawful.

Unlawful to accept, etc.

SEC. 4. It shall be unlawful for any attorney at law, either directly or indirectly, to give, loan, donate, contribute, or to promise to give, loan, donate, or contribute any money, property, entertainment, or other thing of value whatsoever to, or to split or divide any fee or commission with, any bondsman, the agent, clerk, or representative of any bondsman, police officer, deputy United States marshal, probation officer, assistant probation officer, bailiff, clerk, or other attaché of any criminal court for causing or procuring or assisting in causing or procuring any person to employ such attorney to represent him in any criminal case in the District of Columbia.

Gift by attorney to bondsman, or public official, unlawful.

SEC. 5. It shall be lawful to charge for executing any bond in a criminal case in the District of Columbia, and it shall be unlawful for any person or corporation engaged in the bonding business, either as principal, or clerk, agent, or representative of another, either directly or indirectly, to charge, accept, or receive any sum of money, or other thing of value, other than the regular fee for bonding, from any person for whom he has executed bond, for any other service whatever performed in connection with any indictment, information, or charge upon which said person is bailed or held in the District of Columbia. It also shall be unlawful for any person or corporation engaged either as principal or as agent, clerk, or representative of another in the bonding business, to settle, or attempt to settle, or to procure or attempt to procure the dismissal of any indictment, information, or charge against any person in custody or held upon bond in the District of Columbia, with any court, or with the prosecuting attorney in any court in the District of Columbia.

Receiving other than regular bonding fee unlawful.

Attempt, etc., to influence court, etc.

SEC. 6. A typewritten or printed list alphabetically arranged of all persons engaged under the authority of any of the courts of criminal jurisdiction in the District of Columbia in the business of becoming surety upon bonds for compensation in criminal cases shall be posted in a conspicuous place in each police precinct, jail, prisoner's dock, house of detention, and every other place in the District of Columbia in which persons in custody of the law are

Posting names of bondsmen.

List of, to be furnished on request.

Duty of informing bondsmen.

Record to be kept.

Entry of bondsman, unless called into place where person is in custody, forbidden.

Evidence required; to be recorded, etc.

Qualifications, etc., for bondsmen. Rules to be prescribed.

Registers to be kept.

Renewals.

detained, and one or more copies thereof kept on hand; and when any person who is detained in custody in any such place of detention shall request any person in charge thereof to furnish him the name of a bondsman, or to put him in communication with a bondsman, said list shall be furnished to the person so requesting, and it shall be the duty of the person in charge of said place of detention within a reasonable time to put the person so detained in communication with the bondsman so selected, and the person in charge of said place of detention shall contemporaneously with said transaction make in the blotter or book of record kept in any such place of detention, a record showing the name of the person requesting the bondsman, the offense with which the said person is charged, the time at which the request was made, the bondsman requested, and the person by whom the said bondsman was called, and preserve the same as a permanent record in the book or blotter in which entered.

SEC. 7. It shall be unlawful for any bondsman, agent, clerk, or representative of any bondsman to enter a police precinct, jail, prisoner's dock, house of detention, or other place where persons in the custody of the law are detained in the District of Columbia for the purpose of obtaining employment as a bondsman, without having been previously called by a person so detained, or by some relative or other authorized person acting for or on behalf of the person so detained, and whenever any person engaged in the bonding business as principal, or as clerk, agent, or representative of another, shall enter a police precinct, jail, prisoner's dock, house of detention, or other place where persons in the custody of the law are detained in the District of Columbia, he shall forthwith give to the person in charge thereof his mission there, the name of the person calling him, and requesting him to come to such place, and the same shall be recorded by the person in charge of the said place of detention and preserved as a public record, and the failure to give such information, or the failure of the person in charge of said place of detention to make and preserve such a record, shall constitute a violation of this Act.

SEC. 8. It shall be the duty of the police court, juvenile court, and the criminal divisions of the Supreme Court of the District of Columbia, each, to provide, under reasonable rules and regulations, the qualifications of persons and corporations applying for authority to engage in the bonding business in criminal cases in the District of Columbia, and the terms and conditions upon which such business shall be carried on, and no person or corporation shall, either as principal, or as agent, clerk, or representative of another, engage in the bonding business in any such court until he shall by order of the court be authorized to do so. Such courts, in making such rules and regulations, and in granting authority to persons to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person so applying, and no person shall be permitted to engage, either as principal or agent, in the business of becoming surety upon bonds for compensation in criminal cases, who has ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character. It shall be the duty of each of said courts to require every person qualifying to engage in the bonding business as principal to file with said court a list showing the name, age, and residence of each person employed by said bondsman as agent, clerk, or representative in the bonding business, and require an affidavit from each of said persons stating that said person will abide by the terms and provisions of this Act. Each of said courts shall require the authority of each of said persons to be renewed from time to time

at such periods as the court may by rule provide, and before said authority shall be renewed the court shall require from each of said persons an affidavit that since his previous qualification to engage in the bonding business he has abided by the provisions of this Act, and any person swearing falsely in any of said affidavits shall be guilty of perjury.

SEC. 9. It shall be unlawful for any police officer or other public official, in advance of any raid by police or other peace officers or public officials or the execution of any search warrant or warrant of arrest, to give or furnish, either directly or indirectly, any information concerning such proposed raid or arrest to any person engaged in any manner in the bonding business, or to any attorney at law: *Provided, however,* That it shall not be unlawful for any police or other peace officer, in conducting any raid or in executing any search warrant or warrant of arrest, to communicate to any attorney at law or person engaged in the bonding business, any fact necessary to enable such officer to obtain from such attorney at law or person engaged in the bonding business information necessary to enable such officer to carry out said raid or execute such process.

SEC. 10. The judges of the police court of the District of Columbia shall have the authority to appoint some official of the Metropolitan police force of the District of Columbia to act as a clerk of the police court with authority to take bail or collateral from persons charged with offenses triable in the police court in criminal cases in the District of Columbia at all times when the police court is not open and its clerks accessible. The official so appointed shall have the same authority at said times with reference to taking bonds or collateral as the clerk of the police court now has; shall receive no compensation for said services other than his regular salary; shall be subject to the orders and rules of the police court in discharge of his said duties, and may be removed as such clerk at any time by the judges of the police court. The Supreme Court and the Juvenile Court of the District of Columbia each shall have power by order to authorize the official, appointed by the police court, to take bond of persons arrested upon writs and processes from those courts in criminal cases between four o'clock postmeridian and nine o'clock antemeridian and upon Sundays and holidays, and each of such courts shall have power at any time by order to revoke such authority granted by it.

SEC. 11. Any person violating any provision of this Act other than in the commission of perjury shall be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment of not less than ten or more than sixty days in jail, or both, where no other penalty is provided by this Act; and if the person so convicted be a police officer or other public official, he shall upon recommendation of the trial judge also be forthwith dismissed from office; if a bondsman, or the agent, clerk, or representative of a bondsman, he shall be disqualified from thereafter engaging in any manner in the bonding business for such a period of time as the trial judge shall order; and, if an attorney at law, shall be subject to suspension or disbarment as attorney at law.

SEC. 12. It shall be the duty of the police court, juvenile court, and of the criminal divisions of the Supreme Court of the District of Columbia to see that this Act is enforced, and upon the impaneling of each grand jury in the Supreme Court of the District of Columbia it shall be the duty of the judge impaneling said jury to give it in charge to the jury to investigate the manner in which this Act is enforced and all violations thereof.

Approved, March 3, 1933.

Giving advance information of any raid to bondsman, unlawful.

Provido.
Assistance permitted.

Designated clerk to take bail, etc., when court is not open.

Appointment from police force.

Authority, pay, duties, etc., of clerk.

Revocation.

Punishment for violations.

Enforcement.

[CHAPTER 207.]

AN ACT

March 3, 1933.

[H. R. 11270.]

[Public, No. 423.]

To amend section 2 of the Act entitled "An Act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes."

Postal service.
Vol. 37, p. 553.
U. S. C., p. 1250,
amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of section 2 of the Act entitled "An Act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912 (37 Stat. 553; U. S. C., title 39, secs. 233 and 234), is amended to read as follows:

Newspapers and
other publications.

Sworn statements of
editors, owners, etc.,
to be filed annually
hereafter.

Circulation of news-
papers.

Providos.
Religious, etc., pub-
lications not affected.

Small stockholders
omitted.

Statement to be
printed in second issue
after filing.

Publication denied
admission to mails on
failure.

"Advertisement"
matter to be so marked.

Penalty for violation.

"That it shall be the duty of the editor, publisher, business manager, or owner of every newspaper, magazine, periodical, or other publication to file with the Postmaster General and the postmaster at the office at which said publication is entered, not later than the 1st day of October of each year, on blanks furnished by the Post Office Department, a sworn statement setting forth the names and post-office addresses of the editor and managing editor, publisher, business managers, and owners, and, in addition, the stockholders, if the publication be owned by a corporation; and also the names of known bondholders, mortgagees, or other security holders; and also, in the case of daily newspapers, there shall be included in such statement the average of the number of copies of each issue of such publication sold or distributed to paid subscribers during the preceding twelve months: *Provided*, That the provisions of this paragraph shall not apply to religious, fraternal, temperance, and scientific, or other similar publications: *Provided further*, That it shall not be necessary to include in such statement the names of persons owning less than 1 per centum of the total amount of stock, bonds, mortgages, or other securities. A copy of such sworn statement shall be published in the second issue of such newspaper, magazine, or other publication printed next after the filing of such statement. Any such publication shall be denied the privileges of the mail if it shall fail to comply with the provisions of this paragraph within ten days after notice by registered letter of such failure. That all editorial or other reading matter published in any such newspaper, magazine, or periodical for the publication of which money or other valuable consideration is paid, accepted, or promised shall be plainly marked 'advertisement.' Any editor or publisher printing editorial or other reading matter for which compensation is paid, accepted, or promised without so marking the same, shall upon conviction in any court having jurisdiction be fined not less than \$50 nor more than \$500."

Approved, March 3, 1933.

[CHAPTER 208.]

AN ACT

March 3, 1933.

[H. R. 12047.]

[Public, No. 424.]

To provide for the transfer of powder and other explosive materials from deteriorated and unserviceable ammunition under the control of the War Department to the Department of Agriculture for use in land clearing, drainage, road building, and other agricultural purposes.

War Department.
Exchange of deteri-
orated, etc., ammuni-
tion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the Secretary of War to exchange deteriorated and unserviceable ammunition and components, and

for other purposes," approved June 1, 1926 (44 Stat. 680; U. S. C., title 10, secs. 1209, 1210), is hereby amended by adding at the end thereof a section to read as follows:

Vol. 44, p. 680.
U. S. C., Supp. VI, p. 116, amended.

"Sec. 3. In the administration of sections 1 and 2 of this Act, as amended, the Secretary of War is authorized and directed to transfer the powder and other explosive materials from such deteriorated and unserviceable ammunition and components thereof to the Secretary of Agriculture, for distribution and sale in such amounts and at such times as the latter may determine, to farmers at not less than cost, under such regulations as he may prescribe, for use in land clearing, drainage, road building, and other agricultural purposes, by the Secretary of Agriculture. No expense in connection with such distribution and sale shall be borne by the War Department, and the Secretary of Agriculture shall reimburse the Secretary of War for the powder and explosive materials transferred under this section in amounts equal to the credits the Secretary of War would have received in an exchange under sections 1 and 2 of this Act. Amounts so reimbursed are authorized to be made available for the expenditure by the War Department for ammunition or components thereof. The President is authorized to suspend the provisions of this section in case of national emergency."

New section.
Transfer of, to Department of Agriculture.

Reimbursement.

Availability.

Emergency suspension.

Approved, March 3, 1933.

[CHAPTER 209.]

AN ACT

To provide for the selection of certain lands in the State of California for the use of the California State Park system.

March 3, 1933.
[S. 5612.]
[Public, No. 425.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to valid rights existing on the date of this Act, the State of California may within five years select for State park purposes by legal subdivisions all or any portion of the public land not reserved for public purposes in the following townships:

State of California.
Selection of lands in designated townships, for State park system, authorized.

Township 9 south, range 4 east; township 9 south, range 5 east; township 9 south, range 6 east; township 9 south, range 7 east; township 9 south, range 8 east; township 10 south, range 5 east; township 10 south, range 6 east; township 10 south, range 7 east; township 10 south, range 8 east; township 11 south, range 5 east; township 11 south, range 6 east; township 11 south, range 7 east; township 11 south, range 8 east; township 12 south, range 5 east; township 12 south, range 6 east; township 12 south, range 7 east; township 12 south, range 8 east; San Bernardino meridian.

Description.

Upon the submission of satisfactory proof that the land selected contains characteristic desert growth and scenic or other natural features which it is desirable to preserve as a part of the California State park system, the Secretary of the Interior shall cause patents to issue therefor: *Provided*, That there shall be reserved to the United States all coal, oil, gas, or other mineral contained in such lands, together with the right to prospect for, mine, and remove the same at such times and under such conditions as the Secretary of the Interior may prescribe: *Provided further*, That any patent so issued shall contain a provision for reversion of title to the United States upon a finding by the Secretary of the Interior that for a period of more than one year the land has not been used by the State for park purposes.

Patents to issue.

Provision.
Minerals, etc., reserved.

Reversion for non-user.

Approved, March 3, 1933.

[CHAPTER 210.]

AN ACT

March 3, 1933.
[H. R. 12328.]
[Public, No. 426.]

To authorize the assignment of awards entered by the Mixed Claims Commission, United States and Germany, the Tripartite Claims Commission, and the War Claims Arbitrer.

Settlement of War
Claims Act of 1928,
amendments.
Vol. 45, p. 255,
amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 2 of the Settlement of War Claims Act of 1928 is hereby amended by adding at the end thereof a new paragraph to read as follows:

Mixed Claims Com-
mission.
Assignment of award.

“(5) In the case of an assignment of an award, or an assignment (prior to the making of the award) of the claim in respect of which the award was made, by any such person, made in writing, duly acknowledged, and filed with the application for payment, such payment shall be made to the assignee.”

Payment to assignee.

German claims
against United States.
Vol. 45, p. 259.
Assignment of award.

SEC. 2. Subsection (k) of section 3 of such Act is hereby amended by adding at the end thereof a new paragraph to read as follows:

Payment to assignee.

“(5) In the case of an assignment of an award, or an assignment (prior to the making of the award) of the claim in respect of which the award was made, by any such person, made in writing duly acknowledged, and filed with the application for payment, such payment shall be made to the assignee.”

Claims against Aus-
tria, etc.
Payments restricted.

SEC. 3. Subsection (f) of section 5 and subsection (h) of section 6 of such Act are hereby amended by striking out “(4)” where it occurs in such subsections and inserting in lieu thereof “(5).”

Approved, March 3, 1933.

[CHAPTER 211.]

AN ACT

March 3, 1933.
[H. R. 12651.]
[Public, No. 427.]

For the relief of the Uintah, White River, and Uncompahgre Bands of Ute Indians of Utah, and for other purposes.

Uintah, etc., bands
of Ute Indians, Utah.

Pro rata payments
to members of, from
tribal funds.

Vol. 46, p. 1092.

Proviso.
Deposit of shares.

Use of such funds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to withdraw from the Treasury of the United States the total funds on deposit to the credit of the Uintah, White River, and Uncompahgre Bands of Ute Indians, arising under the provisions of the Act of February 13, 1931 (46 Stat. 1092), including the accrued interest thereon and cause the total sum to be paid in pro rata shares to all members of the said Uintah, White River, and Uncompahgre Bands of Ute Indians who were alive and entitled to enrollment with such Indians on February 13, 1931: *Provided,* That the said Secretary, under such rules and regulations as he may prescribe, shall cause the shares of all Indians, including minors, to be deposited as individual Indian money in banks bonded and designated as depositaries for individual Indian moneys, to remain subject to disbursement for the benefit of the Indians entitled thereto as are other individual Indian moneys under existing laws.

SEC. 2. The funds when so deposited to the credit of each individual Indian shall become immediately available for the purpose of improving their lands, the erection of suitable homes, the purchasing of building material, farming equipment, livestock, feed, food, seed, grain, tools, machinery, implements, household goods, bedding, clothing, and any other equipment or supplies necessary to enable the Indians to fit themselves for or to engage in farming, livestock industry, or such other pursuits or avocations as will enable them to become self-supporting under such rules and regulations as may be prescribed by the Secretary of the Interior for their actual benefit and

welfare: *Provided*, That in cases of the aged, infirm, decrepit, or incapacitated members their shares may be used for their proper maintenance and support in the discretion of the Secretary of the Interior.

Proviso.
Maintenance of aged, etc., members.

SEC. 3. The funds deposited to the credit of minors, under authority of this Act, may be invested or expended in the same manner and for the same purposes as are herein provided for the adults: *Provided*, That where the funds of any minor are invested or expended it shall be done with the consent of the parents and the approval of the Secretary of the Interior.

Investing funds of minors.

Proviso.
Consent required.

SEC. 4. In no event shall any of this money become liable, payable, or subject to any debt or debts contracted prior to the passage of this Act.

Sums not subject to prior debts.

Approved, March 3, 1933.

[CHAPTER 212.]

AN ACT

Making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes.

March 3, 1933.
[H. R. 13520.]
[Public, No. 428.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TREASURY DEPARTMENT

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department for the fiscal year ending June 30, 1934, namely:

Treasury Department appropriations, fiscal year 1934.

OFFICE OF THE SECRETARY

Secretary's office.

Salaries: Secretary of the Treasury, Under Secretary of the Treasury, three Assistant Secretaries of the Treasury, and other personal services in the District of Columbia, \$145,538: *Provided*, That in expending appropriations or portions of appropriations contained in this Act for the payment of personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, with the exception of the Assistant Secretaries of the Treasury, the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriations unit shall not at any time exceed the average of the compensation rates specified for the grade by such Act, as amended: *Provided*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed, as of July 1, 1924, in accordance with the rules of section 6 of such Act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade in the same or a different bureau, office, or other appropriation unit, (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923, as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated.

Secretary, Under Secretary, Assistants, and office personnel.

Provisos.
Salaries limited to average rates under Classification Act.
Vol. 42, p. 1488; Vol. 46, p. 1003.
U. S. C., p. 65; Supp. VI, p. 31.

Exception.
Not applicable to clerical-mechanical service.

No reduction in fixed salaries.
Vol. 42, p. 1490; Vol. 46, p. 1005.

Transfers to another position without reduction.

Higher salary rates permitted.

If only one position in a grade.

OFFICE OF CHIEF CLERK AND SUPERINTENDENT

Chief clerk's office.

Salaries: For the chief clerk, who shall be the chief executive officer of the department and who may be designated by the Secretary of the Treasury to sign official papers and documents during the tem-

Chief clerk, and office personnel.

Operating force, department buildings.

porary absence of the Secretary, Under Secretary, and Assistant Secretaries of the department, and for other personal services in the District of Columbia, including the operating force of the Treasury, Liberty Loan, and Auditors' Buildings and the Treasury Department Annex, Pennsylvania Avenue and Madison Place, and of other buildings under the control of the Treasury Department, \$514,285.

CONTINGENT EXPENSES, TREASURY DEPARTMENT

Department contingent expenses.

Operating expenses, department buildings. Reference books, periodicals, etc. Freight, etc.

For miscellaneous and contingent expenses of the office of the Secretary and the bureaus and offices of the department, including operating expenses of the Treasury, Treasury Annex, Auditors' and Liberty Loan Buildings; newspaper clippings, financial journals, law books, and other books of reference; freight, expressage, telegraph and telephone service; purchase and exchange of motor trucks and one passenger automobile for the Secretary of the Treasury, and maintenance and repair of motor trucks and two passenger automobiles (one for the Secretary of the Treasury and one for general use of the department), all to be used for official purposes only; file holders and cases; fuel, oils, grease, and heating supplies and equipment; gas and electricity for lighting, heating, and power purposes, including material, fixtures, and equipment therefor; purchase, exchange, and repair of typewriters and labor-saving machines and equipment and supplies for same; floor coverings and repairs thereto; furniture and office equipment, including supplies therefor and repairs thereto; awnings, window shades, and fixtures; cleaning supplies and equipment; drafting equipment; ammonia for ice plant; flags; hand trucks, ladders; miscellaneous hardware; street-car fares not exceeding \$500; thermometers; lavatory equipment and supplies; tools and sharpening same; laundry service; laboratory supplies and equipment, removal of rubbish, postage, and other absolutely necessary articles, supplies, and equipment not otherwise provided for, \$180,000: *Provided*, That the appropriations for the Public Debt Service and Internal Revenue Service for the fiscal year 1934 are hereby made available for the payment of items otherwise properly chargeable to this appropriation, the provisions of section 6, Act of August 23, 1912 (U. S. C., title 31, sec. 669), to the contrary notwithstanding.

Fuel, etc. Lighting, etc.

Furniture, etc.

Proviso. Other funds available. Vol. 37, p. 414. U. S. C., p. 1019.

Division of Supply.

DIVISION OF SUPPLY

Chief, and other personal services.

Salaries: For the Chief, Division of Supply, and other personal services in the District of Columbia, \$178,704.

Printing and binding.

Printing and binding: For printing and binding for the Treasury Department, including all of its bureaus, offices, institutions, and services located in Washington, District of Columbia, and elsewhere, including materials for the use of the bookbinder located in the Treasury Department, but not including work done at the New York customhouse bindery authorized by the Joint Committee on Printing in accordance with the Act of March 1, 1919 (U. S. C., title 44, sec. 111), \$575,000.

Work excluded. Vol. 40, p. 1270. U. S. C., p. 1421.

Stationery.

Stationery: For stationery for the Treasury Department and its several bureaus and offices, and field services thereof, including tags, labels, and index cards, printed in the course of manufacture, packing boxes and other materials necessary for shipping stationery supplies, and cost of transportation of stationery supplies purchased free on board point of shipment and of such supplies shipped from Washington to field offices, \$325,000.

GENERAL SUPPLY COMMITTEE

For personal services in the District of Columbia not exceeding \$148,500; necessary expenses, including two one-ton trucks, office supplies and materials, maintenance of motor trucks, telegrams, telephone service, traveling expenses, office equipment, fuel, light, electric current, and other necessary expenses for carrying into effect regulations governing the transfer and disposition of supplies and unusable Government materials, supplies, and equipment in the District of Columbia; in all, \$160,000: *Provided*, That advance payments may be made by the heads of executive departments and independent establishments to the general supply fund authorized by the Act approved February 27, 1929 (U. S. C., Supp. V, title 41, sec. 7c), of all or any part of the estimated amount of their purchases through such fund during the fiscal year 1934, and so much of these advances as are not needed to meet the cost of purchases made during the year shall be transferred from the fund back to the appropriation from which originally transferred: *Provided further*, That not to exceed \$5,000 of the general supply fund may be used during the fiscal year 1934 for the purpose of reimbursing, when necessary, other departments and establishments for services rendered in the inspection of supplies procured through the General Supply Committee during that fiscal year, the cost of such inspections to be added to the cost of the supplies when billing the requisitioning departments for them.

Repairs to typewriting machines (except bookkeeping and billing machines) in the Government service in the District of Columbia may be made at cost by the General Supply Committee, payment therefor to be effected by charging the proper appropriation and crediting the appropriation "Salaries and expenses, General Supply Committee."

No part of any money appropriated by this or any other Act shall be used during the fiscal year 1934 for the purchase of any standard typewriting machines, except bookkeeping and billing machines, at a price in excess of the following for models with carriages which will accommodate paper of the following widths, to wit: Ten inches (correspondence¹ models), \$70; twelve inches, \$75; fourteen inches, \$77.50; sixteen inches, \$82.50; eighteen inches, \$87.50; twenty inches, \$94; twenty-two inches, \$95; twenty-four inches, \$97.50; twenty-six inches, \$103.50; twenty-eight inches, \$104; thirty inches, \$105; thirty-two inches, \$107.50; or, for standard typewriting machines distinctively quiet in operation, the maximum prices shall be as follows for models with carriages which will accommodate paper of the following widths, to wit: Ten inches, \$80; twelve inches, \$85; fourteen inches, \$87.50; eighteen inches, \$95: *Provided*, That standard typewriting machines distinctively quiet in operation purchased during such fiscal year by any such department, establishment, or municipal government shall only be purchased on the written order of the head thereof.

OFFICE OF COMMISSIONER OF ACCOUNTS AND DEPOSITS

For Commissioner of Accounts and Deposits and other personal services in the District of Columbia, \$99,087.

For books of reference, law books, books on finance, technical and scientific books, newspapers, and periodicals, for expenses incurred in completing imperfect series, for library cards, supplies, and for all other necessary expenses, \$1,000.

General Supply
Committee.
Salaries and ex-
penses.

Proviso.
Advance payments.

Vol. 45, p. 1342.
U. S. C., Supp. VI,
p. 765.

Unused sums re-
turned to original ap-
propriations.

Reimbursing, for in-
spection services.

Typewriter repairs.

Typewriting, etc.,
machines.

Prices of standard
machines established
for 1934.

Proviso.
Quiet machines.

Accounts and Depos-
its Office.

Commissioner, and
office personnel.

Reference books, pe-
riodicals, etc.

¹ So in original.

Bookkeeping and
Warrants Division.

DIVISION OF BOOKKEEPING AND WARRANTS

Chief, and office per-
sonnel.

For the chief of the division, and other personal services in the District of Columbia, \$153,584.

Contingent expenses,
public moneys.R. S., sec. 3653, p.
719.
U. S. C., p. 1010.

Contingent expenses, public moneys: For contingent expenses under the requirements of section 3653 of the Revised Statutes (U. S. C., title 31, sec. 545), for the collection, safe-keeping, transfer, and disbursement of the public money, transportation of notes, bonds, and other securities of the United States, salaries of special agents, actual expenses of examiners detailed to examine the books, accounts and money on hand at the several depositories, including national banks acting as depositories under the requirements of section 3649 of the Revised Statutes (U. S. C., title 31, sec. 548), also including examinations of cash accounts at mints and cost of insurance on shipments of money by registered mail when necessary, \$130,000.

Examination of de-
positories.R. S., sec. 3649, p. 718.
U. S. C., p. 1010.

Public Debt Service.

PUBLIC DEBT SERVICE

Commissioner, per-
sonnel and other serv-
ices.

For necessary expenses connected with the administration of any public debt issues and United States paper currency issues with which the Secretary of the Treasury is charged, including the purchase of law books, directories, books of reference, pamphlets, periodicals, and newspapers, and including the Commissioner of the Public Debt and other personal services in the District of Columbia, \$2,150,000: *Provided*, That the amount to be expended for personal services in the District of Columbia shall not exceed \$2,125,000: *Provided further*, That the indefinite appropriation "Expenses of loans, Act of September 24, 1917, as amended and extended" (U. S. C., title 31, secs. 760, 761), shall not be used during the fiscal year 1934 to supplement the appropriation herein made for the current work of the Public Debt Service.

Reference books, etc.

Provisos.
Services in the Dis-
trict.Use of indefinite ap-
propriation.
Vol. 40, p. 292.
U. S. C., p. 1027.

Provided further, That the indefinite appropriation "Expenses of loans, Act of September 24, 1917, as amended and extended" (U. S. C., title 31, secs. 760, 761), shall not be used during the fiscal year 1934 to supplement the appropriation herein made for the current work of the Public Debt Service.

Distinctive paper for
securities.
Quantity authorized.

Distinctive paper for United States securities: For distinctive paper for United States currency, national-bank currency, and Federal reserve bank currency, not exceeding two million pounds, including transportation of paper, traveling, mill, and other necessary expenses, and salaries of employees, and allowance, in lieu of expenses, of officer or officers detailed from the Treasury Department, not exceeding \$50 per month each when actually on duty; in all, \$550,000: *Provided*, That no part of this appropriation shall be expended for the purchase of such paper at a price per pound in excess of 32¼ cents: *Provided further*, That in order to foster competition in the manufacture of distinctive paper for United States securities, the Secretary of the Treasury is authorized, in his discretion, to split the award for such paper for the fiscal year 1934 between the two bidders whose prices per pound are the lowest received after advertisement, but not in excess of the price fixed herein.

Provisos.
Price limitation.

Division of awards.

Cumulative sinking
fund.
Additional authoriza-
tions.*Ante*, p. 724.

Addition to cumulative sinking fund (section 308 of Emergency Relief and Construction Act of 1932): To carry into effect the provisions of section 308 of the Emergency Relief and Construction Act of 1932, approved July 21, 1932 (47 Stat., p. 709), there is hereby appropriated for the fiscal year 1934, out of any money in the Treasury not otherwise appropriated, for the purposes of the cumulative sinking fund provided in section 6 of the Victory Liberty Loan Act, as amended, in addition to amounts otherwise appropriated, a sum equal to 2½ per centum of the aggregate of the expenditures during the fiscal year 1933 from appropriations made or authorized in sections 301 and 302, Title III, of the Emergency Relief and Construction Act of 1932.

Vol. 40, p. 1311.

Construction of pub-
lic works.*Ante*, pp. 716, 720.

DIVISION OF APPOINTMENTS

Appointments Division.

Salaries: For the chief of the division, and other personal services in the District of Columbia, \$42,570.

Chief, and office personnel.

OFFICE OF DISBURSING CLERK

Salaries: For the disbursing clerk and other personal services in the District of Columbia, \$50,362.

Disbursing clerk, and office personnel.

BUREAU OF CUSTOMS

Customs Bureau.

Collecting the revenue from customs: For collecting the revenue from customs, for the detection and prevention of frauds upon the customs revenue, and not to exceed \$10,000 for the securing of evidence of violations of the customs laws, for expenses of transportation and transfer of customs receipts from points where there are no Government depositories, not to exceed \$35,000 for allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, title 5, sec. 118a), but not to exceed \$720 for any one person, not to exceed \$5,000 for the hire of motor-propelled passenger-carrying vehicles, not to exceed \$500 for subscriptions to newspapers, and including the purchase (not to exceed \$25,000), exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles when necessary for official use in field work, \$19,900,000, of which such amount as may be necessary shall be available for the cost of seizure, storage and disposition of any merchandise, vehicle and team, automobile, boat, air or water craft, or any other conveyance seized under the provisions of the customs laws, and \$435,000 shall be available for personal services in the District of Columbia exclusive of ten persons from the field force authorized to be detailed under section 525 of the Tariff Act of 1930: *Provided*, That no part of this appropriation shall be expended for maintenance or repair of motor-propelled passenger-carrying vehicles for use in the District of Columbia except one for use in connection with the work of the customhouse in Georgetown.

Collecting customs revenue.

Transfer of receipts from points lacking Government depositories.

Living quarters, allowances, etc.

U. S. C., Supp. VI, p. 20. Vehicles, newspapers, etc.

Expenses of seizures, under customs laws.

Services in the District. Field details. Vol. 46, p. 741.

Proviso. Motor vehicle restriction.

BUREAU OF THE BUDGET

Bureau of the Budget.

Salaries and expenses: Director, Assistant Director, and all other necessary expenses of the bureau, including compensation of attorneys and other employees in the District of Columbia; contract stenographic reporting services, telegrams, telephone service, law books, books of reference, periodicals, stationery, furniture, office equipment, other supplies, traveling expenses, street-car fares; \$145,700.

Director, Assistant, personnel, and other expenses.

For printing and binding, \$32,000.

Printing and binding.

FEDERAL FARM LOAN BUREAU

Federal Farm Loan Bureau.

SALARIES AND EXPENSES

For six members of the board and other personal services in the District of Columbia and in the field; traveling expenses of the members of the board and its officers and employees; contingent and miscellaneous expenses, including law books, books of reference, periodicals, newspapers, and maps; contract stenographic reporting services, and expert services for the preparation of amortization tables; examination of national farm loan associations; and for the expenses of registrars' offices, including rent and miscellaneous items;

Members of board, office and field forces.

Contingent expenses.

Services in the District.
Proviso.
Examiners' expenses to be assessed against land banks, etc.

in all, \$900,000, of which not more than \$400,000 may be used for personal services in the District of Columbia: *Provided*, That the amount of the expenses and salaries of the employees engaged in the work of the division of examinations of the Federal Farm Loan Bureau shall be assessed in accordance with the provisions of existing law by the Federal Farm Loan Board against Federal land banks, joint-stock land banks and Federal intermediate credit banks, and the proceeds covered into the Treasury as miscellaneous receipts.

Cooperation of Register's office permitted.

At the request of the Federal Farm Loan Board, whenever in its opinion the expense will be reduced thereby, the work in Washington incident to the verification for destruction of paid and canceled intermediate credit bank debentures, farm loan bonds and coupons thereof, may, with the approval of the Secretary of the Treasury, be performed by the office of the Register of the Treasury, and the appropriation from which salaries of employees in the office of the Register of the Treasury are paid may be reimbursed from this appropriation for the actual expense of such work.

Reimbursement for service rendered.

Treasurer's office.

OFFICE OF TREASURER OF THE UNITED STATES

Treasurer, Assistant, and office personnel.

Salaries: For Treasurer of the United States, Assistant Treasurer, and for other personal services in the District of Columbia \$1,145,840.

Redeeming Federal reserve and national currency.

For personal services in the District of Columbia, in redeeming Federal reserve and national currency, \$332,746, to be reimbursed by the Federal reserve and national banks.

Office of Comptroller of the Currency.

OFFICE OF THE COMPTROLLER OF THE CURRENCY

Comptroller, and office personnel.

Salaries: Comptroller of the Currency and other personal services in the District of Columbia, \$240,460.

Federal reserve and national currency.
Personal services; reimbursable.

For personal services in the District of Columbia in connection with Federal reserve and national currency, \$51,280, to be reimbursed by the Federal reserve and national banks.

Internal Revenue Bureau.

BUREAU OF INTERNAL REVENUE

Collecting internal revenue.
Commissioner, general counsel, and office and field personnel.

Collecting the internal revenue: For expenses of assessing and collecting the internal-revenue taxes, including the Commissioner of Internal Revenue, general counsel for the Bureau of Internal Revenue, an assistant to the commissioner, a special deputy commissioner, three deputy commissioners, one stamp agent (to be reimbursed by the stamp manufacturers), and the necessary officers, collectors, deputy collectors, attorneys, experts, agents, accountants, inspectors, clerks, janitors, and messengers in the District of Columbia, the several collection districts, and the several divisions of internal-revenue agents, to be appointed as provided by law, telegraph and telephone service, rental of quarters outside the District of Columbia, postage, freight, express, necessary expenses incurred in making investigations in connection with the enrollment or disbarment of practitioners before the Treasury Department in internal-revenue matters, expenses of seizure and sale, and other necessary miscellaneous expenses, including stenographic reporting services, and the purchase of such supplies, equipment, furniture, mechanical devices, law books and books of reference, and such other articles as may be necessary for use in the District of Columbia, the several collection districts, and the several divisions of internal-revenue agents, \$30,800,000, of which amount not to exceed \$8,275,000 may be expended for personal services in the District of Columbia: *Provided*, That no part of this amount shall be used in defraying the expenses of any officer designated above, subpoenaed by the United States court to attend any trial before a United States court or preliminary

Outside rent.
Miscellaneous.

Services in the District.
Provisos.
Witness fees.

examination before any United States commissioner, which expenses shall be paid from the appropriation for "Fees of witnesses, United States courts": *Provided further*, That not more than \$100,000 of the total amount appropriated herein may be expended by the Commissioner of Internal Revenue for detecting and bringing to trial persons guilty of violating the internal revenue laws or conniving at the same, including payments for information and detection of such violation.

Refunding taxes illegally or erroneously collected: For refunding taxes illegally or erroneously collected, as provided by law, including the payment of claims for the fiscal year 1934 and prior years, \$55,000,000: *Provided*, That a report shall be made to Congress by internal-revenue districts and alphabetically arranged of all disbursements hereunder in excess of \$500 as required by section 3 of the Act of May 29, 1928 (U. S. C., Supp. V, title 26, sec. 149), including the names of all persons and corporations to whom such payments are made, together with the amount paid to each.

BUREAU OF INDUSTRIAL ALCOHOL

Salaries and expenses: For expenses to administer the applicable provisions of the National Prohibition Act as amended and supplemented (U. S. C., title 27) and internal revenue laws, pursuant to the Act of March 3, 1927 (U. S. C., Supp. V, title 5, secs. 281-281e), and the Act of May 27, 1930 (U. S. C., Supp. V, title 27, secs. 103-108), including the employment of executive officers, attorneys, inspectors, chemists, assistant chemists, supervisors, storekeeper-gaugers, clerks, messengers, and other necessary employees in the field and in the Bureau of Industrial Alcohol in the District of Columbia, to be appointed as authorized by law; the securing of evidence of violations of the Acts; the cost of chemical analyses made by others than employees of the United States and expenses incident to such chemists testifying when necessary; the purchase of such supplies, equipment, mechanical devices, laboratory supplies, books, and such other expenditures as may be necessary in the several field offices; cost of acquisition and maintenance of automobiles delivered to the Secretary of the Treasury for use in administration of the law under his jurisdiction; hire, maintenance, repair, and operation of motor-propelled or horse-drawn passenger-carrying vehicles when necessary, for official use in field work; and for rental of necessary quarters; in all, \$4,000,000, of which amount not to exceed \$325,000 may be expended for personal services in the District of Columbia: *Provided*, That for purpose of concentration, upon the initiation of the Commissioner of Industrial Alcohol and under regulations prescribed by him, distilled spirits may be removed from any internal-revenue bonded warehouse to any other such warehouse, and may be bottled in bond in any such warehouse before or after payment of the tax, and the commissioner shall prescribe the form and penal sum of bond covering distilled spirits in internal-revenue bonded warehouses and in transit between such warehouses.

BUREAU OF NARCOTICS

Salaries and expenses: For expenses to enforce the Act of December 17, 1914 (U. S. C., title 26, sec. 211), as amended by the Revenue Act of 1918 (U. S. C., title 26, secs. 691-708), the Act approved February 9, 1909, as amended by the Act of May 26, 1922 (U. S. C., title 21, secs. 171-184), known as the Narcotic Drugs Import and Export Act, pursuant to the Act of March 3, 1927 (U. S. C., Supp. V, title 5, secs. 281-281e), and the Act of June 14, 1930 (U. S. C.,

Detection and prosecution of revenue law violations.

Refunding taxes.

Proviso.
Detailed report to Congress.
Vol. 45, p. 906.
Note. p. 219.
U. S. C., Supp. VI, p. 412.

Industrial Alcohol Bureau.

Salaries and expenses.
Vol. 41, p. 305; Vol. 42, p. 222; Vol. 44, p. 1381; Vol. 45, p. 430.
U. S. C., p. 853; Supp. VI, pp. 24, 596.

Field service.

Vehicles.

Services in the District.

Proviso.
Distilled spirits may be removed to warehouse for bottling in bond.

Narcotics Bureau.

Salaries and expenses.
Vol. 38, p. 785; Vol. 40, p. 1130; Vol. 35, p. 614; Vol. 42, p. 596.
U. S. C., pp. 635, 742, 785.
Vol. 44, p. 1381; Vol. 45, p. 585.
U. S. C., Supp. VI, pp. 24, 25.

Executive officers, personnel, etc. Supp. V, title 5, secs. 282-282c), including the employment of executive officers, attorneys, agents, inspectors, chemists, supervisors, clerks, messengers, and other necessary employees in the field and in the Bureau of Narcotics in the District of Columbia, to be appointed as authorized by law; the securing of evidence of violations of the Acts; the costs of chemical analyses made by others than employees of the United States; the purchase of such supplies, equipment, mechanical devices, books, and such other expenditures as may be necessary in the several field offices; cost incurred by officers and employees of the Bureau of Narcotics in the seizure, storage, and disposition of property under the internal revenue laws when the same is disposed of under section 3460, Revised Statutes (U. S. C., title 26, sec. 1193); hire, maintenance, repair, and operation of motor-propelled or horse-drawn passenger-carrying vehicles when necessary for official use in field work; and for rental of necessary quarters; in all, \$1,400,000, of which amount not to exceed \$185,000 may be expended for personal services in the District of Columbia: *Provided*, That the Secretary of the Treasury may authorize the use by narcotic agents of motor vehicles confiscated under the provisions of the Act of March 3, 1925 (U. S. C., title 27, sec. 43) as amended, and to pay the cost of acquisition, maintenance, repair, and operation thereof: *Provided further*, That not exceeding \$10,000 may be expended for the collection and dissemination of information and appeal for law observance and law enforcement, including cost of printing, purchase of newspapers, and other necessary expenses in connection therewith and not exceeding \$1,500 for attendance at meetings concerned with the work of the Bureau of Narcotics: *Provided further*, That moneys expended from this appropriation for the purchase of narcotics and subsequently recovered shall be deposited in the Treasury to the credit of the appropriation for enforcement of the narcotic Acts current at the time of the deposit.

Securing evidence of law violations. Chemical analyses.

Seizures, etc. R. S., sec. 3460, p. 685. U. S. C., p. 846.

Provisos. Use of forfeited vehicles, etc. Vol. 43, p. 1116. U. S. C., p. 858.

Law observance information.

Credits for sums expended, etc.

Coast Guard.

COAST GUARD

Office personnel.

Office of the commandant: For personal services in the District of Columbia, \$341,000.

Technical services.

The services of skilled draftsmen and such other technical services as the Secretary of the Treasury may deem necessary may be employed only in the office of the Coast Guard in connection with the construction and repair of Coast Guard vessels and boats, to be paid from the appropriation "Repairs to Coast Guard vessels": *Provided*, That the expenditures on this account for the fiscal year 1934 shall not exceed \$11,100. A statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the Budget.

Proviso. Limitation, etc.

Report to Congress.

Service expenditures.

For every expenditure requisite for and incident to the authorized work of the Coast Guard, including the expense of maintenance, repair, and operation of vessels forfeited to the United States and delivered to the Treasury Department under the terms of the Act approved March 3, 1925 (U. S. C., title 27, sec. 41), and the maintenance, repair, and operation of two motor-propelled passenger-carrying vehicles, to be used only for official purposes in the field, as follows:

Vol. 43, p. 1116. U. S. C., p. 858.

Pay, etc., officers and enlisted men.

For pay and allowances prescribed by law for commissioned officers, cadets, warrant officers, petty officers, and other enlisted men, active and retired, temporary cooks, surfmen, substitute surfmen, and two civilian instructors, and not exceeding \$6,000 for cash prizes for men for excellence in gunnery, target practice, and engineering competitions, for carrying out the provisions of the Act of June 4, 1920 (U. S. C., title 34, sec. 943), rations or commutation thereof for cadets,

Death allowance. Vol. 41, p. 824. U. S. C., p. 1143.

petty officers, and other enlisted men, mileage and expenses allowed by law for officers; and traveling expenses for other persons traveling on duty under orders from the Treasury Department, including transportation of enlisted men and applicants for enlistment, with subsistence and transfers en route, or cash in lieu thereof, expenses of recruiting for the Coast Guard, rent of rendezvous, and expenses of maintaining the same; advertising for and obtaining men and apprentice seamen; transportation and packing allowances for baggage or household effects of commissioned officers, warrant officers, and enlisted men, \$18,900,000;

For fuel, lubricating oil, kerosene, and water for vessels, stations, and houses of refuge, \$1,825,000;

For outfits, including repairs to portable equipment at shore units, ship chandlery, engineers' stores, and draft animals and their maintenance, \$1,800,000;

For rebuilding and repairing stations and houses of refuge, temporary leases, rent, and improvements of property for Coast Guard purposes, including use of additional land where necessary, \$327,040;

For coastal communication lines and facilities and their maintenance, and communication service, \$140,000;

For compensation of civilian employees in the field, including clerks to district commanders, \$94,910;

For contingent expenses, including subsistence of shipwrecked and destitute persons succored by the Coast Guard and of prisoners while in the custody of the Coast Guard; for the recreation, amusement, comfort, contentment, and health of the enlisted men of the Coast Guard, to be expended in the discretion of the Secretary of the Treasury, not exceeding \$40,000; instruments and apparatus, supplies, technical books and periodicals, services necessary to the carrying on of scientific investigation, and not exceeding \$4,000 for experimental and research work; care, transportation, and burial of deceased officers and enlisted men, including those who die in Government hospitals; wharfage, towage, freight, storage, advertising, surveys, medals, labor, newspapers, and periodicals for statistical purposes, and all other necessary expenses which are not included under any other headings, \$225,000;

For repairs to Coast Guard vessels and boats, \$2,000,000;

For retired pay for certain members of the former Life-Saving Service authorized by the Act entitled "An Act providing for retired pay for certain members of the former Life-Saving Service, equivalent to compensation granted to members of the Coast Guard," approved April 14, 1930 (U. S. C., Supp. V, title 14, sec. 178a), \$120,000;

Total, Coast Guard, exclusive of commandant's office, \$25,431,950.

BUREAU OF ENGRAVING AND PRINTING

For the work of engraving and printing, exclusive of repay work, during the fiscal year 1934, of not exceeding 58,500,000 delivered sheets of United States currency and national-bank currency, 93,675,486 delivered sheets of internal-revenue stamps including opium orders and special-tax stamps required under the Act of December 17, 1914 (U. S. C., title 26, sec. 211), 2,614,769 delivered sheets of withdrawal permits, and 10,014,197 delivered sheets of checks, drafts, and miscellaneous work, as follows:

For the director, two assistant directors, and other personal services in the District of Columbia, including wages of rotary press plate printers at per diem rates and all other plate printers at piece

Fuel and water.

Outfits, stores, etc.

Stations, houses of refuge, etc.

Coastal communication.

Civilian field employees.

Contingent expenses.

Custody of prisoners.

Repairs to vessels. Life Saving Service.

Retired pay for former members of. Vol. 46, p. 164. U. S. C., Supp. VI, p. 159.

Engraving and Printing Bureau.

Work authorized for fiscal year 1934.

Vol. 38, p. 786. U. S. C., pp. 742, 786.

Director, assistants, and office personnel. Wages.

Materials, etc. rates to be fixed by the Secretary of the Treasury, not to exceed the rates usually paid for such work; for engravers' and printers' materials and other materials, including distinctive and nondistinctive paper, except distinctive paper for United States currency, national-bank currency and Federal reserve bank currency; equipment of, repairs to, and maintenance of buildings and grounds and for minor alterations to buildings; directories, technical books and periodicals, and books of reference, not exceeding \$300; rent of warehouse in the District of Columbia; traveling expenses not to exceed \$2,000; equipment, maintenance, and supplies for the emergency room for the use of all employees in the Bureau of Engraving and Printing who may be taken suddenly ill or receive injury while on duty; miscellaneous expenses, including not to exceed \$1,500 for articles approved by the Secretary of the Treasury as being necessary for the protection of the person of employees; for transfer to the Bureau of Standards for scientific investigations in connection with the work of the Bureau of Engraving and Printing, not to exceed \$15,000; and for the maintenance and driving of two motor-propelled passenger-carrying vehicles; \$5,060,680, to be expended under the direction of the Secretary of the Treasury.

Books of reference, periodicals, etc.

Emergency room.

Miscellaneous.

Scientific investigations by Standards Bureau.

Vehicles.

Proceeds of work to be credited to bureau.

During the fiscal year 1934 all proceeds derived from work performed by the Bureau of Engraving and Printing, by direction of the Secretary of the Treasury, not covered and embraced in the appropriation for such bureau for such fiscal year, instead of being covered into the Treasury as miscellaneous receipts, as provided by the Act of August 4, 1886 (U. S. C., title 31, sec. 176), shall be credited when received to the appropriation for said bureau for the fiscal year 1934.

Vol. 24, p. 227.
U. S. C., p. 986.

Secret Service Division.

SECRET SERVICE DIVISION

Chief, and office personnel.

Salaries: For the chief of the division and other personal services in the District of Columbia, \$30,842.

Suppressing counterfeiting, etc.

Suppressing counterfeiting and other crimes: For expenses incurred under the authority or with the approval of the Secretary of the Treasury in detecting, arresting, and delivering into the custody of the United States marshal having jurisdiction dealers and pretended dealers in counterfeit money and persons engaged in counterfeiting, forging, and altering United States notes, bonds, national-bank notes, Federal reserve notes, Federal reserve bank notes, and other obligations and securities of the United States and for foreign governments, as well as the coins of the United States and of foreign governments, and other crimes against the laws of the United States relating to the Treasury Department and the several branches of the public service under its control; hire, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles when necessary; purchase of arms and ammunition; traveling expenses; and for no other purpose whatever, except in the performance of other duties specifically authorized by law, and in the protection of the person of the President and the members of his immediate family and of the person chosen to be President of the United States, \$539,984: *Provided*, That no part of this amount shall be used in defraying the expenses of any person subpoenaed by the United States courts to attend any trial before a United States court or preliminary examination before any United States commissioner, which expenses shall be paid from the appropriation for "Fees of witnesses, United States courts."

Protection of the person of the President, etc.

Proviso.
Witness fees.

White House police.
Salaries.

White House police: Captain, lieutenant, three sergeants, and forty-three privates, at rates of pay provided by law; in all, \$105,412.

For uniforming and equipping the White House police, including the purchase, issue, and repair of revolvers and the purchase and issue of ammunition and miscellaneous supplies, to be procured in such manner as the President in his discretion may determine, \$3,000.

Uniforms, equipment, etc.

PUBLIC HEALTH SERVICE

Salaries, office of Surgeon General: For personal services in the District of Columbia, \$307,890.

Public Health Service.

Office personnel.

For pay, allowance, and commutation of quarters for regular commissioned medical officers, including the Surgeon General and assistant surgeons general and for other regular commissioned officers, \$1,528,393.

Pay, allowances, etc., Surgeon General, officers, etc.

For pay of acting assistant surgeons (noncommissioned medical officers), \$325,400.

Acting assistant surgeons.

For pay of all other employees (attendants, and so forth), \$1,017,750.

Other employees.

For freight, transportation, and traveling expenses, including allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, Title V, sec. 118a), not to exceed \$7,635 but not to exceed \$720 for any one person; the expenses, except membership fees, of officers when officially detailed to attend meetings of associations for the promotion of public health, and the packing, crating, drayage, and transportation of the personal effects of commissioned officers, scientific personnel, pharmacists, and nurses of the Public Health Service, upon permanent change of station, \$36,175: *Provided*, That funds expendable for transportation and traveling expenses may also be used for preparation for shipment and transportation to their former homes of remains of officers who die in line of duty.

Freight, transportation, etc.

Vol. 46, p. 818.
U. S. C., Supp. VI,
p. 20.

Proviso.
Transporting remains of officers, etc.

For maintaining the National Institute of Health, \$54,775.

National Institute of Health.

Books.

Medical examinations, etc.

Vol. 39, p. 885.

U. S. C., p. 137.

For journals and scientific books, office of Surgeon General, \$500.

For medical examinations, including the amount necessary for the medical inspection of aliens, as required by section 16 of the Act of February 5, 1917 (U. S. C., title 8, sec. 152), medical, surgical, and hospital services and supplies, including prosthetic and orthopedic supplies to be furnished under regulations approved by the Secretary of the Treasury, for beneficiaries (other than patients of the Veterans' Administration) of the Public Health Service and persons detained in hospitals of the Public Health Service under the immigration laws and regulations, including necessary personnel and reserve commissioned officers of the Public Health Service, personal services in the District of Columbia and elsewhere, including the furnishing and laundering of white duck coats, trousers, smocks, aprons, and caps to employees whose duties make necessary the wearing of same, maintenance, minor repairs, equipment, leases, fuel, lights, water, freight, transportation and travel, the maintenance, exchange, and operation of motor trucks and passenger motor vehicles for official use in field work (including not to exceed \$3,000 for the purchase of motor-propelled passenger-carrying vehicles) and one for use in connection with the administrative work of the Public Health Service in the District of Columbia, purchase of ambulances, transportation, care, maintenance, and treatment of lepers, including transportation to their homes in the continental United States of recovered indigent leper patients, court costs, and other expenses incident to proceedings heretofore or hereafter taken for commitment of mentally incompetent persons to hospitals for the care and treatment of the insane, and reasonable burial expenses (not exceed-

Services in the District.

General expenses.

Lepers, transportation, care, etc.

Insane, etc.

Provisos.
Use of Ellis Island
hospitals.

ing \$100 for any patient dying in hospital), \$5,600,000: *Provided*, That the Immigration Service shall permit the Public Health Service to use the hospitals at Ellis Island Immigration Station for the care of Public Health Service patients free of expense for physical upkeep, but with a charge of actual cost of fuel, light, water, telephone, and similar supplies and services, to be covered into the proper Immigration Service appropriations; and money collected by the Immigration Service on account of hospital expenses of persons detained in hospitals of the Public Health Service under the immigration laws and regulations shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That no part of this sum shall be used for the quarantine service, the prevention of epidemics, or scientific work of the character provided for under the appropriations which follow.

Receipts covered in.

Uses forbidden.

Disposal of receipts.

All sums received by the Public Health Service during the fiscal year 1934, except allotments and reimbursements on account of patients of the Veterans' Administration, allotments and reimbursements on account of medical and other services to the Federal penal and correctional institutions of the Department of Justice, under the provisions of the Act approved May 13, 1930 (U. S. C., Supp. V, title 18, secs. 751, 752), and amounts received under the provisions of sections 9 and 12 of the Act approved January 19, 1929 (U. S. C., Supp. V, title 21, secs. 229, 232), shall be covered into the Treasury as miscellaneous receipts.

Vol. 46, p. 273.
U. S. C., Supp. VI,
p. 249.
Vol. 45, pp. 1087,
1088.
U. S. C., Supp. VI,
pp. 353, 359.

Quarantine service.

Quarantine service: For maintenance and ordinary expenses, exclusive of pay of officers and employees, of United States quarantine stations, including the exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles for official use in field work and not to exceed \$3,500 for the purchase of motor-propelled passenger-carrying vehicles, \$475,000.

Prevention of epi-
demics.

Prevention of epidemics: To enable the President, in case only of threatened or actual epidemic of infectious or contagious disease, to aid State and local boards or otherwise in his discretion, in preventing and suppressing the spread of the same, and in such emergency in the execution of any quarantine laws which may be then in force, \$333,650, including the purchase of newspapers and clippings from newspapers containing information relating to the prevalence of disease and the public health.

Field investigations.

Field investigations: For investigations of diseases of man and conditions influencing the propagation and spread thereof, including sanitation and sewage, and the pollution of navigable streams and lakes of the United States, including personal service, and including the maintenance, repair, and operation of motor-propelled passenger-carrying vehicles for official use in field work, and not to exceed \$2,250 for the purchase and exchange of motor-propelled passenger-carrying vehicles, \$353,564.

Interstate quarantine
service.

Interstate quarantine service: For cooperation with State and municipal health authorities in the prevention of the spread of contagious and infectious diseases in interstate traffic, \$38,454.

Rural sanitation.

Rural sanitation: For special studies of, and demonstration work in, rural sanitation, including personal services, and including the maintenance, repair, and operation of motor-propelled passenger-carrying vehicles for official use in field work, \$150,000: *Provided*, That no part of this appropriation shall be available for demonstration work in rural sanitation in any community unless the State, county, or municipality in which the community is located agrees to pay one-half of the expenses of such demonstration work.

Proviso.
Local contribution
required.

Biologic products: To regulate the propagation and sale of viruses, serums, toxins, and analogous products, including arsphenamine, and for the preparation of curative and diagnostic biologic products, including personal services of reserve commissioned officers and other personnel, \$43,900.

Biologic products.
Regulating sale of
viruses, etc.

For the maintenance and expenses of the Division of Venereal Diseases, established by sections 3 and 4, Chapter XV, of the Act approved July 9, 1918 (U. S. C., title 42, secs. 24, 25), including personal and other services in the field and in the District of Columbia, \$75,000, of which amount not to exceed \$20,000 may be expended for personal services in the District of Columbia.

Venereal Diseases Di-
vision.
Maintenance, etc.
Vol. 40, p. 886.
U. S. C., p. 1315.

Division of Mental Hygiene: For expenses incident to carrying out the provisions of the Act approved June 14, 1930 (U. S. C., Supp. V, title 21, secs. 196-198), and of the Act approved January 19, 1929 (U. S. C., Supp. V, title 21, sec. 225), including personal services in the District of Columbia and elsewhere; freight, transportation, and traveling expenses, and the packing, crating, drayage, and transportation of the personal effects of the personnel of the Public Health Service upon permanent change of station; and including field studies and investigations incident to the establishment of narcotic farms; personal services of reserve commissioned officers and pharmacists; scientific and educational supplies; law books, books of reference, newspapers, and periodicals in the District of Columbia and elsewhere; and the furnishing and laundering of uniforms to employees whose duties make necessary the wearing of the same, including white duck coats, trousers, smocks, aprons, caps, and insignia or other devices for identification purposes, \$44,377.

Mental Hygiene
Division.
Vol. 46, pp. 585, 819;
Vol. 45, p. 1086.
U. S. C., Supp. VI,
pp. 357, 358.

Educational exhibits: For the preparation of public-health exhibits designed to demonstrate the cause, prevalence, methods of spread, and measures for preventing diseases dangerous to the public health, including personal services and the cost of acquiring, transporting, and displaying exhibit material, \$1,500.

Narcotic farms.

Educational exhibits.
For preventing
spread of diseases.

BUREAU OF THE MINT

Bureau of the Mint.

OFFICE OF DIRECTOR OF THE MINT

Salaries: For the Director of the Mint and other personal services in the District of Columbia, \$34,742.

Director, and office
personnel.

For transportation of bullion and coin, by registered mail or otherwise, between mints and assay offices, \$6,000.

Transporting bullion
and coin.

For contingent expenses of the Bureau of the Mint, to be expended under the direction of the director: For assay laboratory chemicals, fuel, materials, balances, weights, and other necessaries, including books, periodicals, specimens of coins, ores, and incidentals, \$700.

Contingent expenses.

For examination of mints, expense in visiting mints for the purpose of superintending the annual settlements, and for special examinations and for the collection of statistics relative to the annual production and consumption of the precious metals in the United States, \$5,400.

Examinations, etc.

MINTS AND ASSAY OFFICES

Mints and assay of-
fices.

For compensation of officers and employees of the mints at Philadelphia, Pennsylvania, San Francisco, California, Denver, Colorado, and New Orleans, Louisiana, and assay offices at New York, New York, and Seattle, Washington, and for incidental and contingent expenses, including traveling expenses, new machinery, and repairs, cases and enameling for medals manufactured, net

Employees, and
other designated ex-
penses.

wastage in melting and refining and in coining departments, loss on sale of sweeps arising from the treatment of bullion and the manufacture of coins, not to exceed \$500 for the expenses of the annual assay commission, and not exceeding \$1,000 in value of specimen coins and ores for the cabinet of the mint at Philadelphia, \$1,250,000.

Supervising Architect's office.

OFFICE OF SUPERVISING ARCHITECT

Public buildings.

PUBLIC BUILDINGS, CONSTRUCTION AND RENT

Construction, etc., of projects authorized.
Vol. 44, pp. 632, 633; Vol. 45, p. 137; Vol. 46, p. 1164.
U. S. C., Supp. VI, p. 757.

For commencement, continuation, or completion of construction in connection with any or all projects authorized under the provisions of sections 3 and 5 of the Public Buildings Act, approved May 25, 1926 (U. S. C., Supp. V, title 40, secs. 343-345), and the Acts amendatory thereof approved February 24, 1928 (U. S. C., Supp. V, title 40, sec. 345) and March 31, 1930 (U. S. C., Supp. IV, title 40, secs. 341-349), within the respective limits of cost fixed for such projects, \$50,000,000: *Provided*, That no part of this appropriation shall be used for work on the building for the Coast Guard or some other Government activity (Apex Building), authorized by Act of March 4, 1931 (46 Stat., p. 1605).

Proviso.
Coast Guard, etc., buildings.
Work discontinued.
Vol. 46, p. 1605.

Lexington, Ky., narcotic farm.
Washington, D. C.
National Institute of Health Building.
Post Office Building.

Lexington, Kentucky, Narcotic Farm: For continuation, \$1,300,000.
National Institute of Health Building, Washington, District of Columbia: For continuation, \$400,000.

Washington, District of Columbia, Post-Office Building: For continuation of extension, \$600,000.

Central heating plant.
Extension to Pan American Union Buildings, and Red Cross Building.
Vol. 46, p. 1604.
Proviso.
Reimbursement.

Washington, District of Columbia, central heating plant: The authorization contained in the Second Deficiency Act, fiscal year 1931, approved March 4, 1931, is hereby amended so as to include the Pan American Union Buildings, old and new, and the American Red Cross Building: *Provided*, That the Pan American Union and the American Red Cross agree (a) to reimburse the United States for the cost of connecting such buildings with the Government mains, and (b) to pay for heat furnished at such rates, not less than cost, as may be determined by the Secretary of the Treasury.

Temporary quarters, etc.

Rent of temporary quarters: For rent of temporary quarters and alterations of same for the accommodation of Government officials and moving expenses incident thereto, and the Secretary of the Treasury is hereby authorized to enter into leases for this purpose for periods not exceeding three years, \$900,000.

Repairs, equipment, etc.

PUBLIC BUILDINGS, REPAIRS, EQUIPMENT, AND GENERAL EXPENSES

Buildings under Treasury Department.

Repairs and preservation: For repairs and preservation of all completed and occupied public buildings and the grounds thereof under the control of the Treasury Department, and for wire partitions and fly screens therefor; Government wharves and piers under the control of the Treasury Department, together with the necessary dredging adjacent thereto; care of vacant sites under the control of the Treasury Department, such as necessary fences, filling dangerous holes, cutting grass and weeds, but not for any permanent improvements thereon; repairs and preservation of buildings not reserved by vendors on sites under the control of the Treasury Department acquired for public buildings or the enlargement of public buildings, the expenditures on this account for the current fiscal year not to exceed 15 per centum of the annual rental of such buildings: *Provided*, That of the sum herein appropriated not exceeding \$200,000 may be used for the repair and preservation of marine hospitals, the national leprosarium, and quarantine stations (including Marcus Hook) and completed and occupied outbuildings (including wire partitions and

Provisos.
Marine hospitals, quarantine stations, etc.

fly screens for same), and not exceeding \$24,000 for the Treasury, Treasury Annex, Liberty Loan, and Auditors' Buildings in the District of Columbia: *Provided further*, That this sum shall not be available for the payment of personal services except for work done by contract or for temporary job labor under exigency not exceeding at one time the sum of \$100 at any one building, \$850,000.

Mechanical equipment: For installation and repair of mechanical equipment in all completed and occupied public buildings under the control of the Treasury Department, including heating, hoisting, plumbing, gas piping, ventilating, vacuum cleaning, and refrigerating apparatus, electric-light plants, meters, interior pneumatic tube and intercommunicating telephone systems, conduit, wiring, call bell and signal systems, platform scales, and for maintenance and repair of tower clocks; for installation and repair of mechanical equipment, for any of the foregoing items, in buildings not reserved by vendors on sites under the control of the Treasury Department acquired for public buildings or the enlargements of public buildings, the total expenditures on this account for the current fiscal year not to exceed 10 per centum of the annual rentals of such buildings: *Provided*, That of the sum herein appropriated, not exceeding \$125,000 may be used for the installation and repair of mechanical equipment in marine hospitals, the national leprosarium, and quarantine stations (including Marcus Hook), and not exceeding \$38,000 for the Treasury, Treasury Annex, Liberty Loan, and Auditors' Buildings in the District of Columbia, but not including the generating plant and its maintenance in the Auditors' Building, and not exceeding \$10,000 for changes in, maintenance of, and repairs to the pneumatic-tube systems in New York City installed under franchise of the city of New York approved June 29, 1909, and June 11, 1928, and the payment of any obligations arising thereunder, in accordance with the authority of the Acts approved August 5, 1909 (36 Stat., p. 120), and May 15, 1928 (45 Stat., p. 533), authorizing the Secretary of the Treasury to enter into contracts with the city of New York to abide by the terms, conditions, and requirements of said franchises: *Provided further*, That this sum shall not be available for the payment of personal services except for work done by contract, or for temporary job labor under exigency not exceeding at one time the sum of \$100 at any one building, \$700,000.

Vaults and safes: For vaults and lock-box equipments and repairs thereto in all completed and occupied public buildings under the control of the Treasury Department, and for the necessary safe equipments and repairs thereto in all public buildings under the control of the Treasury Department, whether completed and occupied or in course of construction, exclusive of personal services, except for work done by contract or for temporary job labor under exigency not exceeding at one time the sum of \$50 at any one building, \$490,000.

General expenses: To enable the Secretary of the Treasury to execute and give effect to the provisions of section 6 of the Act of May 30, 1908 (U. S. C., title 31, sec. 683): For salaries of architectural, engineering, and technical personnel and inspectors in the District of Columbia and elsewhere, not otherwise provided for, not exceeding \$2,521,225; expenses of superintendence, including expenses of all inspectors and other officers and employees, on duty or detailed in connection with work on public buildings and the furnishing and equipment thereof, and the work of the Supervising Architect's Office, under orders from the Treasury Department; for the transportation of household goods, incident to change of headquarters of district engineers, construction engineers, inspection engineers, and inspectors, not in excess of five thousand pounds at any one time,

Treasury buildings.

Personal services restriction.

Mechanical equipment.

Heating, lighting, etc.

Provisions. Marine hospitals, quarantine stations, etc.

Treasury buildings, D. C.

Pneumatic tubes, New York City. Vol. 36, p. 120; Vol. 45, p. 533.

Contracts.

Personal service restriction.

Vaults and safes.

General expenses.

Vol. 35, p. 537. U. S. C., p. 1020.

Technical, etc., services.

Superintendence, etc.

Transporting effects, etc.

together with the necessary expense incident to packing and draying the same, not to exceed in any one year a total expenditure of \$10,000; office rent and expenses of field force, including temporary, stenographic, and other assistance, in the preparation of reports and the care of public property, and so forth, advertising, office supplies, including drafting materials, especially prepared paper, typewriting machines, adding machines, and other mechanical labor-saving devices, and exchange of same; furniture, carpets, electric-light fixtures, and office equipment; telegraph and telephone service; freight, expressage, and postage incident to shipments of drawings, furniture, and supplies for the field forces, testing instruments, and so forth, including articles and supplies not usually payable from other appropriations: *Provided*, That no expenditures shall be made hereunder for transportation of operating supplies for public buildings; not to exceed \$1,000 for books of reference, law books, technical periodicals and journals; not to exceed \$72,000 for the rental of additional quarters in the District of Columbia for the Office of the Supervising Architect and incidental expenses in connection with the occupancy of such quarters; ground rent at Salamanca, New York, for which payment may be made in advance; contingencies of every kind and description, traveling expenses of site agents, and of employees directed by the Secretary of the Treasury to attend meetings of technical and professional societies in connection with the work of the Office of the Supervising Architect, recording deeds and other evidences of title, photographic instruments, chemicals, plates, and photographic materials, and such other articles and supplies and such minor and incidental expenses not enumerated, connected solely with work on public buildings, the acquisition of sites, and the administrative work connected with the annual appropriations under the Supervising Architect's Office as the Secretary of the Treasury may deem necessary and specially order or approve, but not including heat, light, janitor service, awnings, curtains, or any expenses for the general maintenance of the Treasury Building, or surveys, plaster models, progress photographs, test-pit borings, or mill and shop inspections, \$3,043,525, of which amount not to exceed \$1,283,000 may be expended for personal services in the District of Columbia.

Outside professional services: To enable the Secretary of the Treasury to obtain outside professional and/or technical services, as provided by the Public Buildings Act approved May 25, 1926 (U. S. C., Supp. V, title 40, sec. 342), and by the Act approved March 31, 1930 (46 Stat., p. 137), and to pay reasonable compensation for such services, and to employ appraisers, when necessary, by contract or otherwise, \$1,900,000, to remain available until expended.

Office rent, field supplies, etc.

Provisos.
Transporting operating supplies excluded.

Other contingencies.
Salamanca, N. Y.

Objects excluded.

Outside professional services.
Vol. 44, p. 631; Vol. 46, p. 137.
U. S. C., Supp. VI, p. 758.

Operating expenses.

PUBLIC BUILDINGS, OPERATING EXPENSES

Operating force.
Personal services.

Assistant custodians, etc.

Operating force: For such personal services as the Secretary of the Treasury may deem necessary in connection with the care, maintenance, and repair of all public buildings under the control of the Treasury Department (except as hereinafter provided), together with the grounds thereof and the equipment and furnishings therein, including inspectors of buildings, repairs and equipment, assistant custodians, janitors, watchmen, laborers, and charwomen; telephone operators for the operation of telephone switchboards or equivalent telephone switchboard equipment in Federal buildings, jointly serving in each case two or more governmental activities; engineers, firemen, elevator conductors, coal passers, electricians, dynamo tenders, lampists, and wiremen; mechanical labor force in connection with said buildings, including carpenters, plumbers, steam fitters,

machinists, and painters, but in no case shall the rates of compensation for such mechanical labor force be in excess of the rates current at the time and in the place where such services are employed, \$12,320,000: *Provided*, That the foregoing appropriations shall be available for use in connection with all public buildings under the control of the Treasury Department, including the post office and its annex at North Capitol Street and Massachusetts Avenue and the customhouse in the District of Columbia, but not including any other public building in the District of Columbia, and exclusive of marine hospitals, quarantine stations, mints, branch mints, and assay offices.

Proviso.
Availability.

Furniture and repairs of furniture: For furniture, carpets, and repairs of same, for completed and occupied public buildings under the control of the Treasury Department, exclusive of marine hospitals, quarantine stations, mints, branch mints, and assay offices, and for gas and electric lighting fixtures and repairs of same for completed and occupied public buildings under the control of the Treasury Department, including marine hospitals and quarantine stations, but exclusive of mints, branch mints, and assay offices, and for furniture and carpets for public buildings and extension of public buildings in course of construction which are to remain under the custody and control of the Treasury Department, exclusive of marine hospitals, quarantine stations, mints, branch mints, and assay offices, and buildings constructed for other executive departments or establishments of the Government, \$4,500,000: *Provided*, That the foregoing appropriation shall not be used for personal services except for work done under contract or for temporary job labor under exigency and not exceeding at one time the sum of \$100 at any one building: *Provided further*, That all furniture now owned by the United States in other public buildings or in buildings rented by the United States shall be used, so far as practicable, whether it corresponds with the present regulation plan for furniture or not.

Furniture, etc.

Proviso.
Personal services restriction.

Use of present furniture.

Operating supplies: For fuel, steam, gas for lighting and heating purposes, water, ice, lighting supplies, electric current for lighting, heating, and power purposes, telephone service for custodial forces; removal of ashes and rubbish, snow, and ice; cutting grass and weeds, washing towels, and miscellaneous items for the use of the custodial forces in the care and maintenance of completed and occupied public buildings and the grounds thereof under the control of the Treasury Department, and in the care and maintenance of the equipment and furnishings in such buildings; miscellaneous supplies, tools, and appliances required in the operation (not embracing repairs) of the mechanical equipment, including heating, plumbing, hoisting, gas piping, ventilating, vacuum-cleaning and refrigerating apparatus, electric-light plants, meters, interior pneumatic tube and intercommunicating telephone systems, conduit wiring, call bell and signal systems in such buildings, and for the transportation of articles or supplies, authorized herein (including the post office and its annex at North Capitol Street and Massachusetts Avenue and the customhouse in the District of Columbia, but excluding any other public building under the control of the Treasury Department within the District of Columbia, and excluding also marine hospitals and quarantine stations, mints, branch mints, and assay offices, and personal services, except for work done by contract or for temporary job labor under exigency not exceeding at one time the sum of \$100 at any one building), \$4,200,000. The appropriation made herein for gas shall include the rental and use of gas governors when ordered by the Secretary of the Treasury in writing: *Provided*, That rentals shall not be paid for such gas governors greater than 35 per centum of the actual value of the gas saved thereby, which saving shall be

Operating supplies.
Fuel, light, power,
etc.

Washington city post
office, etc.
Buildings excluded.

Gas governors, etc.

Proviso.
Rentals thereof.

Contracts for joint telephone switchboards.

determined by such tests as the Secretary of the Treasury shall direct: *Provided further*, That the Secretary of the Treasury is authorized to contract for telephone service in public buildings under the control of the Treasury Department by means of telephone switchboards or equivalent telephone-switching equipment jointly serving in each case two or more Government activities where he finds that joint service is economical and in the interest of the Government, and to secure reimbursement for the cost of such joint service from available appropriations for telephone expenses of the bureaus and offices receiving the same.

Custody of lands, etc. R. S., secs., 3749, 3750, p. 739. U. S. C., p. 1305.

Lands and other property of the United States: For custody, care, protection, and expenses of sales of lands and other property of the United States, acquired and held under sections 3749 and 3750 of the Revised Statutes (U. S. C., title 40, secs. 301, 302), the examination of titles, recording of deeds, advertising, and auctioneers' fees in connection therewith, \$500.

Supervising Architect's office. Personal services.

OFFICE OF SUPERVISING ARCHITECT.—Salaries: For the Supervising Architect, and other personal services in the District of Columbia, \$715,000.

Miscellaneous items.

MISCELLANEOUS ITEMS, TREASURY DEPARTMENT

AMERICAN PRINTING HOUSE FOR THE BLIND

American Printing House for the Blind, expenses. Vol. 44, p. 1060. U. S. C., Supp. VI, p. 350.

To enable the American Printing House for the Blind more adequately to provide books and apparatus for the education of the blind in accordance with the provisions of the Act approved February 8, 1927 (U. S. C., Supp. V, title 20, sec. 101), \$65,000.

Post Office Department.

TITLE II—POST OFFICE DEPARTMENT

Appropriations for fiscal year, 1934. Vol. 5, p. 80. U. S. C., pp. 49, 1233.

The following sums are appropriated in conformity with the Act of July 2, 1836 (U. S. C., title 5, sec. 380, title 39, sec. 786), for the Post Office Department for the fiscal year ending June 30, 1934, namely:

Department expenses.

POST OFFICE DEPARTMENT, WASHINGTON, DISTRICT OF COLUMBIA

Postmaster General's office.

OFFICE OF THE POSTMASTER GENERAL

Postmaster General, and office personnel.

Salaries: For the Postmaster General and other personal services in the office of the Postmaster General in the District of Columbia, \$214,463.

Department buildings.

POST OFFICE DEPARTMENT BUILDINGS

Personal services.

For personal services in the District of Columbia for the care, maintenance, and protection of the main Post Office Department Building and the mail equipment shops building, \$176,360.

Department bureaus and offices.

SALARIES IN BUREAUS AND OFFICES

Allotments specified.

For personal services in the District of Columbia in bureaus and offices of the Post Office Department in not to exceed the following amounts, respectively:

Office of the First Assistant Postmaster General, \$471,000.

Office of the Second Assistant Postmaster General, \$394,275.

Office of the Third Assistant Postmaster General, \$725,532, of which amount \$23,040 shall be available only for temporary employees.

Office of the Fourth Assistant Postmaster General, \$328,638.

Office of the Solicitor for the Post Office Department, \$68,750.

Office of the chief inspector, \$188,045.

Office of the purchasing agent, \$35,411.

Bureau of Accounts, \$87,083, of which amount \$45,000 shall be available only for temporary employees to carry out the provisions of section 15 of the Act of May 29, 1930 (U. S. C., Supp. V, title 5, sec. 702a), for the maintenance of individual records of civil-service retirement and disability fund deductions so far as they relate to employees of the Postal Service.

Accounts Bureau,
temporary employees,
civil-service records.
Vol. 46, p. 476.
U. S. C., Supp. VI,
p. 44.

CONTINGENT EXPENSES, POST OFFICE DEPARTMENT

For stationery and blank books, index and guide cards, folders, and binding devices, including purchase of free penalty envelopes, \$15,000.

Department contin-
gent expenses.

Stationery, etc.

For fuel and repairs to heating, lighting, ice, and power plant, including repairs to elevators, purchase and exchange of tools and electrical supplies, and removal of ashes, \$37,500.

Heating, lighting,
power, etc.

For telegraphing, \$6,000.

Telegraphing.

Miscellaneous.

For miscellaneous items, including purchase, exchange, maintenance, and repair of typewriters, adding machines, and other labor-saving devices; maintenance of motor trucks and of two motor-driven passenger-carrying vehicles, to be used only for official purposes (one for the Postmaster General and one for the general use of the department); street-car fares not exceeding \$540; plumbing; repairs to department buildings; floor coverings; postage stamps for correspondence addressed abroad, which is not exempt under article 47 of the London convention of the Universal Postal Union, \$43,500; and of such sum of \$43,500, not exceeding \$14,500 may be expended for telephone service, not exceeding \$1,800 may be expended for purchase and exchange of law books, books of reference, railway guides, city directories, and books necessary to conduct the business of the department, and not exceeding \$2,000 may be expended for expenses, except membership fees, of attendance at meetings or conventions concerned with postal affairs, when incurred on the written authority of the Postmaster General, and not exceeding \$800 may be expended for expenses of the purchasing agent and of the solicitor and attorneys connected with his office while traveling on business of the department.

Postage.
Vol. 44, pp. 2243, 2245.

Attendance at meet-
ings.

For furniture and filing cabinets, \$5,000.

Furniture, etc.

For printing and binding for the Post Office Department, including all of its bureaus, offices, institutions, and services located in Washington, District of Columbia, and elsewhere, \$950,000.

Printing and binding.

Appropriations hereinafter made for the field service of the Post Office Department, except as otherwise provided, shall not be expended for any of the purposes hereinbefore provided for on account of the Post Office Department in the District of Columbia: *Provided*, That the actual and necessary expenses of officials and employees of the Post Office Department and Postal Service, when traveling on official business, may continue to be paid from the appropriations for the service in connection with which the travel is performed, and appropriations for the fiscal year 1934 of the character heretofore used for such purposes shall be available therefor: *Provided further*, That appropriations hereinafter made, except such as are exclusively for payment of compensation, shall be immediately available for expenses in connection with the examination of estimates for appropriations in the field including per diem allowances in lieu of actual expenses of subsistence.

Field service appropria-
tions not to be used
for department.

Proviso.
Travel expenses, pay-
able from service ap-
propriations.

Use in examining field
estimates.

Field service.

FIELD SERVICE, POST OFFICE DEPARTMENT

Postmaster General.

OFFICE OF THE POSTMASTER GENERAL

Equipment shops
building.

For gas, electric power, and light, and the repair of machinery, United States Post Office Department equipment shops building, \$4,500.

Cash rewards to em-
ployees for inventions
improving the service.

The Postmaster General is hereby authorized to pay a cash reward for any invention, suggestion, or series of suggestions for an improvement or economy in device, design, or process applicable to the Postal Service submitted by one or more employees of the Post Office Department or the Postal Service which shall be adopted for use and will clearly effect a material economy or increase efficiency, and for that purpose the sum of \$1,500 is hereby appropriated: *Provided*, That the sums so paid to employees in accordance with this Act shall be in addition to their usual compensation: *Provided further*, That the total amount paid under the provisions of this Act shall not exceed \$1,000 in any month or for any one invention or suggestion: *Provided further*, That no employee shall be paid a reward under this Act until he has properly executed an agreement to the effect that the use by the United States of the invention, suggestion, or series of suggestions made by him shall not form the basis of a further claim of any nature upon the United States by him, his heirs, or assigns: *Provided further*, That this appropriation shall be available for no other purpose.

Provisos.
Additional to regular
pay.

Sums limited.

Agreement for Gov-
ernment use required.Appropriation re-
stricted.Shipment of supplies,
etc.

For the transportation and delivery of equipment, materials, and supplies for the Post Office Department and Postal Service by freight, express, or motor transportation, and other incidental expenses, \$350,000.

Travel, etc.

For travel and miscellaneous expenses in the Postal Service, office of the Postmaster General, \$1,000.

Damage claims.
Vol. 42, p. 63.
U. S. C., p. 50.

To enable the Postmaster General to pay claims for damages, occurring during the fiscal year 1934, or in prior fiscal years, to persons or property in accordance with the provisions of the Deficiency Appropriation Act approved June 16, 1921 (U. S. C., title 5, sec. 392), \$18,000.

Inspectors.

OFFICE OF CHIEF INSPECTOR: For salaries of fifteen inspectors in charge of divisions and five hundred and twenty-five inspectors, \$1,878,750.

Traveling expenses,
investigations, etc.

For traveling expenses of inspectors, inspectors in charge, the chief post-office inspector, and the assistant chief post-office inspector, and for the traveling expenses of four clerks performing stenographic and clerical assistance to post-office inspectors in the investigation of important fraud cases, and for tests, exhibits, documents, photographs, office and other necessary expenses incurred by post-office inspectors in connection with their official investigations, \$475,000: *Provided*, That not exceeding \$24,500 of this sum shall be available for transfer by the Postmaster General to other departments and independent establishments for chemical and other investigations.

Miscellaneous.

For necessary miscellaneous expenses of division headquarters, \$14,000.

Clerks at division
headquarters.

For compensation of one hundred and thirty clerks at division headquarters, \$300,700.

Rewards for detect-
ing law violations.*Provisos.*
Death of offender.

For payment of rewards for the detection, arrest, and conviction of post-office burglars, robbers, and highway mail robbers, \$45,000: *Provided*, That rewards may be paid, in the discretion of the Postmaster General, when an offender of the class mentioned was killed in the act of committing the crime or in resisting lawful arrest:

Provided further, That no part of this sum shall be used to pay any rewards at rates in excess of those specified in Post Office Department Order 9955, dated February 28, 1930: *Provided further*, That of the amount herein appropriated not to exceed \$20,000 may be expended, in the discretion of the Postmaster General, for the purpose of securing information concerning violations of the postal laws and for services and information looking toward the apprehension of criminals.

Rates.

Securing information.

OFFICE OF THE FIRST ASSISTANT POSTMASTER GENERAL

First Assistant Postmaster General.

Postmasters, etc.

For compensation to postmasters and for allowances for rent, light, fuel, and equipment to postmasters of the fourth class, \$46,000,000.

Assistant postmasters.

For compensation to assistant postmasters at first and second class post offices, \$6,200,000.

Clerks, etc., first and second class offices.

For compensation to clerks and employees at first and second class post offices, including auxiliary clerk hire at summer and winter post offices, printers, mechanics, skilled laborers, watchmen, messengers, laborers, and substitutes, \$161,000,000.

Contract station clerks.

For compensation to clerks in charge of contract stations, \$1,800,000.

Separating mails.

For separating mails at third and fourth class post offices, \$450,000.

Unusual conditions.

For unusual conditions at post offices, \$50,000.

Clerks, third-class offices.

For allowances to third-class post offices to cover the cost of clerical services, \$8,000,000.

Miscellaneous, first and second class offices.

For miscellaneous items necessary and incidental to the operation and protection of post offices of the first and second classes, and the business conducted in connection therewith, not provided for in other appropriations, \$2,000,000.

Village delivery.

For village delivery service in towns and villages having post offices of the second or third class, and in communities adjacent to cities having city delivery, \$1,400,000.

Detroit River service.

For Detroit River postal service, \$15,995.

Car fare and bicycle allowance.

For car fare and bicycle allowance, including special-delivery car fare, \$1,250,000.

City delivery, carriers.

For pay of letter carriers, City Delivery Service, \$113,000,000.

Special delivery, fees.

For fees to special-delivery messengers, \$7,450,000.

Rural Delivery Service.

For pay of rural carriers, auxiliary carriers, substitutes for rural carriers on annual and sick leave, clerks in charge of rural stations, and tolls and ferriage, Rural Delivery Service, and for the incidental expenses thereof, \$95,000,000.

Travel, etc.

For travel and miscellaneous expenses in the Postal Service, office of the First Assistant Postmaster General, \$1,000.

OFFICE OF THE SECOND ASSISTANT POSTMASTER GENERAL

Second Assistant Postmaster General.

Star routes, except Alaska.

For inland transportation by star routes (excepting service in Alaska), including temporary service to newly established offices, and not to exceed \$200,000 for Government-operated star-route service, \$14,000,000.

Star routes, Alaska. Steamboat, etc., routes.

For inland transportation by star routes in Alaska, \$135,000.

For inland transportation by steamboat or other power-boat routes, including ship, steamboat, and way letters, \$1,350,000.

Railroad routes and messenger service.

For inland transportation by railroad routes and for mail messenger service, \$100,000,000: *Provided*, That not to exceed \$1,500,000 of this appropriation may be expended for pay of freight and incidental charges for the transportation of mails conveyed under special arrangement in freight trains or otherwise: *Provided further*, That separate accounts be kept of the amount expended for mail messenger

Freight train conveyance.

Accounting, messenger service.

Services in the District.
Vol. 39, p. 429; Vol. 43, p. 1069.
U. S. C., pp. 1269, 1286.

service: *Provided further*, That there may be expended from this appropriation for clerical and other assistance in the District of Columbia not exceeding the sum of \$75,750 to carry out the provisions of section 5 of the Act of July 28, 1916 (U. S. C., title 39, sec. 562) (the space basis Act), and not exceeding the sum of \$37,250 to carry out the provisions of section 214 of the Act of February 28, 1925 (U. S. C., title 39, sec. 826) (cost ascertainment).

Railway Mail Service.
Division superintendents.

Railway Mail Service: For fifteen division superintendents, fifteen assistant division superintendents, two assistant superintendents at large, one assistant superintendent in charge of car construction, one hundred and twenty-one chief clerks, one hundred and twenty-one assistant chief clerks, clerks in charge of sections in the offices of division superintendents, railway postal clerks, substitute railway postal clerks, joint employees, and laborers in the Railway Mail Service, \$51,000,000.

Travel allowance to clerks.

For travel allowance to railway postal clerks and substitute railway postal clerks, \$2,466,667.

Expenses, away from headquarters.

For actual and necessary expenses, general superintendent and assistant general superintendent, division superintendents, assistant division superintendents, assistant superintendents, chief clerks, and assistant chief clerks, Railway Mail Service, and railway postal clerks, while actually traveling on business of the Post Office Department and away from their several designated headquarters, \$60,000.

Miscellaneous.

For rent, light, heat, fuel, telegraph, miscellaneous and office expenses, telephone service, badges for railway postal clerks, for the purchase or rental of arms and miscellaneous items necessary for the protection of the mails, and rental of space for terminal railway post offices for the distribution of mails when the furnishing of space for such distribution can not, under the Postal Laws and Regulations, properly be required of railroad companies without additional compensation, and for equipment and miscellaneous items necessary to terminal railway post offices, \$975,000.

Arms for mail protection.
Rent, etc., terminal offices.

Electric and cable car service.

For electric and cable car service, \$450,000.

Foreign mails.
Vol. 41, p. 988; Vol. 45, p. 689.
U. S. C., p. 1537; Supp. VI, p. 818.

For transportation of foreign mails by steamship, aircraft, or otherwise, including the cost of advertising in connection with the award of contracts authorized by the Merchant Marine Act of 1928 (U. S. C., title 46, secs. 861-889; Supp. V, title 46, secs. 886-891x), \$35,500,000: *Provided*, That no part of the money herein appropriated shall be paid on contract numbered 56 to the Seatrain Company:

Provisos.
Payment to the Seatrain Company forbidden.
Aircraft allowance; contract restrictions.

Provided further, That not to exceed \$7,000,000 of this sum may be expended for carrying foreign mail by aircraft under contracts which will not create obligations for the fiscal year 1935 in excess of \$7,000,000: *Provided further*, That the Postmaster General is authorized to expend such sums as may be necessary, not to exceed \$250,000, to cover the cost to the United States for maintaining sea-post service on ocean steamships conveying the mails to and from the United States including the salary of the Assistant Director, Division of International Postal Service, with headquarters at New York City.

Sea post service.

Assistant Director, International Postal Service Division.

Balances due foreign countries.
Travel, etc.

For balances due foreign countries, \$1,000,000.

For travel and miscellaneous expenses in the Postal Service, office of the Second Assistant Postmaster General, \$1,200.

Aircraft contract, inland service.

For the inland transportation of mail by aircraft, under contract as authorized by law, and for the incidental expenses thereof, including not to exceed \$27,500 for supervisory officials and clerks at air mail transfer points, and not to exceed \$34,000 for personal services in the District of Columbia and incidental and travel expenses, \$15,000,000.

For payment of limited indemnity for the injury or loss of international mail in accordance with convention, treaty, or agreement stipulations, \$15,000.

Indemnity, lost international mail.

OFFICE OF THE THIRD ASSISTANT POSTMASTER GENERAL

Third Assistant Postmaster General.

For manufacture of adhesive postage stamps, special-delivery stamps, books of stamps, stamped envelopes, newspaper wrappers, postal cards, and for coiling of stamps, \$4,900,000.

Stamps, stamped envelopes, postal cards, etc.

For pay of agent and assistants to examine and distribute stamped envelopes and newspaper wrappers, and expenses of agency, \$21,775.

Distributing agency.

For payment of limited indemnity for the injury or loss of pieces of domestic registered matter, insured and collect-on-delivery mail, and for failure to remit collect-on-delivery charges, \$700,000.

Indemnity, lost domestic mail.

For travel and miscellaneous expenses in the Postal Service, office of the Third Assistant Postmaster General, \$1,000.

Travel, etc.

OFFICE OF THE FOURTH ASSISTANT POSTMASTER GENERAL

Fourth Assistant Postmaster General.

For stationery for the Postal Service, including the money-order and registry systems; and also for the purchase of supplies for the Postal Savings System, including rubber stamps, canceling devices, certificates, envelopes and stamps for use in evidencing deposits, and free penalty envelopes; and for the reimbursement of the Secretary of the Treasury for expenses incident to the preparation, issue, and registration of the bonds authorized by the Act of June 25, 1910 (U. S. C., title 39, sec. 760), \$575,000.

Stationery, etc.

Postal Savings System, supplies.

For miscellaneous equipment and supplies, including the purchase and repair of furniture, package boxes, posts, trucks, baskets, satchels, straps, letter-box paint, baling machines, perforating machines, duplicating machines, printing presses, directories, cleaning supplies, and the manufacture, repair, and exchange of equipment, the erection and painting of letter-box equipment, and for the purchase and repair of presses and dies for use in the manufacture of letter boxes; for postmarking, rating, money-order stamps, and electrotype plates and repairs to same; metal, rubber, and combination type, dates and figures, type holders, ink pads for canceling and stamping purposes, and for the purchase, exchange, and repair of typewriting machines, envelope-opening machines, and computing machines, copying presses, numbering machines, time recorders, letter balances, scales (exclusive of dormant or built-in platform scales in Federal buildings), test weights, and miscellaneous articles purchased and furnished directly to the Postal Service, including complete equipment and furniture for post offices in leased quarters; for miscellaneous expenses in the preparation and publication of post-route maps and rural delivery maps or blue prints, including tracing for photolithographic reproduction; for other expenditures necessary and incidental to post offices of the first, second, and third classes, and offices of the fourth class having or to have rural delivery service, and for letter boxes, \$1,200,000; and the Postmaster General may authorize the sale to the public of post-route maps and rural delivery maps or blue prints at the cost of printing and 10 per centum thereof added; of this amount \$1,500 may be expended in the purchase of atlases and geographical and technical works: *Provided*, That no part of this appropriation shall be expended for the purchase of furniture and complete equipment for third-class post offices except miscellaneous equipment of the general character furnished such offices during the fiscal year 1931.

Miscellaneous equipment and supplies.

Letter boxes.

Postmarking, etc., stamps.

Post-route maps.

Sale of maps.

Furniture, etc., third-class offices.

Twine, etc.

For wrapping twine and tying devices, \$310,000.

- Shipping supplies. For expenses incident to the shipment of supplies, including hardware, boxing, packing, and not exceeding \$40,000 for the pay of employees in connection therewith in the District of Columbia, \$50,000.
- Canceling and labor-saving devices, etc. For rental, purchase, exchange, and repair of canceling machines and motors, mechanical mail-handling apparatus, and other labor-saving devices, including cost of power in rented buildings and miscellaneous expenses of installation and operation of same, including salaries of seven traveling mechanics and thirty-nine scale mechanics, and for traveling expenses, \$500,000.
- Traveling mechanics, etc. For the purchase, manufacture, and repair of mail bags and other mail containers and attachments, mail locks, keys, chains, tools, machinery, and material necessary for same, and for incidental expenses pertaining thereto; also material, machinery, and tools necessary for the manufacture and repair in the equipment shops at Washington, District of Columbia, of such other equipment for the Postal Service as may be deemed expedient; for compensation to labor employed in the equipment shops at Washington, District of Columbia, \$900,000, of which not to exceed \$550,000 may be expended for personal services in the District of Columbia: *Provided*, That out of this appropriation the Postmaster General is authorized to use as much of the sum, not exceeding \$15,000, as may be deemed necessary for the purchase of material and the manufacture in the equipment shops of such small quantities of distinctive equipments as may be required by other executive departments; and for service in Alaska, Puerto Rico, Philippine Islands, Hawaii, or other island possessions.
- Equipment shops, materials, etc. For rent, light, fuel, and water, for first, second, and third class post offices, and the cost of advertising for lease proposals for such offices, \$16,000,000.
- Services in the District. *Proviso.* Distinctive equipment for departments, Alaska, and island possessions. For the transmission of mail by pneumatic tubes or other similar devices in the city of New York, including the Borough of Brooklyn of the city of New York, at an annual rate not in excess of \$19,500 per mile of double line of tubes, including power, labor, and all other operating expenses, \$524,000.
- Rent, light, etc., for first, second, and third class offices. For the rental of not exceeding two miles of pneumatic tubes, not including labor and power in operating the same, for the transmission of mail in the city of Boston, Massachusetts, \$24,000: *Provided*, That the provisions not inconsistent herewith of the Acts of April 21, 1902 (U. S. C., title 39, sec. 423), and May 27, 1908 (U. S. C., title 39, sec. 423), relating to the transmission of mail by pneumatic tubes or other similar devices shall be applicable hereto.
- Pneumatic tubes, New York City. For vehicle service; the hire of vehicles; the rental of garage facilities; the purchase, exchange, and maintenance of motor vehicles; the hire of supervisors, clerical assistance, mechanics, drivers, garagemen, and such other employees as may be necessary in providing vehicles and vehicle service for use in the collection, transportation, and delivery of the mail, \$14,918,734: *Provided*, That the Postmaster General may, in his disbursement of this appropriation, apply a part thereof to the leasing of quarters for the housing of Government-owned motor vehicles at a reasonable annual rental for a term not exceeding ten years: *Provided further*, That the Postmaster General, during the fiscal year 1934, may purchase and maintain from the appropriation "Vehicle service" such tractors and trailer trucks as may be required in the operation of the vehicle service: *Provided further*, That no part of this appropriation shall be expended for maintenance or repair of motor-propelled passenger-carrying vehicles for use in connection with the administrative work of the Post Office Department in the District of Columbia.
- Boston, Mass. *Proviso.* Provisions applicable. Vol. 32, p. 114; Vol. 35, p. 412. U. S. C., p. 1260.
- Vehicle allowance for delivery, collection, etc. *Provisos.* Garage rental.
- Tractors and trailer trucks. Restriction.

For travel and miscellaneous expenses in the Postal Service, office of the Fourth Assistant Postmaster General, \$4,000.

Travel, etc.

In the disbursement of appropriations contained in this Act for the field service of the Post Office Department the Postmaster General may transfer to the Bureau of Standards not to exceed \$20,000 for scientific investigations in connection with the purchase of materials, equipment, and supplies necessary in the maintenance and operation of the Postal Service.

Sums transferred to Standards Bureau for investigations of materials.

If the revenues of the Post Office Department shall be insufficient to meet the appropriations made under Title II of this Act, a sum equal to such deficiency in the revenues of such department is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply such deficiency in the revenues of the Post Office Department for the fiscal year ending June 30, 1934, and the sum needed may be advanced to the Post Office Department upon requisition of the Postmaster General.

Appropriations from Treasury for field service to supply deficiencies.

SEC. 2. Appropriations for the fiscal year 1934 available for expenses of travel of civilian officers and employees of the executive departments and establishments shall be available also for expenses of travel performed by them on transfer from one official station to another when authorized by the head of the department or establishment concerned in the order directing such transfer: *Provided*, That such expenses shall not be allowed for any transfer effected for the convenience of any officer or employee.

Appropriations for travel expenses, fiscal year 1934.
Availability.

SEC. 3. No appropriation available for the executive departments and independent establishments of the Government for the fiscal year ending June 30, 1934, whether contained in this Act or any other Act, shall be expended—

Proviso.
Transfers for convenience of officers.

(a) To purchase any motor-propelled passenger-carrying vehicle (exclusive of busses, ambulances, and station wagons), at a cost, completely equipped for operation, and including the value of any vehicle exchanged, in excess of \$750, unless otherwise specifically provided for in the appropriation.

Restrictions on expenditure.

(b) For the maintenance, operation, and repair of any Government-owned motor-propelled passenger-carrying vehicle not used exclusively for official purposes; and "official purposes" shall not include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on outpatient medical services and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department or establishment concerned. The limitations of this subsection (b) shall not apply to any motor vehicles for official use of the President, or of the heads of the executive departments.

Cost limit of automobiles.

Maintenance, etc., not used for official purposes, exclusively.
"Official purposes" what not to include.

(c) For the maintenance, upkeep, and repair (exclusive of garage rent, pay of operators, tires, fuel, and lubricants) on any one motor-propelled passenger-carrying vehicle, except busses and ambulances, in excess of one-third of the market price of a new vehicle of the same make and class and in no case in excess of \$400.

Limitations not applicable.

Cost limitation of maintenance, etc.

SEC. 4. (a) The provisions of the following sections of Part II of the Legislative Appropriation Act, fiscal year 1933, are hereby continued in full force and effect during the fiscal year ending June 30, 1934, namely, sections 101, 102, 103, 104, 105, 106, 107 (except paragraph (5) of subsection (a) thereof), 108, 109, 112, 201, 203, 205, 206 (except subsection (a) thereof), 211, 214, 216, 304, 315, 317, 318, and 323, and, for the purpose of continuing such sections, in the application of such sections with respect to the fiscal year ending June 30, 1934, the figures "1933" shall be read as "1934"; the figures "1934"

Economy Act.
Ante, p. 399.
Sections continued in effect.
Vol. 48, p. 13.

as "1935"; and the figures "1935" as "1936"; and, in the case of sections 102 and 203, the figures "1932" shall be read as "1933"; except that in the application of such sections with respect to the fiscal year ending June 30, 1934 (but not with respect to the fiscal year ending June 30, 1933), the following amendments shall apply:

Amendments.

Special delivery messengers, Postal Service, not included.
Ante, p. 400.

Sum not included in calculation of compensation rate.

Retired pay reductions.
Judges, exemptions.
Ante, p. 401.

Furlough of Government employees during fiscal year, 1934.
Ante, p. 407.
Period limited.

Transfer of appropriations.
Ante, p. 411.
Prohibited when for "public works."

'Public works' construed.

When interpretation conclusive.

"Compensation" includes retired, etc., pay of Army, etc., enlisted personnel.
Compensation reductions.
Ante, pp. 400, 401.

Army, etc., enlisted personnel.

Suspension of inconsistent Acts.

Jurisdiction in suits.

Ante, pp. 399-403.

(1) Section 104 (a) is amended by striking out the period at the end thereof and inserting a semicolon and the following: "and (12) special delivery messengers in the Postal Service."; and section 105 (d) (2) is amended by adding at the end thereof the following: "special delivery messengers in the Postal Service, but in the case of such messengers, the sum of \$400 shall not be included in the calculation of the rate of their compensation for the purposes of this title;"

(2) Section 106 is amended by striking out "except judges whose compensation may not, under the Constitution, be diminished during their continuance in office" and inserting in lieu thereof "except judges, whose compensation, prior to retirement or resignation, could not, under the Constitution, have been diminished".

(3) Section 216 is amended by striking out the period at the end thereof and inserting in lieu thereof a colon and the following: "*Provided further*, That no employee under the classified civil service shall be furloughed under the provisions of this section for a total of more than ninety days during the fiscal year 1934, except after full and complete compliance with all the provisions of the civil service laws and regulations relating to reductions in personnel."

(4) Section 317 is amended by striking out the period at the end thereof and inserting in lieu thereof a colon and the following: "*Provided further*, That no part of any appropriation for 'public works', nor any part of any allotment or portion available for 'public works' under any appropriation, shall be transferred pursuant to the authority of this section to any appropriation for expenditure for personnel unless such personnel is required upon or in connection with 'public works'. 'Public works' as used in this section shall comprise all projects falling in the general classes enumerated in Budget Statement Numbered 9, pages A177 to A182, inclusive, of the Budget for the fiscal year 1934, and shall also include the procurement of new airplanes and the construction of vessels under appropriations for 'Increase of the Navy.' The interpretation by the Director of the Bureau of the Budget, or by the President in the cases of the War Department and the Navy Department, of 'public works', as defined and designated herein, shall be conclusive."

(5) Section 104 (b) and section 106 are amended by striking out "(except enlisted)"; section 104 (b) is amended by striking out "does not include the active or retired pay of the enlisted personnel of the Army, Navy, Marine Corps, or Coast Guard; and"; and section 105 (d) is amended by adding at the end thereof the following new paragraph:

"(8) The enlisted personnel of the Army, Navy, Marine Corps, and Coast Guard."

(b) All Acts or parts of Acts inconsistent or in conflict with the provisions of such sections, as amended, are hereby suspended during the period in which such sections, as amended, are in effect.

(c) No court of the United States shall have jurisdiction of any suit against the United States or (unless brought by the United States) against any officer, agency, or instrumentality of the United States arising out of the application, as provided in this section, of such sections 101, 102, 103, 104, 105, 106, 107, 108, 109, or 112, as amended, unless such suit involves the Constitution of the United States.

(d) The appropriations or portions of appropriations unexpended by reason of the operation of the amendments made in subsection (a) of this section shall not be used for any purpose, but shall be impounded and returned to the Treasury.

Impounding of unexpended balances.

(e) Each permanent specific annual appropriation available during the fiscal year ending June 30, 1934, is hereby reduced for that fiscal year by such estimated amount as the Director of the Bureau of the Budget may determine will be equivalent to the savings that will be effected in such appropriation by reason of the application of this section and section 7.

Reduction of annual appropriations.

SEC. 5. Effective the first day of the month next following the passage of this Act, in the application of Title I of Part II of the Legislative Appropriation Act, fiscal year 1933, and section 4 of this Act, in any case where the annual rate of compensation of any position is in excess of \$1,000, the provisions reducing compensation shall not operate to reduce the total amount paid for any month to any incumbent of any such position unless the total amount earned by such incumbent in such month exceeds \$83.33: *Provided*, That any such reduction made in any case where the total amount earned by any such incumbent in any month exceeds \$83.33 shall not operate to reduce the total amount to be paid to such incumbent for such month to less than \$83.33.

Limitation on reduction of annual compensation.

Ante, p. 399.

Provisos. Average to be maintained.

SEC. 6. (a) Sections 103 and 215 of the Legislative Appropriation Act, fiscal year 1933, shall be held applicable to the officers and employees of The Panama Canal and Panama Railroad Company on the Isthmus of Panama, and to officers and employees of the United States (including enlisted personnel) holding official station outside the continental United States, only to the extent of depriving each of them of one month's leave of absence with pay during each of the fiscal years ending June 30, 1933, and June 30, 1934.

Annual leave provisions.

(b) During the fiscal year 1934, deductions on account of legislative furlough shall be made each month from the compensation of each officer or employee subject to the furlough provisions of Title I of Part II of the Legislative Appropriation Act, fiscal year 1933, as continued by section 4 (a) of this Act, at the rate of 8 $\frac{1}{3}$ per centum per month regardless of the number of days of such furlough actually taken by any such officer or employee in any month.

Deductions, legislative furlough.

Ante, p. 399.

SEC. 7. No administrative promotions in the civil branch of the United States Government or the government of the District of Columbia shall be made during the fiscal year ending June 30, 1934: *Provided*, That the filling of a vacancy, when authorized by the President, by the appointment of an employee of a lower grade, shall not be construed as an administrative promotion, but no such appointment shall increase the compensation of such employee to a rate in excess of the minimum rate of the grade to which such employee is appointed, unless such minimum rate would require an actual reduction in compensation: *Provided further*, That the restoration of employees to their former grades or their advancement to intermediate grades following reductions of compensation for disciplinary reasons shall not be construed to be administrative promotions for the purposes of this section. The provisions of this section shall not apply to commissioned, commissioned warrant, warrant, and enlisted personnel, and cadets, of the Coast Guard.

Administrative promotions.

Provisos. Filling vacancy, not so construed.

Compensation.

Restoration to former grade.

Coast Guard personnel.

SEC. 8. All officers and employees of the United States Government or of the government of the District of Columbia who had reached the retirement age prescribed for automatic separation from the service on or before July 1, 1932, and who were continued in active service for a period of less than thirty days after June 30, 1932, pursuant to an Executive order issued under authority of section 204

Annuity of officers, etc., reaching retirement age on or before July 1, 1932.

Ante, p. 404.

of Part II of the Legislative Appropriation Act, fiscal year 1933, shall be regarded as having been retired and entitled to annuity beginning with the day following the date of separation from active service, instead of from August 1, 1932, and the Administrator of Veterans' Affairs is hereby authorized and directed to make payments accordingly from the civil service retirement and disability fund.

Allowances; operation of motor cycles and automobiles.
Vol. 46, p. 1103.
U. S. C., Supp. VI, p. 19.
Rates.

SEC. 9. The allowance provided for in the Act entitled "An Act to permit payments for the operation of motor cycles and automobiles used for necessary travel on official business, on a mileage basis in lieu of actual operating expenses," approved February 14, 1931 (U. S. C., Supp. V, title 5, sec. 73a), for travel ordered after the date of enactment of this Act shall not exceed 2 cents per mile in the case of travel by motor cycle or 5 cents per mile in the case of travel by automobile.

Travel expenses.

SEC. 10. Whenever by or under authority of law actual expenses for travel may be allowed to officers or employees of the United States, such allowances, in the case of travel ordered after the date of enactment of this Act, shall not exceed the lowest first-class rate by the transportation facility used in such travel.

Saturday half holiday.
Vol. 46, p. 1482.
U. S. C., Supp. VI, p. 17.
Employees of Veterans' Administration Homes, etc.

SEC. 11. From and after the date of enactment of this Act, the provisions of the Act of March 3, 1931 (U. S. C., Supp. V, title 5, sec. 26a), shall not apply to any employees of the Veterans' Administration Homes, Hospitals, or Combined Facilities where, in the discretion of the Administrator of Veterans' Affairs, the public interest requires that such employees should be excepted from the provisions thereof. As to those employees excepted from the provisions of the Act of March 3, 1931, seven hours shall constitute a workday on Saturday and labor in excess of four hours on Saturdays shall not entitle such employees to an equal shortening of the workday on some other day or to additional compensation therefor.

Foreign assignments of Army, etc., officers.

SEC. 12. Assignments of officers of the Army, Navy, or Marine Corps to permanent duty in the Philippines, on the Asiatic Station, or in China, Hawaii, Puerto Rico, or the Panama Canal Zone shall be for not less than three years. No such officer shall be transferred to duty in the continental United States before the expiration of such period unless the health of such officer or the public interest requires such transfer, and the reason for the transfer shall be stated in the order directing such transfer.

Judgments recovered against United States.
Vol. 18, p. 481.
U. S. C., p. 990.

SEC. 13. The Act entitled "An Act to provide for deducting any debt due the United States from any judgment recovered against the United States by such debtor," approved March 3, 1875 (U. S. C., title 31, sec. 227), is hereby amended to read as follows:

Payment of.

"That when any final judgment recovered against the United States duly allowed by legal authority shall be presented to the Comptroller General of the United States for payment, and the plaintiff therein shall be indebted to the United States in any manner, whether as principal or surety, it shall be the duty of the Comptroller General of the United States to withhold payment of an amount of such judgment equal to the debt thus due to the United States; and if such plaintiff assents to such set-off, and discharges his judgment or an amount thereof equal to said debt, the Comptroller General of the United States shall execute a discharge of the debt due from the plaintiff to the United States. But if such plaintiff denies his indebtedness to the United States, or refuses to consent to the set-off, then the Comptroller General of the United States shall withhold payment of such further amount of such judgment, as in his opinion will be sufficient to cover all legal charges and costs in prosecuting the debt of the United States to final judgment. And if such debt is not already in suit, it shall be the duty of the Comptroller General

Set-off of debts due.

Discharge upon plaintiff's assent.
Payment withheld, when indebtedness denied.

Prosecution of United States claim.

of the United States to cause legal proceedings to be immediately commenced to enforce the same, and to cause the same to be prosecuted to final judgment with all reasonable dispatch. And if in such action judgment shall be rendered against the United States, or the amount recovered for debt and costs shall be less than the amount so withheld as before provided, the balance shall then be paid over to such plaintiff by such Comptroller General of the United States with 6 per centum interest thereon for the time it has been withheld from the plaintiff."

Payments on final determination.

SEC. 14. Section 319 of Part II of the Legislative Appropriation Act, fiscal year 1933, is repealed as of June 30, 1932; and the rate of interest to be allowed upon judgments against the United States and overpayments in respect of internal-revenue taxes shall be the rate applicable thereto prior to the enactment of section 319 of such Act.

Judgments and overpayments, interest rate. *Ante*, p. 412.

SEC. 15. Section 322 of Part II, of the Legislative Appropriation Act, fiscal year 1933, is amended by adding at the end of the section the following proviso: "*Provided further*, That the provisions of this section as applicable to rentals, shall apply only where the rental to be paid shall exceed \$2,000 per annum."

Restriction on building rentals.

Proviso. Applicable to higher rentals.

SEC. 16. Title IV of Part II of the Legislative Appropriation Act, fiscal year 1933, is amended to read as follows:

Application.

"TITLE IV—REORGANIZATION OF EXECUTIVE DEPARTMENTS

Reorganization of Executive Departments.

"DECLARATION OF STANDARD

"SEC. 401. The Congress hereby declares that a serious emergency exists by reason of the general economic depression; that it is imperative to reduce drastically governmental expenditures; and that such reduction may be accomplished in great measure by proceeding immediately under the provisions of this title.

Declaration of standard.

"Accordingly, the President shall investigate the present organization of all executive and administrative agencies of the Government and shall determine what changes therein are necessary to accomplish the following purposes:

President to investigate organization. *Ante*, p. 413.

"(a) To reduce expenditures to the fullest extent consistent with the efficient operation of the Government;

Purposes.

"(b) To increase the efficiency of the operations of the Government to the fullest extent practicable within the revenues;

"(c) To group, coordinate, and consolidate executive and administrative agencies of the Government, as nearly as may be, according to major purposes;

"(d) To reduce the number of such agencies by consolidating those having similar functions under a single head, and by abolishing such agencies and/or such functions thereof as may not be necessary for the efficient conduct of the Government;

"(e) To eliminate overlapping and duplication of effort; and

"(f) To segregate regulatory agencies and functions from those of an administrative and executive character.

"DEFINITION OF EXECUTIVE AGENCY

"SEC. 402. When used in this title, the term 'executive agency' means any commission, independent establishment, board, bureau, division, service, or office in the executive branch of the Government and, except as provided in section 403, includes the executive departments.

"Executive agency" defined.

Power of President.

"POWER OF PRESIDENT

Consolidations,
transfers, etc., by Ex-
ecutive order.
Ante, p. 413.

"SEC. 403. Whenever the President, after investigation, shall find and declare that any regrouping, consolidation, transfer, or abolition of any executive agency or agencies and/or the functions thereof is necessary to accomplish any of the purposes set forth in section 401 of this title, he may by Executive order—

"(a) Transfer the whole or any part of any executive agency and/or the functions thereof to the jurisdiction and control of any other executive agency;

"(b) Consolidate the functions vested in any executive agency; or

"(c) Abolish the whole or any part of any executive agency and/or the functions thereof; and

"(d) Designate and fix the name and functions of any consolidated activity or executive agency and the title, powers, and duties of its executive head; except that the President shall not have authority under this title to abolish or transfer an executive department and/or all the functions thereof.

Disposition of records,
etc., included.

"SEC. 404. The President's order directing any transfer, consolidation, or elimination under the provisions of this title shall also make provision for the transfer or other disposition of the records, property (including office equipment), and personnel, affected by such transfer, consolidation, or elimination. In any case of a transfer or consolidation under the provisions of this title, the President's order shall also make provision for the transfer of such unexpended balances of appropriations available for use in connection with the function or agency transferred or consolidated, as he deems necessary by reason of the transfer or consolidation, for use in connection with the transferred or consolidated function or for the use of the agency to which the transfer is made or of the agency resulting from such consolidation.

Transfer of balances.

Saving provisions.

"SAVING PROVISIONS

Orders, rules, etc., to
continue in force.

"SEC. 405. (a) All orders, rules, regulations, permits, or other privileges made, issued, or granted by or in respect of any executive agency or function transferred or consolidated with any other executive agency or function under the provisions of this title, and in effect at the time of the transfer or consolidation, shall continue in effect to the same extent as if such transfer or consolidation had not occurred, until modified, superseded, or repealed.

Suits, actions, etc.,
not to abate.

"(b) No suit, action, or other proceeding lawfully commenced by or against the head of any executive agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of any transfer of authority, power, and duties from one officer or executive agency of the Government to another under the provisions of this title, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the head of the executive agency or other officer of the United States to whom the authority, powers, and duties are transferred.

Applicable laws to
remain in force.

"(c) All laws relating to any executive agency or function transferred or consolidated with any other executive agency or function under the provisions of this title, shall, in so far as such laws are not inapplicable, remain in full force and effect, and shall be administered by the head of the executive agency to which the transfer is made or with which the consolidation is effected.

" WINDING UP AFFAIRS OF AGENCIES

Winding up of affairs of agencies.

When eliminated.

" SEC. 406. In the case of the elimination of any executive agency or function, the President's order providing for such elimination shall make provision for winding up the affairs of the executive agency eliminated or the affairs of the executive agency with respect to the functions eliminated, as the case may be.

" EFFECTIVE DATE OF EXECUTIVE ORDER

Executive orders; effective date.

Submission to Congress.
Vol. 48, p. 16.

When effective.

Proviso.
Status of order if Congress adjourns.

" SEC. 407. Whenever the President makes an Executive order under the provisions of this title, such Executive order shall be submitted to the Congress while in session and shall not become effective until after the expiration of sixty calendar days after such transmission, unless Congress shall by law provide for an earlier effective date of such Executive order or orders: *Provided*, That if Congress shall adjourn before the expiration of sixty calendar days from the date of such transmission such Executive order shall not become effective until after the expiration of sixty calendar days from the opening day of the next succeeding regular or special session.

" APPROPRIATIONS IMPOUNDED

Appropriations impounded.

" SEC. 408. The appropriations or portions of appropriations unexpended by reason of the operation of this title shall not be used for any purpose but shall be impounded and returned to the Treasury.

" TERMINATION OF POWER

Termination of Executive power.

" SEC. 409. The authority granted to the President under section 403 shall terminate upon the expiration of two years after the date of enactment of this Act unless otherwise provided by Congress."

Two years from date of enactment.
Vol. 48, p. 16.

SEC. 17. The Bureau of Efficiency and the office of chief of such bureau are hereby abolished; and the President is authorized to designate another officer to serve in place of the Chief of the Bureau of Efficiency on any board, commission, or other agency of which the Chief of the Bureau of Efficiency is now a member. All records and property, including office furniture and equipment of the bureau, shall be transferred to the Bureau of the Budget. Appropriations and unexpended balances of appropriations available for expenditure by the Bureau of Efficiency shall be impounded and returned to the Treasury. This section shall take effect at the beginning of the third calendar month after the passage of this Act.

Bureau of Efficiency abolished.
Vol. 39, p. 15, repealed.
Designation of officer to serve on boards.

Records, etc., transferred.

Unexpended balances impounded.

Effective date.

SEC. 18. So much of sections 9 and 10 of the Act entitled "An Act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922 (U. S. C., title 37, secs. 13 and 16), as provides for the payment of enlistment allowance to enlisted men for reenlistment within a period of three months from date of discharge is hereby suspended as to reenlistments made during the fiscal year ending June 30, 1934.

Payment of enlistment allowance.
Vol. 42, p. 629.
U. S. C., pp. 1187, 1188.

Suspended, reenlistments during fiscal year 1934.

SEC. 19. (a) The Court of Claims of the United States is authorized and directed, under such rules as it may prescribe, to impose a fee in an amount not in excess of \$10 to be fixed by the court for the filing of any petition in any case instituted after the enactment of this Act, and for the hearing of any case before the court, a judge, or a commissioner thereof, pending at the time of the enactment of this Act.

Court of Claims; fees.

Filing of petition.

Preparing, etc., transcript.

Furnishing certified copies of judgments.

Proviso.
Minimum fee, certified copy of findings filed in Supreme Court.

Fees for certified copy of findings of fact and opinion.

Accounting and deposit.

(b) The court is authorized and directed to charge and collect a fee of 10 cents a folio for preparing and certifying a transcript of the record for the purpose of a writ of certiorari sought by the plaintiff and for furnishing certified copies of judgments or other documents in cases in said court: *Provided*, That not less than \$5 shall be charged for each certified copy of findings of fact and opinion of the court to be filed in the Supreme Court of the United States.

(c) The court is also authorized and directed to charge and collect for each certified copy of its findings of fact and opinion a fee of 25 cents for five pages or less, 35 cents for those over five and not more than ten pages, 45 cents for those over ten and not more than twenty pages, and 50 cents for those of more than twenty pages.

(d) The clerk of the Court of Claims shall account to the Attorney General for all such fees and shall deposit such fees to the credit of the Treasurer of the United States in the same manner as is provided in the case of collections by clerks of district courts as provided by section 9 of the Act entitled "An Act to fix the salaries of clerks of the United States district courts and to provide for their office expenses, and for other purposes," approved February 26, 1919, as amended (U. S. C., title 28, sec. 567).

TITLE III

Terms construed.

"United States."

SEC. 1. That when used in this title—

(a) The term "United States," when used in a geographical sense, includes the United States and any place subject to the jurisdiction thereof;

"Public use"; "public building"; "public work."

(b) The terms "public use," "public building," and "public work" shall mean use by, public building of, and public work of, the United States, the District of Columbia, Hawaii, Alaska, Puerto Rico, the Philippine Islands, American Samoa, the Canal Zone, and the Virgin Islands.

Manufactured articles, etc., produced in United States acquired for public use.

SEC. 2. Notwithstanding any other provision of law, and unless the head of the department or independent establishment concerned shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, shall be acquired for public use. This section shall not apply with respect to articles, materials, or supplies for use outside the United States, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Articles used outside United States.

Materials for construction, etc., public buildings.

SEC. 3. (a) Every contract for the construction, alteration, or repair of any public building or public work in the United States growing out of an appropriation heretofore made or hereafter to be made shall contain a provision that in the performance of the work the contractor, subcontractors, material men, or suppliers, shall use only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case

may be, in the United States except as provided in section 2: *Provided, however,* That if the head of the department or independent establishment making the contract shall find that in respect to some particular articles, materials, or supplies it is impracticable to make such requirement or that it would unreasonably increase the cost, an exception shall be noted in the specifications as to that particular article, material, or supply, and a public record made of the findings which justified the exception.

proviso.
Exception when cost increased.

(b) If the head of a department, bureau, agency, or independent establishment which has made any contract containing the provision required by subsection (a) finds that in the performance of such contract there has been a failure to comply with such provisions, he shall make public his findings, including therein the name of the contractor obligated under such contract, and no other contract for the construction, alteration, or repair of any public building or public work in the United States or elsewhere shall be awarded to such contractor, subcontractors, material men, or suppliers with which such contractor is associated or affiliated, within a period of three years after such finding is made public.

Contractors, etc., failing to comply.

SEC. 4. This title shall take effect on the date of its enactment, but shall not apply to any contract entered into prior to such effective date.

Effective date.

SEC. 5. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application thereof to other persons or circumstances, shall not be affected thereby.

Separability of provisions.

Approved, March 3, 1933.

[CHAPTER 213.]

AN ACT

Making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1934, and for other purposes.

March 3, 1933.
[H. R. 14724.]
[Public, No. 429.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Navy Department and the naval service for the fiscal year ending June 30, 1934, namely:

Navy Department and naval service appropriations, fiscal year 1934.

NAVAL ESTABLISHMENT

Naval Establishment.

OFFICE OF THE SECRETARY

Secretary's office.

MISCELLANEOUS EXPENSES

For traveling expenses of civilian employees, including not to exceed \$1,500 for the expenses of attendance, at home and abroad, upon meetings of technical, professional, scientific, and other similar organizations when, in the judgment of the Secretary of the Navy, such attendance would be of benefit in the conduct of the work of the Navy Department; not to exceed \$2,000 for the part-time or intermittent employment in the District of Columbia or elsewhere of such experts and at such rates of compensation as may be contracted for by and in the discretion of the Secretary of the Navy; expenses of courts-martial, purchase of law and reference books, expenses of prisoners and prisons, courts of inquiry, boards of investigation, examining boards, clerical assistance; witnesses' fees and traveling expenses; not to exceed \$15,000 for promoting accident prevention and safety in shore establishments of the Navy, to be expended in

Miscellaneous expenses.

Courts-martial, etc.

the discretion of the Secretary of the Navy; newspapers and periodicals for the naval service; all advertising of the Navy Department and its bureaus (except advertising for recruits for the Bureau of Navigation); cost of suits; relief of vessels in distress; recovery of valuables from shipwrecks; maintenance of attachés abroad, including office rental and pay of employees, and not to exceed \$4,200 in the aggregate or \$450 for any one person for allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, title 5, sec. 118a); the collection and classification of information; not to exceed \$170,000 for telephone, telegraph, and teletype rentals and tolls, telegrams, radiograms, and cablegrams; postage, foreign and domestic and post-office box rentals; necessary expenses for interned persons and prisoners of war under the jurisdiction of the Navy Department, including funeral expenses for such interned persons or prisoners of war as may die while under such jurisdiction; payment of claims for damages as provided in the Act making appropriations for the naval service for the fiscal year 1920, approved July 11, 1919 (U. S. C., title 34, sec. 600); and other necessary and incidental expenses; in all, \$971,304: *Provided*, That no part of any appropriation contained in this Act shall be available for the expense of any naval district in which there may be an active navy yard, naval training station, or naval operating base, unless the commandant of the naval district shall be also the commandant of one of such establishments: *Provided further*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$518,000.

CONTINGENT, NAVY

Contingent, Navy.

For all emergencies and extraordinary expenses, exclusive of personal services in the Navy Department or any of its subordinate bureaus or offices at Washington, District of Columbia, arising at home or abroad, but impossible to be anticipated or classified, to be expended on the approval and authority of the Secretary of the Navy, and for such purposes as he may deem proper, and for examination of estimates for appropriations and of naval activities in the field for any branch of the naval service, \$15,000.

State Marine Schools.

STATE MARINE SCHOOLS, ACT MARCH 4, 1911

Reimbursing California, Massachusetts, New York, and Pennsylvania, for expenses.

Vol. 36, p. 1353.
U. S. C., p. 1150.

To reimburse the State of California, \$25,000; the State of Massachusetts, \$25,000; the State of New York, \$25,000; and the State of Pennsylvania, \$25,000, for expenses incurred in the maintenance and support of marine schools in such States as provided in the Act authorizing the establishment of marine schools, and so forth, approved March 4, 1911 (U. S. C., title 34, sec. 1121), and for the maintenance and repair of the particular vessels loaned by the United States to the said States on the date of the approval of this Act for use in connection with such State Marine Schools, \$110,400, and no other vessels shall be furnished by or through the Navy Department; in all, \$210,400.

Maintenance of vessels loaned.

Lepers, etc.

CARE OF LEPERS, AND SO FORTH, ISLAND OF GUAM

Care, etc., Cullion, P. I.

Naval station, island of Guam: For maintenance and care of lepers, special patients, and for other purposes, including cost of

transfer of lepers from Guam to the island of Culion, in the Philippines, and their maintenance, \$20,000; for educational purposes, \$15,000; in all, \$35,000.

NAVAL RESEARCH LABORATORY

Research laboratory.

For laboratory and research work and other necessary work of the naval research laboratory for the benefit of the naval service, including operation and maintenance of a laboratory, additions to equipment necessary properly to carry on work in hand, maintenance of buildings and grounds, temporary employment of such scientific civilian assistants as may become necessary, and subscriptions to technical periodicals, to be expended under the direction of the Secretary of the Navy, \$199,381: *Provided*, That \$20,000 of this appropriation shall be available for the temporary employment of civilian scientists and technicians required on special problems: *Provided further*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$95,000, in addition to the amount authorized by the preceding proviso.

Work of, for naval service.

Proviso.
Temporary employment of scientists, etc.
Limitation on Group IV (b) employees.

OPERATION AND CONSERVATION OF NAVAL PETROLEUM RESERVES

Naval petroleum reserves.

To enable the Secretary of the Navy to carry out the provisions contained in the Act approved June 4, 1920 (U. S. C., title 34, sec. 524), requiring him to conserve, develop, use, and operate the naval petroleum reserves, \$65,814, of which amount not to exceed \$15,000 shall be available for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department and of which \$5,000 shall be available exclusively for repairs to shut-in wells, Naval Petroleum Reserve Numbered 3: *Provided*, That out of any sums appropriated for naval purposes by this Act any portion thereof, not to exceed \$10,000,000, shall be available to enable the Secretary of the Navy to protect Naval Petroleum Reserve Numbered 1, established by Executive order of September 2, 1912, pursuant to the Act of June 25, 1910 (U. S. C., title 43, secs. 141-143), by drilling wells and performing any work incident thereto, of which amount not to exceed \$100,000 shall be available for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department: *Provided further*, That no part of the sum made available for the protection of this property shall be expended if a satisfactory agreement can be made with adjoining landowners to not drill offset wells for the purpose of producing oil.

Conservation, etc.
Vol. 41, p. 813.
U. S. C., p. 1122.

Proviso.
Work on Reserve No. 1.

Vol. 34, p. 847.
U. S. C., p. 1333.

Group IV (b) employees.

Expenditure subject to agreement of adjoining owner not to drill offset wells.

BUREAU OF NAVIGATION

Bureau of Navigation.

TRAINING, EDUCATION, AND WELFARE, NAVY

Naval War College: For maintenance and operation, including repairs, improvements, and care of grounds; services of a professor of international law, \$2,000; services of lecturers, \$2,000; and other civilian services; library expenses, including the purchase, binding, and repair of books and periodicals and subscriptions to newspapers and periodicals; and including contingencies of the President of the

Naval War College, maintenance, etc.

Naval War College to be expended in his discretion not exceeding \$1,000; and for other necessary expenses, \$103,075;

Training stations,
maintenance, etc.

Naval training stations: For maintenance, operation, and other necessary expenses, including repairs, improvements, and care of grounds of the naval training stations which follow: San Diego, California, \$153,618; Newport, Rhode Island, \$191,211; Great Lakes, Illinois, \$230,119; Norfolk, Virginia, \$217,943;

Gunnery, etc., prizes,
fleet training.

Fleet training: For trophies and badges for excellence in gunnery, target practice, engineering exercises, and for economy in fuel consumption to be awarded under such rules as the Secretary of the Navy may formulate; for the purpose of recording, classifying, compiling, and publishing the rules and results; for the establishment and maintenance of shooting galleries, target houses, targets, and ranges; for hiring established ranges, and for transporting equipment to and from ranges; entrance fees in matches for the rifle team, and special equipment therefor, \$37,954;

Instruction.

Instruction: For postgraduate instruction of officers in other than civil government and literature, and for special instruction, education, and individual training of officers and enlisted men at home and abroad, including maintenance of students abroad, except aviation training and submarine training otherwise appropriated for, \$181,669;

Libraries.

Libraries: For libraries, professional books, textbooks, religious books, periodicals and newspaper subscriptions for ships and shore stations not otherwise appropriated for, \$60,119;

Welfare and recrea-
tion.

Welfare and recreation: For welfare and recreation of the Navy, including periodicals and newspaper subscriptions, to be expended in the discretion of the Secretary of the Navy, under such regulations as he may prescribe, \$300,000, which sum shall be paid out of the Naval Hospital fund;

Naval Reserve Offi-
cers' Training Corps,
operation expenses.

Naval Reserve Officers' Training Corps: For all expenses incident to the conduct of the Naval Reserve Officers' Training Corps under such regulations as the President has prescribed or hereafter may prescribe under the provisions of section 22 of the Act approved March 4, 1925 (43 Stat., p. 1276; U. S. C., title 34, sec. 821), \$92,149, of which \$20,000 shall be available immediately: *Provided*, That uniforms and other equipment or material issued to the Naval Reserve Officers' Training Corps in accordance with law may be furnished from surplus or reserve stocks of the Navy without payment under this appropriation, except for actual expenses incurred in the manufacture or issue;

Vol. 43, p. 1276.
U. S. C., p. 1137.

Proviso.
Uniforms, etc.

Training, education,
etc.
Proviso.
Group IV (b) em-
ployees.

In all, training, education, and welfare, Navy, \$1,267,857: *Pro-
vided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department, exclusive of temporary services, shall not exceed the following amounts, respectively: Naval War College, \$73,000; Naval Training Station, San Diego, \$7,500; Naval Training Station, Newport, \$10,000; Naval Training Station, Great Lakes, \$14,500; Naval Training Station, Norfolk, \$5,500; Instruction, \$25,000; Libraries, \$22,000.

Limitation.

CONTINGENT, BUREAU OF NAVIGATION

Contingent.

For continuous-service certificates, commissions, warrants, diplomas, discharges, good-conduct badges, and medals for men and boys; transportation of effects of deceased officers, nurses, and enlisted men of the Navy, and of officers and men of the Naval Reserve who die while on duty; packing boxes and materials; books and models;

stationery; and other contingent expenses and emergencies arising under cognizance of the Bureau of Navigation, unforeseen and impossible to classify, \$7,500.

INSTRUMENTS AND SUPPLIES, BUREAU OF NAVIGATION

For supplies for seamen's quarters; and for the purchase of all other articles of equipage at home and abroad; and for the payment of labor in equipping vessels therewith and manufacture of such articles in the several navy yards; all pilotage and towage of ships of war; canal tolls, wharfage, dock and port charges, and other necessary incidental expenses of a similar nature; hire of launches or other small boats in Asiatic waters; quarantine expenses; services and materials in repairing, correcting, adjusting, and testing compasses on shore and on board ship; nautical and astronomical instruments and repairs to same; compasses, compass fittings, including binnacles, tripods, and other appendages of ship's compasses; logs and other appliances for measuring the ship's way and leads and other appliances for sounding; photographs, photographic instruments and materials, printing outfit and materials; music and musical instruments; and for the necessary civilian electricians for gyro-compass testing and inspection; in all, \$466,594: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$33,460.

Equipment supplies, etc.

Proviso.
Limit on sum for Group IV (b) employees.

OCEAN AND LAKE SURVEYS, BUREAU OF NAVIGATION

For hydrographic surveys, including the pay of the necessary hydrographic surveyors, cartographic draftsmen, and recorders, and for the purchase of nautical books, charts, and sailing directions, \$62,950: *Provided*, That the sum to be paid out of this appropriation for employees assigned Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$27,000.

Ocean and lake surveys.

Proviso.
Limit on sum for Group IV (b) employees.

NAVAL RESERVE

For expenses of organizing, administering, and recruiting the Naval Reserve and Naval Militia; pay and allowances of officers and enlisted men of the Naval Reserve when employed on authorized training duty; mileage for officers while traveling under orders to and from training duty; transportation of enlisted men to and from training duty, and subsistence and transfers en route, or cash in lieu thereof; subsistence of enlisted men during the actual period of training duty; subsistence of officers and enlisted men of the Fleet Naval Reserve while performing authorized training or other duty without pay; pay, mileage, and allowances of officers of the Naval Reserve and pay, allowances, and subsistence of enlisted men of the Naval Reserve when ordered to active duty in connection with the instruction, training, and drilling of the Naval Reserve; pay of officers and enlisted men of the Fleet Naval Reserve for the performance of not to exceed forty-eight drills per annum or other equivalent instruction or duty, or appropriate duties, and administrative duties, exclusive, however, of pay, allowances, or other expenses on account of members of any class of the Naval Reserve

Naval Reserve.

Organizing, recruiting, etc., expenses of, and Militia.

Fleet Naval Reserve.
Subsistence, etc.
Pay, mileage, etc.

Flight training. incident to their being given flight training unless, as a condition precedent, they shall have been found by such agency as the Secretary of the Navy may designate physically and psychologically qualified to serve as pilots of naval aircraft, \$3,346,960, of which amount \$57,000 shall be available immediately; not more than \$150,000 shall be available for maintenance and rental of armories, including pay of necessary janitors, and for wharfage; not more than \$81,000 shall be available for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department; not less than \$533,141 shall be available, in addition to other appropriations, for aviation material, equipment, fuel, and rental of hangars, not more than \$397,914 shall be available, in addition to other appropriations, for fuel and the transportation thereof, and for all other expenses in connection with the maintenance, operation, repair, and upkeep of vessels assigned for training the Naval Reserve, and of such total sum \$1,134,036 shall be available exclusively for and on account of Naval and Marine Corps Reserve aviation: *Provided*, That no appropriation contained in this Act shall be available to pay more than one officer of the Naval Reserve and one officer of the Marine Corps Reserve above the grade of lieutenant or captain, respectively, the pay and allowances of their grade for the performance of active duty other than the performance of drills or other equivalent instruction or duty, or appropriate duties, and/or the performance of fifteen days' active training duty, and other officers above such grades employed on such class of active duty shall not be entitled to or be paid a greater rate of pay and allowances than authorized by law for a lieutenant of the Navy or a captain of the Marine Corps entitled to not exceeding ten years' longevity pay: *Provided further*, That no appropriation made in this Act shall be available for pay, allowances, or traveling or other expenses of any officer or enlisted man of the Naval or Marine Corps Reserve who may be drawing a pension, disability allowance, disability compensation, or retired pay from the Government of the United States; and "retired pay" as here used shall not include the pay of transferred members of such reserve forces.

Armories, wharfage, etc. \$150,000 shall be available for maintenance and rental of armories, including pay of necessary janitors, and for wharfage; not more than \$81,000 shall be available for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department; not less than \$533,141 shall be available, in addition to other appropriations, for aviation material, equipment, fuel, and rental of hangars, not more than \$397,914 shall be available, in addition to other appropriations, for fuel and the transportation thereof, and for all other expenses in connection with the maintenance, operation, repair, and upkeep of vessels assigned for training the Naval Reserve, and of such total sum \$1,134,036 shall be available exclusively for and on account of Naval and Marine Corps Reserve aviation: *Provided*, That no appropriation contained in this Act shall be available to pay more than one officer of the Naval Reserve and one officer of the Marine Corps Reserve above the grade of lieutenant or captain, respectively, the pay and allowances of their grade for the performance of active duty other than the performance of drills or other equivalent instruction or duty, or appropriate duties, and/or the performance of fifteen days' active training duty, and other officers above such grades employed on such class of active duty shall not be entitled to or be paid a greater rate of pay and allowances than authorized by law for a lieutenant of the Navy or a captain of the Marine Corps entitled to not exceeding ten years' longevity pay: *Provided further*, That no appropriation made in this Act shall be available for pay, allowances, or traveling or other expenses of any officer or enlisted man of the Naval or Marine Corps Reserve who may be drawing a pension, disability allowance, disability compensation, or retired pay from the Government of the United States; and "retired pay" as here used shall not include the pay of transferred members of such reserve forces.

Group IV (b) employees. \$81,000 shall be available for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department; not less than \$533,141 shall be available, in addition to other appropriations, for aviation material, equipment, fuel, and rental of hangars, not more than \$397,914 shall be available, in addition to other appropriations, for fuel and the transportation thereof, and for all other expenses in connection with the maintenance, operation, repair, and upkeep of vessels assigned for training the Naval Reserve, and of such total sum \$1,134,036 shall be available exclusively for and on account of Naval and Marine Corps Reserve aviation: *Provided*, That no appropriation contained in this Act shall be available to pay more than one officer of the Naval Reserve and one officer of the Marine Corps Reserve above the grade of lieutenant or captain, respectively, the pay and allowances of their grade for the performance of active duty other than the performance of drills or other equivalent instruction or duty, or appropriate duties, and/or the performance of fifteen days' active training duty, and other officers above such grades employed on such class of active duty shall not be entitled to or be paid a greater rate of pay and allowances than authorized by law for a lieutenant of the Navy or a captain of the Marine Corps entitled to not exceeding ten years' longevity pay: *Provided further*, That no appropriation made in this Act shall be available for pay, allowances, or traveling or other expenses of any officer or enlisted man of the Naval or Marine Corps Reserve who may be drawing a pension, disability allowance, disability compensation, or retired pay from the Government of the United States; and "retired pay" as here used shall not include the pay of transferred members of such reserve forces.

Aviation material, hangars, etc. \$397,914 shall be available, in addition to other appropriations, for aviation material, equipment, fuel, and rental of hangars, not more than \$397,914 shall be available, in addition to other appropriations, for fuel and the transportation thereof, and for all other expenses in connection with the maintenance, operation, repair, and upkeep of vessels assigned for training the Naval Reserve, and of such total sum \$1,134,036 shall be available exclusively for and on account of Naval and Marine Corps Reserve aviation: *Provided*, That no appropriation contained in this Act shall be available to pay more than one officer of the Naval Reserve and one officer of the Marine Corps Reserve above the grade of lieutenant or captain, respectively, the pay and allowances of their grade for the performance of active duty other than the performance of drills or other equivalent instruction or duty, or appropriate duties, and/or the performance of fifteen days' active training duty, and other officers above such grades employed on such class of active duty shall not be entitled to or be paid a greater rate of pay and allowances than authorized by law for a lieutenant of the Navy or a captain of the Marine Corps entitled to not exceeding ten years' longevity pay: *Provided further*, That no appropriation made in this Act shall be available for pay, allowances, or traveling or other expenses of any officer or enlisted man of the Naval or Marine Corps Reserve who may be drawing a pension, disability allowance, disability compensation, or retired pay from the Government of the United States; and "retired pay" as here used shall not include the pay of transferred members of such reserve forces.

Provisos. Flying pay restrictions. That no appropriation contained in this Act shall be available to pay more than one officer of the Naval Reserve and one officer of the Marine Corps Reserve above the grade of lieutenant or captain, respectively, the pay and allowances of their grade for the performance of active duty other than the performance of drills or other equivalent instruction or duty, or appropriate duties, and/or the performance of fifteen days' active training duty, and other officers above such grades employed on such class of active duty shall not be entitled to or be paid a greater rate of pay and allowances than authorized by law for a lieutenant of the Navy or a captain of the Marine Corps entitled to not exceeding ten years' longevity pay: *Provided further*, That no appropriation made in this Act shall be available for pay, allowances, or traveling or other expenses of any officer or enlisted man of the Naval or Marine Corps Reserve who may be drawing a pension, disability allowance, disability compensation, or retired pay from the Government of the United States; and "retired pay" as here used shall not include the pay of transferred members of such reserve forces.

Pay, etc., restrictions. That no appropriation made in this Act shall be available for pay, allowances, or traveling or other expenses of any officer or enlisted man of the Naval or Marine Corps Reserve who may be drawing a pension, disability allowance, disability compensation, or retired pay from the Government of the United States; and "retired pay" as here used shall not include the pay of transferred members of such reserve forces.

Naval Home.

NAVAL HOME, PHILADELPHIA, PENNSYLVANIA

Personal services.
Proviso.
Limit on sum for Group IV (b) employees.

For pay of employees, \$76,806: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$15,000;

Maintenance.

Maintenance: For water rent, heating, and lighting; cemetery, burial expenses, and headstones; general care and improvements of grounds, buildings, walls, and fences; repairs to power-plant equipment, implements, tools, and furniture, and purchase of the same; music in chapel and entertainments for beneficiaries; stationery, books, and periodicals; transportation of indigent and destitute beneficiaries to the Naval Home, and of sick and insane beneficiaries, their attendants and necessary subsistence for both, to and from other Government hospitals; employment of such beneficiaries in and about the Naval Home as may be authorized by the Secretary of the Navy, on the recommendation of the governor; support of beneficiaries and all other contingent expenses, including the maintenance, repair, and operation of two motor-propelled vehicles, and

one motor-propelled passenger-carrying vehicle, to be used only for official purposes, \$89,242;

In all, Naval Home, \$166,048, which sum shall be paid out of the income from the naval pension fund. Payable from naval pension fund.

BUREAU OF ENGINEERING

Bureau of Engineering.

ENGINEERING

For repairs, preservation, and renewal of machinery, auxiliary machinery, and boilers of naval vessels, yard craft, and ships' boats, distilling and refrigerating apparatus; repairs, preservation, and renewals of electric interior and exterior signal communications and all electrical appliances of whatsoever nature on board naval vessels, except range finders, battle order and range transmitters and indicators, and motors and their controlling apparatus used to operate machinery belonging to other bureaus; searchlights and fire-control equipments for anti-aircraft defense at shore stations; maintenance and operation of coast signal service; equipage, supplies, and materials under the cognizance of the bureau required for the maintenance and operation of naval vessels, yard craft, and ships' boats; purchase, installation, repair, and preservation of machinery, tools, and appliances in navy yards and stations, accident prevention, pay of classified field force under the bureau; incidental expenses for naval vessels, navy yards, and stations, inspectors' offices, the engineering experiment station, such as photographing, technical books and periodicals, stationery, and instruments; services, instruments, machines and auxiliaries, apparatus, and supplies, and technical books and periodicals necessary to carry on experimental and research work; maintenance and equipment of buildings and grounds at the engineering experiment station, Annapolis, Maryland; payment of part time or intermittent employment in the District of Columbia or elsewhere of such scientists and technicians as may be contracted for by the Secretary of the Navy, in his discretion, at a rate of pay not exceeding \$20 per diem for any person so employed; in all, \$17,945,950, of which \$250,000 shall be available exclusively for the procurement and installation of new tools and machinery for shops under the cognizance of the Bureaus of Engineering and Construction and Repair, and \$540,000 shall be available exclusively to complete the purchase of certain inventions pertaining to radio control as covered by the purchase agreement entered into by the Navy Department on July 30, 1932, in pursuance of the authority vested in the Secretary of the Navy by the Naval Appropriation Act for the fiscal year 1933: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$1,796,000.

Engineering repairs, machinery.

Equipment, supplies, etc.

Annapolis, Md., engineering experiment station.

New tools and machinery for shops.

Proviso. Limit on sum for Group IV (b) employees.

BUREAU OF CONSTRUCTION AND REPAIR

Bureau of Construction and Repair.

For preservation and completion of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; steam steerers, steam capstans, steam windlasses, and all other auxiliaries; labor in navy yards and on foreign stations; accident prevention; purchase of machinery and tools for use in shops; carrying on work of experimental model tank and wind tunnel; designing naval vessels; construction and repair of yard craft, lighters, and barges;

Construction and repair of vessels.

wear, tear, and repair of vessels afloat; general care and protection of the Navy in the line of construction and repair; incidental expenses for vessels and navy yards, inspectors' offices, such as photographing, books, professional magazines, plans, stationery, and instruments for drafting room, and for pay of classified field force under the bureau; services, instruments and apparatus, supplies, and technical books and periodicals necessary to carry on experimental and research work; for payment of part time or intermittent employment in the District of Columbia, or elsewhere, of such scientists and technicians as may be contracted for by the Secretary of the Navy, in his discretion, at a rate of pay not exceeding \$20 per diem for any person so employed; for the difference between inactive and active duty pay and allowances of members of the Fleet Naval Reserve transferred thereto after twenty years' naval service who may be employed as shipkeepers under the cognizance of the Bureau of Construction and Repair; for hemp, wire, iron, and other materials for the manufacture of cordage, anchors, cables, galleys, and chains; specifications for purchase thereof shall be so prepared as shall give fair and free competition; canvas for the manufacture of sails, awnings, hammocks, and other work; interior appliances and tools for manufacturing purposes in navy yards and naval stations; and for the purchase of all other articles or equipage at home and abroad; and for the payment of labor in equipping vessels therewith and manufacture of such articles in the several navy yards; naval signals and apparatus, other than electric, namely, signals, lights, lanterns, running lights, and lamps and their appendages for general use on board ship for illuminating purposes; and oil and candles used in connection therewith; bunting and other material for making and repairing flags of all kinds; for all permanent galley fittings and equipage; rugs, carpets, curtains, and hangings on board naval vessels, \$15,434,800, of which \$250,000 shall be available exclusively for the procurement and installation of new tools and machinery for shops under the cognizance of the Bureaus of Construction and Repair and Engineering: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedules of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$2,115,000.

Proviso.
Limit on sum for
Group IV (b) employ-
ees.

Bureau of Ordnance.

BUREAU OF ORDNANCE

ORDNANCE AND ORDNANCE STORES, BUREAU OF ORDNANCE

Procuring, etc., ord-
nance and ordnance
stores.

For procuring, producing, preserving, and handling ordnance material, for the armament of ships; for the purchase and manufacture of torpedoes and appliances; for the purchase and manufacture of smokeless powder; for fuel, material, and labor to be used in the general work under the cognizance of the Bureau of Ordnance; for furniture at naval ammunition depots, torpedo stations, naval ordnance plants, and proving grounds; for technical books; plant appliances as now defined by the "Navy Classification of Accounts"; for machinery and machine tools; for accident prevention; for experimental work in connection with the development of ordnance material for the Navy; for maintenance of proving grounds, powder factory, torpedo stations, gun factory, ammunition depots, and naval ordnance plants, and for target practice; not to exceed \$15,000 for minor improvements to buildings, grounds, and appurtenances of a character which can be performed by regular station labor; for payment of part time or intermittent employment in the District of

Columbia, or elsewhere, of such scientists and technicians as may be contracted for by the Secretary of the Navy in his discretion at a rate of pay not exceeding \$20 per diem for any person so employed; for the maintenance, repair, and operation of horse-drawn and motor-propelled freight and passenger-carrying vehicles, to be used only for official purposes at naval ammunition depots, naval proving grounds, naval ordnance plants, and naval torpedo stations; for the pay of chemists, clerical, drafting, inspection, and messenger service in navy yards, naval stations, naval ordnance plants, and naval ammunition depots, and for care and operation of schools at ordnance stations at Indianhead, Maryland, Dahlgren, Virginia, and South Charleston, West Virginia, \$10,849,750: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$1,262,500.

Schools at designated stations.

Provided.
Limit on sum for Group IV (b) employees.

BUREAU OF SUPPLIES AND ACCOUNTS

Bureau of Supplies and Accounts.

PAY, SUBSISTENCE, AND TRANSPORTATION OF NAVAL PERSONNEL

Pay of naval personnel: For pay and allowances prescribed by law of officers on sea duty and other duty, and officers on waiting orders (not to exceed nine hundred and eight officers of the Medical Corps, one hundred and eighty-six officers of the Dental Corps, five hundred and fifty-six officers of the Supply Corps, eighty-three officers of the Chaplain Corps, two hundred and thirty-three officers of the Construction Corps, one hundred and nine officers of the Civil Engineer Corps, and one thousand four hundred and sixty-one warrant and commissioned warrant officers: *Provided*. That if the number of warrant and commissioned warrant officers and officers in any staff corps holding commission on July 1, 1933, is in excess of the number herein stipulated, such excess officers may be retained in the Navy until the number is reduced to the limitations imposed by this Act), pay—\$27,786,490, including not to exceed \$1,289,770 (none of which shall be available for increased pay for making aerial flights by more than eight non-flying officers or observers, to be selected by the Secretary of the Navy) for increased pay for making aerial flights; rental allowance, \$5,501,197; subsistence allowance, \$3,288,744; in all, \$36,576,431; officers on the retired list, \$5,583,000; for hire of quarters for officers serving with troops where there are no public quarters belonging to the Government, and where there are not sufficient quarters possessed by the United States to accommodate them, and hire of quarters for officers and enlisted men on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable, \$3,000; pay of enlisted men on the retired list, \$5,501,162; interest on deposits by men, \$3,000; pay of petty officers (not to exceed an average of six thousand seven hundred and sixty chief petty officers, of which number those with a permanent appointment as chief petty officer shall not exceed an average of five thousand nine hundred and ten), seamen, landsmen, and apprentice seamen, including men in the engineer's force and men detailed for duty with the Fish Commission, enlisted men, men in trade schools, pay of enlisted men of the Hospital Corps, extra pay for men for diving, and cash prizes (not to exceed \$71,500) for men for excellence in gunnery, target practice, and engineering competitions, \$65,900,806, and, in addition, the Secretary of the Treasury is authorized and directed upon request of the Secretary of the

Pay, etc., of the Navy.
Officers.

Provided.
Excess officers to be carried.

Aerial flights by non-flying officers.

Retired.
Hire of quarters.

Enlisted men.

Outfits, etc.
 Clothing.

Reimbursements, etc.

Machinists, apprentice seamen under training, etc.
 Nurse Corps.

Fleet Naval Reserve.
 Property losses.
 Vol. 40, p. 389.
 U. S. C., p. 1144.
 Vol. 44, p. 1368.
 U. S. C., Supp. VI, p. 692.

Active duty pay to retired officers, etc.

Proviso.
 Pay restriction, aids to rear admiral.
 Vol. 35, p. 128.
 U. S. C., p. 1139.

Employment as household servants restricted.

Subsistence.
 Provisions, commutation of rations, etc.

Subsistence while absent from duty.

Naval Reserve, etc.

Transportation.

Navy, to make transfers during the fiscal year 1934 from the clothing and small stores fund to this appropriation of sums aggregating not to exceed \$1,750,000; outfits for all enlisted men and apprentice seamen of the Navy on first enlistment, civilian clothing not to exceed \$15 per man to men given discharges for bad conduct or undesirability or inaptitude, reimbursement in kind of clothing to persons in the Navy for losses in cases of marine or aircraft disasters or in the operation of water or air borne craft, and the authorized issue of clothing and equipment to the members of the Nurse Corps, \$678,921; pay of enlisted men undergoing sentence of court-martial, \$128,800, and as many machinists as the President may from time to time deem necessary to appoint; pay and allowances of the Nurse Corps, including assistant superintendents, directors and assistant directors—pay \$581,120, rental allowance \$30,240, subsistence allowance \$16,702; pay retired list \$42,200; in all, \$670,262; rent of quarters for members of the Nurse Corps; pay and allowances of transferred and assigned men of the Fleet Naval Reserve, \$10,871,819; reimbursement for losses of property as provided in the Act approved October 6, 1917 (U. S. C., title 34, secs. 981, 982), as amended by the Act of March 3, 1927 (U. S. C., Supp. V, title 34, sec. 983), \$5,000; payment of six months' death gratuity, \$150,000; in all \$126,072,201, and no part of such sum shall be available to pay active duty pay and allowances to officers in excess of four on the retired list, except retired officers temporarily ordered to active duty as members of retiring and selection boards, as authorized by law: *Provided*, That during the fiscal year ending June 30, 1934, no officer of the Navy shall be entitled to receive an addition to his pay in consequence of the provisions of the Act approved May 13, 1908 (U. S. C., title 34, sec. 867): *Provided further*, That no appropriation contained in this Act shall be available for the pay, allowances, or other expenses of any enlisted man or civil employee performing service in the residence or quarters of an officer or officers on shore as a cook, waiter, or other work of a character performed by a household servant, but nothing herein shall be construed as preventing the voluntary employment in any such capacity of a retired enlisted man or a transferred member of the Fleet Naval Reserve without additional expense to the Government;

Subsistence of naval personnel: For provisions and commuted rations for enlisted men of the Navy, which commuted rations may be paid to caterers of messes in case of death or desertion, upon orders of the commanding officers, at 50 cents per diem, and midshipmen at 75 cents per diem, and commuted rations stopped on account of sick in hospital and credited at the rate of 66 cents per ration to the naval hospital fund; subsistence of men unavoidably detained or absent from vessels to which attached under orders (during which subsistence rations to be stopped on board ship and no credit for commutation therefor to be given); quarters and subsistence of men on detached duty; subsistence of members of the Naval Reserve during period of active service; subsistence in kind at hospitals and on board ship in lieu of subsistence allowance of female nurses and Navy and Marine Corps general courts-martial prisoners undergoing imprisonment with sentences of dishonorable discharge from the service at the expiration of such confinement; in all, \$13,474,702;

Transportation and recruiting of naval personnel: For mileage and actual and necessary expenses and per diem in lieu of subsistence as authorized by law to officers of the Navy while traveling under orders, including not to exceed \$2,000 for the expenses of attendance at home and abroad, upon meetings of technical, professional, scientific, and other similar organizations, when, in the judgment of the

Secretary of the Navy, such attendance would be of benefit in the conduct of the work of the Navy Department; for mileage, at 5 cents per mile, to midshipmen, entering the Naval Academy while proceeding from their homes to the Naval Academy for examination and appointment as midshipmen, and not more than \$2,500 shall be available for transportation of midshipmen, including reimbursement of traveling expenses while traveling under orders after appointment as midshipmen; for actual traveling expenses of female nurses; for travel allowance or for transportation and subsistence as authorized by law of enlisted men upon discharge; transportation of enlisted men and apprentice seamen and applicants for enlistment at home and abroad, with subsistence and transfers en route, or cash in lieu thereof; transportation to their home, if residents of the United States, of enlisted men and apprentice seamen discharged on medical survey, with subsistence and transfers en route, or cash in lieu thereof; transportation of sick or insane enlisted men and apprentice seamen and insane supernumerary patients to hospitals, with subsistence and transfers en route, or cash in lieu thereof; apprehension and delivery of deserters and stragglers, and for railway guides and other expenses incident to transportation; expenses of recruiting for the naval service; rent of rendezvous and expenses of maintaining the same; advertising for and obtaining men and apprentice seamen; actual and necessary expenses in lieu of mileage to officers on duty with traveling recruiting parties; transportation of dependents of officers and enlisted men (not to exceed \$450,000); expenses of funeral escorts of naval personnel; actual expenses of officers and midshipmen while on shore-patrol duty, including the hire of automobiles when necessary for the use of shore-patrol detachments; in all, \$3,430,547, and not more than \$744,794 of such sum shall be available for travel by officers, midshipmen, and female nurses, of which latter sum \$150,000, or so much thereof as may be necessary, shall be available for travel by officers on inspection duty;

In all, for pay, subsistence, and transportation of naval personnel, \$142,977,450, of which sum \$1,000,000 shall be immediately available, and the money herein specifically appropriated, or transferred from the clothing and small stores' fund to this appropriation as herein authorized, for "Pay, subsistence, and transportation of naval personnel," shall be disbursed and accounted for in accordance with existing law and shall constitute one fund: *Provided*, That additional commissioned, warranted, appointed, enlisted, and civilian personnel of the Medical Department of the Navy, required for the care of patients of the United States Veterans' Administration in naval hospitals, may be employed in addition to the numbers appropriated for in this Act: *Provided further*, That no part of this appropriation shall be available for the pay of any midshipmen whose admission subsequent to January 30, 1933, would result in exceeding at any time an allowance of three midshipmen for each Senator, Representative, and Delegate in Congress; of one midshipman for Puerto Rico, a native of the island, appointed on nomination of the governor, and of three midshipmen from Puerto Rico, appointed on nomination of the Resident Commissioner; and of two midshipmen for the District of Columbia: *Provided further*, That nothing herein shall be construed to repeal or modify in any way existing laws relative to the appointment of midshipmen at large, from the enlisted personnel of the naval service, or from the Naval Reserve: *Provided further*, That no part of this appropriation shall be available for the pay of any midshipman appointed from enlisted men of the Navy for admission to the Naval Academy in the class entering in the calendar year 1934 who

Apprehending deserters, etc.

Recruiting.

Transporting dependents.
Funeral escorts.

Aggregate.

Accounting, etc.

Provisos.
Additional medical detail for Veterans' Administration patients in naval hospitals.

Restriction on admissions to Naval Academy after January 30, 1933.

Appointments at large or from enlisted men not affected.

Sea service requirements of appointees from enlisted men.

has not served aboard a vessel of the Navy in full commission for at least nine months prior to such admission.

MAINTENANCE, BUREAU OF SUPPLIES AND ACCOUNTS

Maintenance.

For equipage, supplies, and services under the cognizance of the Bureau of Supplies and Accounts, including stationery for commanding, executive, communication, and navigating officers of ships, boards and courts on ships, and chaplains; commissions, interest, and exchange; ferriage and bridge tolls, including street-car fares; rent of buildings and offices not in navy yards except for use of naval attachés and recruiting officers; accident prevention; services of civilian employees under the cognizance of the Bureau of Supplies and Accounts; freight, express, and parcel-post charges, including transportation of funds and cost of insurance on shipments of money when necessary, and ice for cooling drinking water on shore (except at naval hospitals and shops at industrial navy yards), pertaining to the Navy Department and Naval Establishment, \$8,982,683: *Provided*, That no part of this or any other appropriation contained in this Act shall be available for or on account of the supply or replacement of table linen, dishes, glassware, silverware, and/or kitchen utensils for use in the residences or quarters of officers on shore: *Provided further*, That no appropriation contained in this Act shall be available for any expense for or incident to the transportation of privately owned automobiles except on account of the return to the United States of such privately owned automobiles as may have been transported to points outside of the continental limits of the United States at public expense prior to July 1, 1932: *Provided further*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$4,925,000: *Provided further*, That, without deposit to the credit of the Treasurer of the United States and withdrawal on money requisitions, receipts of public moneys from sales or other sources by officers of the Navy and Marine Corps on disbursing duty and charged in their official accounts may be used by them as required for current expenditures, all necessary bookkeeping adjustments of appropriations, funds, and accounts to be made in the settlement of their disbursing accounts.

The clothing and small-stores fund shall be charged with the value of all issues of clothing and small stores made to enlisted men of the Naval Reserve and the uniform gratuity paid to officers of the Naval Reserve.

EVACUATION OF HIGH EXPLOSIVES, NAVY

Toward the handling and transportation of high explosives to the naval ammunition depot, Hawthorne, Nevada, and other points, and expenses incident thereto, in accordance with the primary recommendations contained in House Document Numbered 199, Seventieth Congress, first session, as modified by the Second Deficiency Act, fiscal year 1928, approved May 29, 1928 (45 Stat., p. 908), the unexpended balance of the appropriation under this head for the fiscal year 1933 is continued available during the fiscal year 1934.

FUEL AND TRANSPORTATION, BUREAU OF SUPPLIES AND ACCOUNTS

For coal and other fuel for submarine bases and steamers' and ships' use, including expenses of transportation, storage, and handling the same and the removal of fuel refuse from ships; mainte-

Freight, etc., department and bureaus.

Provisos.
Use for purchasing tableware, kitchen utensils, etc., for officers' quarters ashore forbidden.

Not available for transporting privately owned automobiles; exception.

Limit on sum for Group IV (b) employees.

Naval, etc., disbursing officers may use certain receipts for current expenses; accounting.

Clothing and small-stores funds.
Issue to Naval Reserve, from.

Evacuation of high explosives.

Handling and transporting to ammunition depots.

Vol. 45, p. 908.
Balance available.
Ante, p. 433.

Fuel, and transportation of, etc.

nance and general operation of machinery of naval fuel depots and fuel plants; water for all purposes on board naval vessels, and ice for the cooling of water, including the expense of transportation and storage of both, \$6,459,575: *Provided*, That fuel acquired other than by purchase shall not be issued without charging the applicable appropriation with the cost of such fuel at the rate current at the time of issue for fuel purchased: *Provided further*, That the President may direct the use, wholly or in part, of fuel on hand, however acquired, to be charged at the last issue rate for fuel acquired by purchase, when in his judgment, prices quoted for supplying fuel are excessive: *Provided further*, That no part of this appropriation shall be available, any provision in this Act to the contrary notwithstanding, for the purchase of any kind of fuel oil of foreign production for issue, delivery, or sale to ships at points either in the United States or its possessions where oil of the production of the United States or its possessions may be procurable, notwithstanding that oil of the production of the United States or its possessions may cost more than oil of foreign production, if such excess of cost, in the opinion of the Secretary of the Navy, which shall be conclusive, be not unreasonable.

Proviso.
Issue of, charged to
applicable appropriation.

Prices for fuel on
hand.

Restriction on use,
etc., of foreign fuel oil.

BUREAU OF MEDICINE AND SURGERY

Bureau of Medicine
and Surgery.

MEDICAL DEPARTMENT

For surgeons' necessaries for vessels in commission, navy yards, naval stations, and Marine Corps; and for the civil establishment at the several naval hospitals, navy yards, naval medical supply depots, Naval Medical School and dispensary, Washington, and Naval Academy; for tolls and ferriages; purchase of books and stationery; hygienic and sanitary investigation and illustration; sanitary, hygienic, administrative, and special instruction, including the issuing of naval medical bulletins and supplements; purchase and repairs of nonpassenger-carrying wagons, automobile ambulances, and harness; purchase of and feed for horses and cows; maintenance, repair, and operation of three passenger-carrying motor vehicles for naval dispensary, Washington, District of Columbia, and of one motor-propelled vehicle for official use only for the medical officer on out-patient medical service at the Naval Academy; trees, plants, care of grounds, garden tools, and seeds; incidental articles for the Naval Medical School and naval dispensary, Washington, naval medical supply depots, sick quarters at Naval Academy and marine barracks; washing for medical department at Naval Medical School and naval dispensary, Washington, naval medical supply depots, sick quarters at Naval Academy and marine barracks, dispensaries at navy yards and naval stations, and ships; and for minor repairs on buildings and grounds of the United States Naval Medical School and naval medical supply depots; rent of rooms for naval dispensary, Washington, District of Columbia, not to exceed \$1,200; for the care, maintenance, and treatment of the insane of the Navy and Marine Corps on the Pacific coast, including supernumeraries held for transfer to Saint Elizabeths Hospital; for dental outfits and dental material; and all other necessary contingent expenses; in all, \$1,791,634: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$200,000.

Surgeons' necessaries.
Civil establishment.

Vehicles, etc.

Care, etc., of insane
on Pacific coast.

Proviso.
Limit on sum for
Group IV (b) em-
ployees.

Care of the dead.

CARE OF THE DEAD

Expenses of interment of officers, etc., dying in service, etc.

Civilian employees dying abroad.

Proviso. Retired officers, etc., on active duty included.

Bureau of Yards and Docks.

BUREAU OF YARDS AND DOCKS

MAINTENANCE, BUREAU OF YARDS AND DOCKS

General maintenance.

Vehicles.

Employees of Group IV (b), etc.

Provisos. Limitation on operation, etc.

Marine Corps, outside continental limits, excluded.

Contingent.

For the care of the dead; for funeral expenses and interment or transportation to their homes or to designated cemeteries of the remains of officers (including officers who die within the United States) and enlisted men of the Navy and Marine Corps, of members of the Nurse Corps, reservists on active or training duty, and accepted applicants for enlistment, civilian employees of the Navy Department and Naval Establishment who die outside of the continental limits of the United States, and former enlisted men who are discharged while in naval hospitals and are inmates of said hospitals on the date of their death; for funeral expenses and interment of the remains of pensioners and destitute patients who die in naval hospitals; for purchase and care of cemetery lots; for removal of remains from abandoned cemeteries to naval or national cemeteries, or to their homes, including remains interred in isolated graves at home and abroad, and remains temporarily interred, \$68,000: *Provided*, That the above provision shall apply in the case of officers and enlisted men of the Navy and Marine Corps on the retired list who die while on active duty.

For the labor, materials, and supplies necessary, as determined by the Secretary of the Navy, for the general maintenance of the activities and properties now or hereafter under the cognizance of the Bureau of Yards and Docks, including accident prevention; the maintenance, repair, and operation of passenger-carrying vehicles for the Navy Department (not to exceed ten in number) and the Naval Establishment not otherwise provided for; the purchase of one motor bus, \$4,000; not to exceed \$1,600,000 for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department, and part time or intermittent employment in the District of Columbia, or elsewhere, of such engineers and architects as may be contracted for by the Secretary of the Navy, in his discretion, at a rate of pay not exceeding \$25 per diem for any person so employed, \$7,958,200: *Provided*, That expenditures from appropriations contained in this Act for the maintenance, operation, and repair of motor-propelled passenger-carrying vehicles, including the compensation of civilian chauffeurs and the compensation of any greater number than ninety enlisted men detailed to such duty, shall not exceed in the aggregate \$70,000, exclusive of such vehicles owned and operated by the Marine Corps in connection with expeditionary duty without the continental limits of the United States and motor cycles, and on any one vehicle shall not exceed for maintenance, upkeep, and repair, exclusive of garage rent, pay of operators, tires, fuel, and lubricants, one-third of the market price of a new vehicle of the same make or class, and in any case not more than \$500.

CONTINGENT, BUREAU OF YARDS AND DOCKS

For contingent expenses and minor extensions and improvements of public works at navy yards and stations, \$110,644.

PUBLIC WORKS, BUREAU OF YARDS AND DOCKS

To enable the Secretary of the Navy to complete or continue the construction, by contract or otherwise, of the public works and public-utilities projects for which appropriations were made in the Naval Appropriation Acts for the fiscal years 1932 and 1933 and within the limits of cost applicable to such projects, \$1,946,950, of which not to exceed \$85,000 shall be available for the employment of classified personal services in the Bureau of Yards and Docks and in the field service to be engaged upon such work and to be in addition to employees otherwise provided for.

Public works.

Construction of authorized projects.
Vol. 46, p. 1444.
Ante, p. 435.

Personal services.

BUREAU OF AERONAUTICS

AVIATION, NAVY

For aviation, as follows: For navigational, photographic, aerological, radio, and miscellaneous equipment, including repairs thereto, for use with aircraft built or building on June 30, 1933, \$971,000; for maintenance, repair, and operation of aircraft factory, air stations, fleet air bases, fleet and all other aviation activities, accident prevention, testing laboratories, for overhauling of planes, and for the purchase for aviation purposes only of special clothing, wearing apparel, and special equipment, \$12,682,659, including \$138,500 for the equipment of vessels with catapults and including not to exceed \$100,000 for the procurement of helium, and such sum shall be transferred to and made available to the Bureau of Mines on July 1, 1933, in addition to which sum the Bureau of Mines may use for helium plant operation in the fiscal year 1934 the unexpended balance of funds transferred to it for such operation in the fiscal year 1933, and the bureau may lease, after competition, surplus metal cylinders acquired for use as helium containers; for continuing experiments and development work on all types of aircraft, including the payment of part-time or intermittent employment in the District of Columbia or elsewhere of such scientists and technicians as may be contracted for by the Secretary of the Navy, in his discretion, at a rate of pay not exceeding \$20 per diem for any person so employed, \$2,188,800; for new construction and procurement of aircraft and equipment, spare parts and accessories, \$6,115,000, of which amount not to exceed \$5,715,000 shall be available for the payment of obligations incurred under the contract authorization carried in the Navy Appropriation Act for the fiscal year 1933; in all, \$21,957,459; and the money herein specifically appropriated for "Aviation" shall be disbursed and accounted for in accordance with existing law and shall constitute one fund: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$1,221,575: *Provided further*, That in addition to the amount herein appropriated, the Secretary of the Navy may, prior to July 1, 1935, enter into contracts for the production and purchase of new airplanes and their equipment, spare parts, and accessories, to an amount not in excess of \$8,100,000: *Provided further*, That the Secretary of the Treasury is authorized and directed, upon the request of the Secretary of the Navy, to transfer not to exceed \$24,000 from this appropriation "Pay, Subsistence, and Transportation, Navy" to cover authorized traveling expenses of officers and enlisted men in connection with flying new airplanes from contrac-

Bureau of Aeronautics.

Designated aviation expenses.

Aircraft factory, etc.

Helium.
Ante, p. 1406.

Incurred obligations.

Accounting.

Proviso.
Limit on sum for Group IV (b) employees.

Contracts for new airplanes, etc.

Sum transferred for travel expenses.

tor's works to assigned station or ship, including travel to contractor's works and return of personnel to station of duty, and the amount so transferred shall be in addition to any limitations contained in the appropriation "Pay, Subsistence, and Transportation, Navy": *Provided further*, That no part of this appropriation shall be expended for maintenance of more than six heavier-than-air stations on the coast of the continental United States: *Provided further*, That no part of this appropriation shall be used for the construction of a factory for the manufacture of airplanes: *Provided further*, That the Secretary of the Navy is hereby authorized to consider, ascertain, adjust, determine, and pay out of this appropriation the amounts due on claims for damages which have occurred or may occur to private property growing out of the operations of naval aircraft, where such claim does not exceed the sum of \$500.

Naval Academy.

NAVAL ACADEMY

Pay of professors, etc.

Pay, Naval Academy: Pay for professors and others, Naval Academy: Pay of professors and instructors, including one professor as librarian, \$253,192: *Provided*, That not more than \$33,300 shall be paid for masters and instructors in swordsmanship and physical training: *Provided further*, That no part of this appropriation shall be available for the pay of a civilian instructor at the Naval Academy not so employed on June 30, 1933.

Provisos.
Pay restriction.

Restriction on employing civilian instructors.

Employees.
Proviso.
Limit on sum for Group IV (b) employees.

For pay of employees, \$534,091: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$236,000.

Current, etc., expenses.

Current and miscellaneous expenses, Naval Academy: For text and reference books for use of instructors; stationery, blank books and forms, models, maps, and periodicals; apparatus and materials for instruction in physical training and athletics; expenses of lectures and entertainments, not exceeding \$1,000, including pay and expenses of lecturer; chemicals, philosophical apparatus and instruments, stores, machinery, tools, fittings, apparatus, materials for instruction purposes, and engraving of trophies and badges, \$66,800; for purchase, binding, and repair of books for the library (to be purchased in the open market on the written order of the superintendent), \$5,000; for expenses of the Board of Visitors to the Naval Academy, \$1,400; for contingencies for the superintendent of the academy, to be expended in his discretion, not exceeding \$3,500; for contingencies for the commandant of midshipmen, to be expended in his discretion, not exceeding \$1,000; in all, \$77,700, to be accounted for as one fund.

Library.

Board of Visitors.
Superintendent.

Maintenance and repairs.

Maintenance and repairs, Naval Academy: For necessary repairs of public buildings, wharves, and walls inclosing the grounds of the Naval Academy, accident prevention, improvements, repairs, and fixtures; for books, periodicals, maps, models, and drawings; purchase and repair of fire engines; fire apparatus and plants, machinery; purchase and maintenance of all horses and horse-drawn vehicles for use at the academy, including the maintenance, operation, and repair of three horse-drawn passenger-carrying vehicles to be used only for official purposes; seeds and plants; tools and repairs of the same; stationery; furniture for Government buildings and offices at the academy, including furniture for midshipmen's rooms; coal and other fuels; candles, oil, and gas; attendance on light and power plants; cleaning and clearing up station and care of buildings; attendance on fires, lights, fire engines, fire apparatus, and plants, and telephone, telegraph, and clock systems; incidental labor; advertis-

Vehicles, etc.

ing, water tax, postage, telephones, telegrams, tolls, and ferrriage; flags and awnings; packing boxes; fuel for heating and lighting bandsmen's quarters; pay of inspectors and draftsmen; music and astronomical instruments; and for pay of employees on leave, \$876,254: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$23,000.

Proviso.
Limit on sum for Group IV (b) employees.

MARINE CORPS

Marine Corps.

PAY, MARINE CORPS

Pay of officers, active list: For pay and allowances prescribed by law for all officers on the active list—pay and allowance, \$3,443,816, including not to exceed \$141,306 for increased pay for making aerial flights; subsistence allowance, \$447,168; rental allowance, \$619,254; in all, \$4,510,238; and no part of such sum shall be available to pay active-duty pay and allowances to officers on the retired list;

Pay, etc., officers on active list.

For pay of officers prescribed by law on the retired list, \$791,976;

Retired officers.

Pay of enlisted men, active list: For pay and allowances of non-commissioned officers, musicians, and privates, as prescribed by law, and for the expenses of clerks of the United States Marine Corps traveling under orders, including not to exceed \$250 for the expenses of attendance upon meetings of technical, professional, scientific, and other organizations, when, in the judgment of the Secretary of the Navy, such attendance would be of benefit in the conduct of the work of the Marine Corps, and including additional compensation for enlisted men of the Marine Corps, qualified as expert riflemen, sharpshooters, marksmen, or regularly detailed as gun captains, gun pointers, cooks, messmen, including interest on deposits by enlisted men, post-exchange debts of deserters and of men discharged or sentenced to terms of imprisonment while in debt to the United States, under such rules as the Secretary of the Navy may prescribe, and the authorized travel allowance of discharged enlisted men, and for prizes for excellence in gunnery exercises and target practice, and for pay of enlisted men designated as Navy mail clerks and assistant Navy mail clerks both afloat and ashore, and for gratuities to enlisted men discharged not under honorable conditions—pay and allowances, \$6,163,144, and, in addition, the Secretary of the Treasury is authorized and directed, upon request of the Secretary of the Navy, to make transfers during the fiscal year 1934 from the clothing and small-stores fund to this appropriation of sums aggregating not to exceed \$1,291,389; allowance for lodging and subsistence, \$656,763; in all, \$6,819,907;

Enlisted men, active list.

Pay and allowances.
Interchangeable funds.

For pay and allowances prescribed by law of enlisted men on the retired list, \$677,791;

Retired enlisted men.

Undrawn clothing: For payment to discharged enlisted men for clothing undrawn, \$243,928;

Undrawn clothing.

For pay and allowances of the Marine Corps Reserve (a) excluding transferred and assigned men, \$256,036; (b) transferred men, \$316,847; (c) assigned men, \$24,000; in all, \$596,883;

Marine Corps Reserve.

Not to exceed for mileage and actual and necessary expenses and per diem in lieu of subsistence as authorized by law to officers traveling under orders without troops, \$84,334;

Mileage, etc.

In all, \$13,725,057, and the money herein specifically appropriated for pay of the Marine Corps shall be disbursed and accounted for in accordance with existing law and shall constitute one fund.

Accounting, etc.

PAY OF CIVIL EMPLOYEES, MARINE CORPS

Civil force at headquarters.

Pay of civil force: For personal services in the District of Columbia, as follows:

Offices of the Major General Commandant and adjutant inspector, \$116,958;

Office of paymaster, \$46,640;

Office of the quartermaster, \$119,287; in all, \$282,885: *Provided,*

Proviso.
No increase of enlisted men at headquarters.

That the total number of enlisted men on duty at Marine Corps headquarters on May 7, 1930, shall not be increased, and in lieu of enlisted men whose services at such headquarters shall be terminated for any cause prior to July 1, 1934, their places may be filled by civilians, for the pay of whom, in accordance with the Classification Act of 1923, as amended, either or both the appropriations "Pay, Marine Corps," and "General expenses, Marine Corps," shall be available.

Vacancies to be filled by civilians.
Pay rates according to Classification Act. Vol. 46, p. 1003.
U. S. C., Supp. VI, p. 31.

General expenses.

GENERAL EXPENSES, MARINE CORPS

Authorized work.

For every expenditure requisite for, and incident to, the authorized work of the Marine Corps, other than as appropriated for under the headings of pay and salaries, as follows:

Provisions, etc.

For provisions, subsistence, board and lodging of enlisted men, recruits and recruiting parties, and applicants for enlistment, cash allowance for lodging and subsistence to enlisted men traveling on duty; ice, ice machines and their maintenance, \$2,036,890;

Clothing.

For clothing for enlisted men, \$649,985;

Fuel, etc.

For fuel, heat, light, and power, including sales to officers, \$463,400;

Military supplies, etc.
Purchase, repairs, etc.

For military supplies and equipment, including their purchase, repair, preservation, and handling; recreational, school, educational, library, musical, amusement, field sport and gymnasium supplies, equipment, services, and incidental expenses; purchase and marking of prizes for excellence in gunnery and rifle practice, good-conduct badges, medals, and buttons awarded to officers and enlisted men by the Government for conspicuous, gallant, and special service; rental and maintenance of target ranges and entrance fees for competitions, \$443,811;

Prizes, badges, medals, etc.

Transportation and recruiting.

Not to exceed for transportation of troops and applicants for enlistment, including cash in lieu of ferrriage and transfers en route; toilet kits for issue to recruits upon their first enlistment and other incidental expenses of the recruiting service; and including not to exceed \$35,000 for transportation for dependents of officers and enlisted men, \$381,250;

Dependents.

Repairs, etc., to barracks, quarters, etc.

For repairs and improvements to barracks, quarters, and other public buildings at posts and stations; for the renting, leasing, and improvement of buildings in the District of Columbia, with the approval of the Public Buildings Commission, and at such other places as the public exigencies require, and the erection of temporary buildings upon the approval of the Secretary of the Navy at a total cost of not to exceed \$10,000 during the year, \$360,000;

Forage, etc.

For forage and stabling of public animals and the authorized number of officers' horses, \$30,000;

Contingent.

For miscellaneous supplies, material, equipment, personal and other services, and for other incidental expenses for the Marine Corps not otherwise provided for; purchase, repair, and exchange of typewriters and calculating machines; purchase and repair of furniture and fixtures; repair of motor-propelled passenger-carrying vehicles; purchase of five motor cycles, at not to exceed \$295 each; and purchase, exchange, and repair of horse-drawn passenger-carrying and

Vehicles.

other vehicles, including parts; veterinary services and medicines for public animals and the authorized number of officers' horses; purchase of mounts and horse equipment for all officers below the grade of major required to be mounted; shoeing for public animals and the authorized number of officers' horses; books, newspapers, and periodicals; printing and binding; packing and crating of officers' allowance of baggage; funeral expenses of officers and enlisted men and accepted applicants for enlistment and retired officers on active duty, including the transportation of their bodies, arms, and wearing apparel from the place of demise to the homes of the deceased in the United States; construction, operation, and maintenance of laundries; and for all emergencies and extraordinary expenses, \$1,880,448;

Marine Corps, Reserve: For clothing, subsistence, heat, light transportation, and miscellaneous expenses, \$95,525;

In all, \$6,341,309, to be accounted for as one fund: *Provided*, That the sum to be paid out of this appropriation for employees assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$90,000.

ALTERATIONS TO NAVAL VESSELS

Toward the alterations and repairs required for the purpose of modernizing the United States ships New Mexico, Mississippi, and Idaho, authorized by the Act entitled "An Act to authorize alterations and repairs of certain naval vessels," approved February 28, 1931, \$5,500,000, to remain available until expended: *Provided*, That the sum to be paid out of the amount available for expenditure under this head for the fiscal year 1934 for employees in field service assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$30,000.

INCREASE OF THE NAVY

Construction and machinery: On account of hulls and outfits of vessels and machinery of vessels heretofore authorized, \$25,047,785, and, in addition, (1) the Secretary of the Treasury is authorized and directed, upon the request of the Secretary of the Navy, to make transfers during the fiscal year 1934 from the naval supply account fund to this appropriation of sums aggregating not to exceed \$8,000,000, and (2) \$2,498,000, which is hereby reappropriated for the objects embraced by this paragraph of the appropriation "Public Works, Navy, Emergency Construction, Act July 21, 1932," contained in the Act entitled "An Act to relieve destitution, to broaden the lending powers of the Reconstruction Finance Corporation, and to create employment by providing for and expediting a public works program," approved July 31, 1932, and the total sums hereby made available shall remain available until expended: *Provided*, That the sum to be paid out of the amount available for expenditure under the head of "Construction and Machinery" for the fiscal year 1934 for employees in the field service assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$800,000: *Provided*,

Horses, etc.

Funeral expenses.

Transporting remains, etc.

Laundries.

Marine Corps Reserve.

Accounting.
Proviso.
Limit on sum for Group IV (b) employees.

Alterations to naval vessels.

Modernizing "New Mexico," "Mississippi," and "Idaho."
Vol. 46, p. 1453.

Proviso.
Limit on sum for Group IV (b) employees.

Increase of the Navy.

Construction and machinery of vessels heretofore authorized.

Amount from naval supply account.

Sum from emergency construction fund.
Ante, p. 717.

Available until expended.
Proviso.
Group IV (b) employees.

- Technical services. That of the appropriations contained in this Act under the head of "Increase of the Navy," there shall be available such sums as the Secretary of the Navy may from time to time determine to be necessary for the engagement of technical services, including the purchase of plans, and the employment of personnel in the Navy Department and in the field, in addition to those otherwise provided for, owing to the construction of vessels heretofore authorized and herein or heretofore appropriated for in part: *Provided further*, That the appropriation limitation on expenditures, including armor and armament, for the aircraft carrier Numbered 4, is hereby fixed at \$21,000,000.
- Purchase of plans, etc. Armor, etc., for vessels authorized. *Armor, armament, and ammunition:* Toward the armor, armament, and ammunition for vessels heretofore authorized, \$8,365,000, to remain available until expended: *Provided*, That the sum to be paid out of the amount available for expenditure under this head for the fiscal year 1934 for employees in the field service assigned to Group IV (b) and those performing similar services carried under native and alien schedules in the Schedule of Wages for Civil Employees in the Field Service of the Navy Department shall not exceed \$175,000.
- Cost limitation. *Proviso.* Group IV (b) employees. That in the expenditure of appropriations in this Act the Secretary of the Navy shall, unless in his discretion the interest of the Government will not permit, purchase or contract for, within the limits of the United States, only articles of the growth, production, or manufacture of the United States, notwithstanding that such articles of the growth, production, or manufacture of the United States may cost more, if such excess of cost be not unreasonable.
- Armor, etc., for vessels authorized. *Proviso.* Group IV (b) employees. The appropriations made in this Act for the purchase or manufacture of equipment or material or of a particular class of equipment or material shall be available for the purchase of letters patent, applications for letters patent, licenses under letters patent, and applications for letters patent that pertain to such equipment or material for which the appropriations are made.
- Purchase of foreign products, etc., forbidden. Department use limited. No part of any appropriation made for the Navy shall be expended for any of the purposes herein provided for on account of the Navy Department in the District of Columbia, including personal services of civilians and of enlisted men of the Navy, except as herein expressly authorized: *Provided*, That there may be detailed to the Bureau of Navigation not to exceed at any one time six enlisted men of the Navy: *Provided further*, That enlisted men detailed to the naval dispensary and the radio communication service shall not be regarded as detailed to the Navy Department in the District of Columbia.
- Purchase of equipment available for letters patent, etc. *Provisos.* Details to Navigation Bureau. Designated services not department detail. No part of the appropriations made in this Act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person or persons having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this Act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant; and no part of the moneys herein appropriated for the Naval Establishment or herein made available therefor shall be used or expended under contracts hereafter made for the
- No pay to officer, etc., using time-measuring device on work of employees. Cash rewards, etc., restricted.

repair, purchase, or acquirement, by or from any private contractor, of any naval vessel, machinery, article or articles that at the time of the proposed repair, purchase, or acquirement can be repaired, manufactured, or produced in each or any of the Government navy yards or arsenals of the United States, when time and facilities permit, and when, in the judgment of the Secretary of the Navy, such repair, purchase, acquirement, or production would not involve an appreciable increase in cost to the Government: *Provided*, That nothing herein shall be construed as altering or repealing the proviso contained in section 1 of the Act to authorize the construction of certain naval vessels, approved February 13, 1929, which provides that the first and each succeeding alternate cruiser upon which work is undertaken, together with the main engines, armor, and armament shall be constructed or manufactured in the Government navy yards, naval gun factories, naval ordnance plants, or arsenals of the United States, except such material or parts as are not customarily manufactured in such Government plants.

Repair and equipment at other than navy yards, etc., restricted.

Proviso.
Construction, etc., of first and alternate cruisers, at Government yards, factories, etc., required.
Vol. 45, p. 1165.

NAVY DEPARTMENT

Navy Department.

SALARIES

Salaries.

For compensation for personal services in the District of Columbia, as follows:

Office of the Secretary of the Navy: Secretary of the Navy, Assistant Secretary of the Navy, and other personal services, \$177,400.

Secretary, Assistant and civilian personnel in offices, etc., designated.

General board, \$11,513.

Naval examining and retiring boards, \$9,717.

Compensation board, \$7,975.

Office of Naval Records and Library, including employees engaged in the collection or copying and classification, with a view to publication, of the naval records of the war with the Central Powers of Europe, \$35,970.

Office of Judge Advocate General, \$117,087.

Office of Chief of Naval Operations, \$69,423.

Board of Inspection and Survey, \$17,454.

Office of Director of Naval Communications, \$123,272.

Office of Naval Intelligence, \$36,978.

Bureau of Navigation, \$454,745.

Hydrographic Office, \$378,785.

Naval Observatory, including \$2,500 for pay of computers on piecework in preparing for publication the American Ephemeris and Nautical Almanac and in improving the tables of the planets, moon, and stars, \$169,576.

Bureau of Engineering, \$302,457.

Bureau of Construction and Repair, \$357,874.

Bureau of Ordnance, \$151,245.

Bureau of Supplies and Accounts, \$768,640.

Bureau of Medicine and Surgery, \$75,208.

Bureau of Yards and Docks, \$281,335.

Bureau of Aeronautics, \$263,420.

In all, salaries, Navy Department, \$3,810,074.

In expending appropriations or portions of appropriations contained in this Act, for the payment for personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, with the exception of the Assistant Secretaries of the Navy the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriation unit shall not at any time exceed the average of the compensation rates

Salaries limited to average rates under Classification Act.
Vol. 46, p. 1003.
U. S. C., Supp. VI, p. 31.
Exception.

Proviso.
Restriction not applicable to clerical-mechanical service.
No reduction in fixed salaries.
Vol. 42, p. 1490.

Transfers to another position without reduction.

Payment under higher rates permitted.

If only one position in a grade.

specified for the grade by such Act, as amended: *Provided*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed as of July 1, 1924, in accordance with the rules of section 6 of such Act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade in the same or a different bureau, office or other appropriation unit, (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923, as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated.

CONTINGENT EXPENSES

Department contingent expenses.

Naval records of World War.

Naval service appropriations not to be used for department expenses.

For professional and technical books and periodicals, law books, and necessary reference books, including city directories, railway guides, freight, passenger, and express tariff books and photostating, for department library; for purchase of photographs, maps, documents, and pictorial records of the Navy, photostating and other necessary incidental expenses in connection with the preparation for publication of the naval records of the war with the Central Powers of Europe; for stationery, furniture, newspapers, plans, drawings, and drawing materials; purchase and exchange of motor trucks or motor delivery wagons, maintenance, repair, and operation of motor trucks or motor delivery wagons; garage rent; street-car fares not exceeding \$500; freight, expressage, postage, typewriters, and computing machines, and other absolutely necessary expenses of the Navy Department and its various bureaus and offices, \$80,000; it shall not be lawful to expend, unless otherwise specifically provided herein, for any of the offices or bureaus of the Navy Department in the District of Columbia, any sum out of appropriations made for the naval service for any of the purposes mentioned or authorized in this paragraph.

PRINTING AND BINDING

Printing and binding.

For printing and binding for the Navy Department and the Naval Establishment executed at the Government Printing Office, \$495,000, including not exceeding \$103,000 for the Hydrographic Office and \$2,800 for the Naval Reserve Officers' Training Corps.

Hydrographic office.

CONTINGENT AND MISCELLANEOUS EXPENSES, HYDROGRAPHIC OFFICE

Contingent and miscellaneous expenses.

For purchase and printing of nautical books, charts, and sailing directions, copperplates, steel plates, chart paper, packing boxes, chart portfolios, electrotyping copperplates, cleaning copperplates; tools, instruments, power, and material for drawing, engraving, and printing; materials for and mounting charts; reduction of charts by photography; photolithographing charts for immediate use; transfer of photolithographic and other charts to copper; purchase of equipment for the storage of plates used in making charts and for the storage of Hydrographic Office charts and publications; modernization, care and repair to printing presses, furniture, instruments, and tools; extra drawing and engraving; translating from foreign languages; telegrams on public business; preparation of pilot charts and their supplements, and printing and mailing same; purchase of data for charts and sailing directions and other nautical publica-

Pilot charts.

tions; books of reference and works and periodicals relating to hydrography, marine meteorology, navigation, surveying, oceanography, and terrestrial magnetism, and to other professional and technical subjects connected with the work of the Hydrographic Office, \$73,000.

BRANCH HYDROGRAPHIC OFFICES

Branch offices.

For contingent expenses of branch hydrographic offices at Boston, New York, Philadelphia, Baltimore, Norfolk, Savannah, New Orleans, San Francisco, Portland (Oregon), Portland (Maine), Chicago, Cleveland, Detroit, Buffalo, Duluth, Sault Sainte Marie, Seattle, Panama, San Juan (Puerto Rico), Los Angeles, Honolulu, and Galveston, including furniture, fuel, lights, works, and periodicals, relating to hydrography, marine meteorology, navigation, surveying, oceanography, and terrestrial magnetism, stationery, miscellaneous articles, rent and care of offices, care of time balls, car fare and ferrage in visiting merchant vessels, freight and express charges, telegrams, and other necessary expenses incurred in collecting the latest information for pilot charts, and for other purposes for which the offices were established, \$15,000.

Contingent expenses of, designated.

For services of necessary employees at branch offices, \$41,360.

Employees.

CONTINGENT AND MISCELLANEOUS EXPENSES, NAVAL OBSERVATORY

Naval Observatory.

For professional and scientific books, books of reference, periodicals, engravings, photographs, and fixtures for the library; for apparatus and instruments, and for repairs of the same; for repairs to buildings (including quarters), fixtures, and fences; for cleaning, repair, and upkeep of grounds and roads; furniture and furnishings for offices and quarters, gas, chemicals, paints, and stationery, including transmission of public documents through the Smithsonian exchange, foreign postage; plants, seeds, and fertilizers; for fuel, oil, grease, pipe, wire, and other materials needed for the maintenance and repair of boilers, engines, heating apparatus, electric lighting and power, and water supply; purchase and maintenance of teams; maintenance, repair, and operation of motor trucks and passenger automobiles, and of horse-drawn vehicles; telegraph and telephone service; and other absolutely necessary expenses, \$20,000.

Library, apparatus, repairs, etc.

Miscellaneous supplies.

SEC. 2. No part of any money appropriated by this Act shall be used for maintaining, driving, or operating any Government-owned motor-propelled passenger-carrying vehicle not used exclusively for official purposes; and "official purposes" shall not include the transportation of officers and employees between their domiciles and places of employment except in cases of medical officers on out-patient medical service and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department. This section shall not apply to any motor vehicle for official use of the Secretary of the Navy, and no other persons connected with the Navy Department or the naval service, except the commander in chief of the United States Asiatic Fleet, Marine Corps officers serving with expeditionary forces in foreign countries, and medical officers on out-patient medical service, shall have a Government-owned motor vehicle assigned for their exclusive use.

Government-owned automobiles. Restricted to official purposes.

Transportation between domicile and place of employment.

Exemptions.

Approved, March 3, 1933.

[CHAPTER 214.]

JOINT RESOLUTION

Authorizing the American National Red Cross and certain other organizations to exchange Government-owned cotton for articles containing wool.

March 3, 1933.
[S. J. Res. 223.]
[Pub. Res., No. 64.]

Government-owned cotton.

Exchange of, by American National Red Cross, etc., for woolen articles, authorized.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the American National Red Cross or any other organization to which Government-owned cotton has been or shall hereafter be delivered pursuant to law is hereby authorized, if it shall be deemed advisable, to exchange any such cotton for cloth or wearing apparel or other articles of clothing containing wool.

Approved, March 3, 1933.

[CHAPTER 215.]

JOINT RESOLUTION

To provide for further investigation of certain public-utility corporations engaged in interstate commerce.

March 3, 1933.
[H. J. Res. 572.]
[Pub. Res., No. 65.]

House Committee on Interstate and Foreign Commerce.

Members elect of the 73d Congress authorized to further investigate certain public-utility corporations.

Selection of chairman, meetings, etc.

To hold hearings, employ experts, etc.

Printing and binding.

Service of subpoenas.
R. S., secs. 102-104,
p. 17.
U. S. C., p. 12.

Payment of expenses.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of obtaining information necessary as a basis for legislation, those members of the Committee on Interstate and Foreign Commerce of the Seventy-second Congress who are Members elect to the Seventy-third Congress, or a majority of them, after March 4, 1933, and until the organization of the Committee on Interstate and Foreign Commerce of the House of the Seventy-third Congress, are authorized, as a committee, by subcommittee or otherwise, to continue the investigation begun under authority of H. Res. 59 of the Seventy-second Congress.

SEC. 2. For such purposes the committee is authorized to select a chairman, and the committee, or any subcommittee thereof, is authorized to sit and act at such times and places in the District of Columbia or elsewhere, to hold such hearings, to employ such experts and such clerical, stenographic, and other assistants, to require the attendance of such witnesses and the productions of such books, papers, and documents, to take such testimony, to have such printing and binding done, and to make such expenditure as it deems necessary, and oaths or affirmations may be administered by any member of the committee.

SEC. 3. Subpoenas shall be issued under the signature of the chairman and shall be served by any person designated by him. The provisions of sections 102, 103, and 104 of the Revised Statutes (U. S. C., title 2, secs. 192, 193, and 194) shall be applicable with respect to any person summoned as a witness under the authority of this resolution in the same manner as such provisions are applicable with respect to any person summoned as a witness in the case of an inquiry before a committee of the House of Representatives.

SEC. 4. The expenses of the committee, not to exceed \$50,000, shall be paid out of the contingent fund of the House upon vouchers signed by the chairman and approved by the Committee on Accounts.

Approved, March 3, 1933.

[CHAPTER 216.]

JOINT RESOLUTION

Amending provisions in river and harbor laws relating to local cooperation in the prosecution of waterway improvements.

March 3, 1933.
[S. J. Res. 235.]
[Pub. Res., No. 66.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That when the authorization of a project of river and harbor improvement requires that local interests shall contribute a specific sum of money toward its cost, the Secretary of War, upon the recommendation of the Chief of Engineers, may reduce the sum to be contributed to an amount which shall be in the same ratio to the amount of the required contribution as the actual cost of the work to which said contribution is applicable bears to its original estimated cost as set forth in the project document: *Provided*, That the reduction hereby authorized shall not extend to contributions heretofore made.

River and harbor improvements.
Reduction of local contributions authorized.
Vol. 41, p. 1010.

Proviso.
Not retroactive.

Approved, March 3, 1933.

[CHAPTER 217.]

JOINT RESOLUTION

Authorizing the Secretary of War to receive for instruction at the United States Military Academy, at West Point, Manob Suriya, a citizen of Siam.

March 3, 1933.
[S. J. Res. 134.]
[Pub. Res., No. 67.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to permit Manob Suriya to receive instruction at the United States Military Academy, at West Point: *Provided*, That no expense shall be caused to the United States thereby, and that Manob Suriya shall agree to comply with all regulations for the police and discipline of the Academy, to be studious, and to give his utmost efforts to accomplish the courses in the various departments of instruction, and that said Manob Suriya shall not be admitted to the Academy until he shall have passed the mental and physical examinations prescribed for candidates from the United States and that he shall be immediately withdrawn if deficient in studies or in conduct and so recommended by the academic board: *Provided further*, That in the case of said Manob Suriya the provisions of sections 1320 and 1321 of the Revised Statutes shall be suspended.

Manob Suriya, a citizen of Siam.
Admitted to Military Academy.

Provisos.
No Federal expense.
Conditions.

Oath and service.
R. S., secs. 1320, 1321, 227.
U. S. C., p. 210.

Approved, March 3, 1933.

[CHAPTER 218.]

JOINT RESOLUTION

Authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point Julio Rodriguez Arrea, a citizen of Costa Rica.

March 3, 1933.
[S. J. Res. 178.]
[Pub. Res., No. 68.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to permit Julio Rodriguez Arrea to receive instruction at the United States Military Academy at West Point: *Provided*, That no expense shall be caused to the United States thereby, and that Julio Rodriguez Arrea shall agree to comply with all regulations for the police and discipline of the academy, to be studious, and to give his utmost efforts to accomplish the courses in the various departments of instruction, and that said Julio Rodriguez Arrea shall not be admitted to the academy until

Julio Rodriguez Arrea, a citizen of Costa Rica.
Admitted to Military Academy.
Proviso.
No Federal expense.
Conditions.

he shall have passed the mental and physical examinations prescribed for candidates from the United States and that he shall be immediately withdrawn if deficient in studies or in conduct and so recommended by the academic board: *Provided further*, That in the case of said Julio Rodriguez Arrea the provisions of sections 1320 and 1321 of the Revised Statutes shall be suspended.

Approved, March 3, 1933.

Oath and service.
R. S., secs. 1320, 1321,
p. 227.
U. S. C., p. 210.

[CHAPTER 219.]

JOINT RESOLUTION

Authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point, Tisheng Yen, a citizen of China.

March 3, 1933.
[S. J. Res. 179.]
[Pub. Res., No. 69.]

Tisheng Yen, a citizen of China.
Admitted to Military Academy.
Vol. 48, p. 112.
Provisos.
No Federal expense.
Conditions.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to permit Tisheng Yen to receive instruction at the United States Military Academy at West Point: *Provided*, That no expense shall be caused to the United States thereby, and that Tisheng Yen shall agree to comply with all regulations for the police and discipline of the academy, to be studious, and to give his utmost efforts to accomplish the courses in the various departments of instruction, and that said Tisheng Yen shall not be admitted to the academy until he shall have passed the mental and physical examinations prescribed for candidates from the United States, and that he shall be immediately withdrawn if deficient in studies or in conduct and so recommended by the Academic Board: *Provided further*, That in the case of said Tisheng Yen the provisions of sections 1320 and 1321 of the Revised Statutes shall be suspended.

Approved, March 3, 1933.

Oath and service.
R. S., secs. 1320, 1321,
p. 227.
U. S. C., p. 210.

[CHAPTER 220.]

JOINT RESOLUTION

Authorizing the Comptroller of the Currency to prescribe regulations respecting the conduct of banking business in the District of Columbia.

March 3, 1933.
[S. J. Res. 261.]
[Pub. Res., No. 70.]

Banking business in the District of Columbia.
Comptroller of the Currency authorized to prescribe rules, etc.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That with the approval of the Secretary of the Treasury, the Comptroller of the Currency, whenever he is of the opinion that such action is necessary for the protection of the interests of the depositors and other creditors of any incorporated bank and/or trust company doing business in the District of Columbia and that such action is in the public interest, is hereby authorized and empowered to prescribe such rules and regulations as he deems advisable governing the receipt and withdrawal of deposits by and from any such bank and trust company, which rules and regulations shall be binding upon said banks and trust companies.

Effect.

Legality.

Powers not impaired.

Duration.

That it shall be lawful for any incorporated bank and trust company in said District to comply with such rules and regulations promulgated by the Comptroller of the Currency.

Nothing herein shall be construed to impair any power otherwise possessed by the Comptroller of the Currency, the Secretary of the Treasury, or the Federal Reserve Board.

That all powers herein conferred shall terminate six months from the approval of this Joint Resolution by the President of the United States, but he may extend the force of the provisions hereof by proclamation for an additional six months.

This Resolution is hereby declared to be an emergency law necessary for the immediate preservation of the public peace, health, and safety.
 Approved, March 3, 1933.

Emergency declared.

[CHAPTER 221.]

JOINT RESOLUTION

To continue the Joint Committee on Veterans' Benefits.

March 3, 1933.
 [S. J. Res. 262.]
 [Pub. Res., No. 71.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of continuing the investigation with respect to the operation of laws and regulations relating to the relief of veterans authorized under Section 701, of Part II of the Legislative Appropriation Act, fiscal year 1933, and to report the results of such investigation, those members of the Joint Committee to Investigate the Operation of the Laws and Regulations relating to the Relief of Veterans who are Members-elect to the Seventy-third Congress, or a majority of them, after March 4, 1933, and until sixty days after the first meeting day of the Seventy-third Congress, are authorized and directed as a committee, by subcommittee, or otherwise, to continue the investigation begun under authority of such Section 701. Such committee shall have the same powers and duties as the committee provided for under such Section 701.

Joint Committee on Veterans' Relief.
 Members-elect of 73d Congress directed to continue their investigation, etc.
Ante, p. 419.

Powers and duties continued.

Approved, March 3, 1933.

[CHAPTER 270.]

AN ACT

To amend the Federal Farm Loan Act, as amended, to permit loans for additional purposes, to extend the powers of Federal land banks in the making of direct loans, to authorize upon certain terms the reamortization of loans by Federal and joint-stock land banks, and for other purposes.

March 4, 1933.
 [S. 5337.]
 [Public, No. 430.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Federal Farm Loan Act, as amended (U. S. C., title 12, chap. 7, secs. 711-722), is amended by adding at the end thereof the following new paragraph:

Federal Farm Loan Act, amendments.
 Vol. 39, p. 367.
 U. S. C., p. 302.

"Whenever it shall appear to the Federal Farm Loan Board that national farm-loan associations have not been formed in any locality in the continental United States, or that the farmers residing in the territory covered by the charter of a national farm-loan association are unable to apply to the Federal land bank of the district for loans on account of the inability of such association to indorse such loans, the Federal Farm Loan Board may, in its discretion, authorize said bank, at any time within five years after this paragraph takes effect, to make direct loans to borrowers secured by first mortgages on farm lands situated within any such locality or territory. Except as herein otherwise specifically provided, all provisions of this Act applicable with respect to loans made through national farm-loan associations shall, in so far as practicable, apply with respect to such direct loans, and the Federal Farm Loan Board is authorized to make such rules and regulations as it may deem necessary with respect to such direct loans: *Provided*, That no such loan shall be made for more than \$15,000. Each borrower who obtains a direct loan from a Federal land bank shall subscribe and pay for stock in such bank in the sum of \$5 for each \$100 or fraction thereof borrowed."

Federal Farm Loan Board.
 Direct loans to borrowers authorized.

Security.
 Applicability of Act to such loans.

Rules, etc., authorized.

Proviso.
 Maximum loan.
 Subscription to stock.

Loan restrictions.
 Vol. 39, p. 370; Vol. 41, p. 371.
 U. S. C., p. 305.

Sec. 2. Paragraph "Fourth" of section 12 of the Federal Farm Loan Act, as amended (U. S. C., title 12, ch. 7, sec. 771), is amended to read as follows:

Purposes of loans.

"Fourth. Such loans may be made for the following purposes and for no other:

"(a) To provide for the purchase of land for agricultural uses.

"(b) To provide for the purchase of equipment, fertilizers, and livestock necessary for the proper and reasonable operation of the mortgaged farm; the term 'equipment' to be defined by the Federal Farm Loan Board.

"(c) To provide buildings and for the improvement of farm lands; the term 'improvement' to be defined by the Federal Farm Loan Board.

"(d) To liquidate indebtedness of the owner of the land mortgaged incurred for agricultural purposes, or incurred prior to January 1, 1933.

"(e) To provide the owner of the land mortgaged with funds for general agricultural uses."

Powers of Federal land banks.
Vol. 39, p. 372.
U. S. C., p. 306.
Note, p. 14, amended.
Real estate holdings.

SEC. 3. Subparagraph (b) of paragraph "Fourth" of section 13 of the Federal Farm Loan Act, as amended (U. S. C., title 12, ch. 7, sec. 781), is amended by adding at the end thereof a new sentence to read as follows: "Every such bank may carry real estate as an asset, for a period of not exceeding five years, at its normal value but not to exceed the amount of the bank's investment therein at the time of acquirement of such real estate."

Limitation.

Loans on first mortgages.
Vol. 39, p. 372.
U. S. C., p. 305.

SEC. 4. Section 13 of the Federal Farm Loan Act, as amended (U. S. C., title 12, chap. 7, sec. 771), is amended by adding at the end thereof the following new paragraphs:

Unpaid balances. Payment may be postponed.

"Eleventh. At any time within five years after the date this paragraph takes effect, any borrower who has obtained a loan from a Federal land bank may on application to such Federal land bank and upon approval of such application by the directors of the bank postpone the payment of any unpaid installment or installments in the manner herein provided in this section. Such postponed payment shall be made by paying at the time each succeeding annual installment is due, one-tenth of the amount of the postponed payment, and, in the case of semiannual installments, by paying at the time each succeeding semiannual installment is due, one-twentieth of the postponed payment, until the amount of such postponed payment has been paid. In any case in which the number of remaining installments due on the mortgage is less than ten, in the case of annual installments, or less than twenty, in the case of semiannual installments, the amount of the postponed payment shall be distributed proportionately over the remaining number of installment payments.

Terms and conditions.

Simple interest on extended payments stipulated.

"Twelfth. For the period of five years after the date this paragraph takes effect, every borrower shall pay simple interest on extended payments at the same rate of interest as stipulated in the mortgage securing the loan as to payments not in default and by express covenant in his mortgage deed shall undertake to pay when due all taxes, liens, judgments, or assessments which may be lawfully assessed against the land mortgaged. Taxes, liens, judgments, or assessments not paid when due, and paid by the mortgagee, shall become a part of the mortgage debt and shall bear interest at the rate provided in the mortgage.

Unpaid taxes, etc.

Reamortization of loans.

"Thirteenth. When in the judgment of the directors conditions justify it, and with the approval of the Federal Farm Loan Board, to reamortize, in whole or in part, the aggregate amount remaining unpaid under the terms of any mortgage, and to accept payment of such aggregate amount on an amortization plan by means of a fixed

number of annual or semiannual installments sufficient to cover the interest payable on the mortgage, and in addition thereto such amounts to be applied upon the principal as will extinguish the debt within an agreed period of not more than forty years from the date of the reamortization; to deposit such mortgages with the farm loan registrar as collateral security for farm-loan bonds at an amount not exceeding the principal of the original loan remaining unpaid at the date of such amortization; and with the approval of the Federal Farm Loan Board to charge the borrower an amount not to exceed the actual cost incurred in connection with such reamortization."

Period not to exceed 40 years.

Use of, as collateral security.

SEC. 5. (a) Paragraph "Second" of section 14 of the Federal Farm Loan Act, as amended (U. S. C., title 12, ch. 7, sec. 791), is amended to read as follows:

Bank restrictions; exemptions.
Vol. 39, p. 373.
U. S. C., p. 307.

"Second. To loan on first mortgage except through national farm-loan associations as provided in section 7 and section 8 of this Act, or through agents as provided in section 15, or direct to borrowers as provided in section 7."

Loan direct to borrower, added.

(b) Section 14 of the Federal Farm Loan Act, as amended, is further amended by adding at the end thereof the following new paragraph:

Vol. 39, p. 373.
New matter.

"Sixth. To accept as additional security for any loan to any borrower under this Act, or any installment on any such loan, any security other than Federal land-bank stock or mortgages on farm real estate; and the transfer to any Federal land bank of any security if it may not be accepted by the bank under this paragraph shall be void: *Provided*, That any bank may accept an assignment of the landlord's rent to the amount of any taxes paid on such land by the bank, or any interest due."

Additional security for loan, other than land-bank stock, etc.

Proviso.
Assignment of landlord's rent to cover taxes.

SEC. 6. (a) The fourth paragraph of section 19 of the Federal Farm Loan Act, as amended (U. S. C., title 12, ch. 7, sec. 854), is amended to read as follows:

Farm-loan bonds.
Vol. 39, p. 376.
U. S. C., p. 309.

"No mortgage shall be accepted by a farm-loan registrar from a land bank as part of an offering to securing farm-loan bonds, either originally or by substitution, except first mortgages made subject to the conditions prescribed in sections 4, 7, 12, 15, and 16: *Provided*, That such registrar, when authorized and directed to do so by the Federal Farm Loan Board, shall accept or retain in his custody as collateral, if otherwise eligible under the provisions of such sections, any first mortgage in connection with which the land bank depositing the same has agreed to defer for a period of not more than ten years the collection of the principal portion of maturing installments and to accept payment of the aggregate amount of such principal on an amortization plan by means of a fixed number of annual or semi-annual installments sufficient to cover the interest payable thereon and in addition thereto such amounts to be applied on the principal after the expiration of the period of deferment as will extinguish the debt within an agreed period of not more than forty years from the date of such agreement."

Acceptability as collateral security.

Proviso.
Custody where land bank defers collecting principal portion of maturing installments, etc.

Amortization arrangements.

(b) Section 19 of the Federal Farm Loan Act, as amended (U. S. C., title 12, chap. 7, secs. 851-856), is further amended by adding at the end thereof the following new paragraph:

Vol. 39, p. 376.
U. S. C., p. 309.

"Such farm-loan registrar shall also accept purchase money mortgages as collateral security in place of mortgages withdrawn. The banks shall have power to execute all necessary conveyances, transfers, and assignments to carry out this provision."

Purchase money mortgages may be accepted as security.

Consolidated bonds.
Vol. 42, p. 1477.
U. S. C., p. 310.

Prerequisites to participation of land banks in.

Deposit of security.

Approval required.

Approved security to be segregated and held as collateral for bonds.

Payments constituting trust fund.

Use of.

Land banks required to report on the disposition of all payments on principal of mortgages so held.

Maintenance of collateral for issue of consolidated bonds.

Exchange of consolidated, for farm-loan bonds previously issued individually.

Additional security for protecting consolidated bonds.

Exchange of bonds permitted.

Unobligated balance to be used in extending or making loans.

Ante, pp. 13, 36.

SEC. 7. The eleventh paragraph of section 21 of the Federal Farm Loan Act, as amended (U. S. C., title 12, ch. 7, sec. 881), is amended by substituting in lieu thereof the following:

"When any Federal land bank shall desire to participate in a consolidated issue of farm-loan bonds it shall make application to the Federal Farm Loan Board for the approval on its behalf of such issue and tender to the registrar approved farm mortgages, or obligations of the United States Government, as security therefor, and no banks shall participate in such consolidated issue until such application has been approved by the Federal Farm Loan Board. Such approved farm mortgages or obligations of the United States Government shall be held by each farm-loan registrar as collateral security for consolidated bonds, separate and apart from the mortgages and/or Government bonds held by him as collective security for the bonds previously issued or assumed individually by the Federal land bank of his district. Amortization and other payments on the principal of first mortgages held by a farm-loan registrar as collateral security for the issue of consolidated farm-loan bonds shall constitute a trust fund in the hands of the Federal land bank receiving the same and shall be applied or employed in the manner provided in section 22 with respect to payments on principal of first mortgages held as collateral for farm-loan bonds of individual banks.

"Every Federal land bank shall notify the farm-loan registrar of the disposition of all payments made on the principal of mortgages held as collateral security for the issue of consolidated farm-loan bonds, and said registrar is authorized, at his discretion to order any of such payments, or the proceeds thereof, wherever deposited or however invested, to be immediately transferred to his account as trustee aforesaid. Each bank shall maintain with the farm-loan registrar of its district collateral security for the issue of consolidated farm-loan bonds in an amount at least equal to the face amount of such bonds issued on its behalf.

"When any Federal land bank shall surrender to the farm-loan registrar of its district any consolidated Federal farm-loan bonds, canceled or uncanceled, said land bank shall be entitled to withdraw first mortgages and bonds previously pledged as collateral in connection with any issue of consolidated farm-loan bonds to an amount equal to the consolidated farm-loan bonds so surrendered and it shall be the duty of such registrar to permit and direct the delivery of such mortgages and bonds to such land bank.

"The Federal Farm Loan Board may at any time call upon any Federal land bank for additional security to protect the consolidated bonds issued under the provisions of this section. Each bank shall pay when due, without notice, all bonds and coupons issued on its behalf hereunder.

"Every Federal land bank shall have power to exchange consolidated farm-loan bonds for farm-loan bonds previously issued or assumed by it individually, with the approval of and under rules and regulations promulgated by the Federal Farm Loan Board."

SEC. 8. The balance of the \$125,000,000 provided for the Federal land banks by the Act of January 23, 1932, not heretofore used for the extension of loans or the making of new loans shall be used by such banks for the extension of loans and the making of new loans as authorized by this Act and the Federal Farm Loan Act, as amended.

Approved, March 4, 1933.

[CHAPTER 271.]

AN ACT

To authorize the construction of certain bridges and to extend the times for commencing and/or completing the construction of other bridges over the navigable waters of the United States.

March 4, 1933.
[S. 5701.]
[Public, No. 431.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DELAWARE RIVER AT BUSHKILL, PENNSYLVANIA

SECTION 1. (a) That in order to facilitate interstate commerce, improve the postal service, and provide for military and other purposes the Bushkill Bridge Company, its successors and assigns, be, and is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Delaware River, at a point suitable to the interests of navigation, at or near Bushkill, Pennsylvania, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the condition and limitations contained in this Act.

Bridge construction,
etc.
Delaware River at
Bushkill, Pa.
Construction.

Vol. 34, p. 84.

(b) There is hereby conferred upon the Bushkill Bridge Company, its successors and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

Acquisition of ap-
proaches.

(c) The said Bushkill Bridge Company, its successors and assigns, is hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the Act of March 23, 1906.

Toll rates.

Vol. 34, p. 85.

(d) After the completion of such bridge, as determined by the Secretary of War, either the State of Pennsylvania, the State of New Jersey, any public agency or political subdivision of either of such States, within or adjoining which any part of such bridge is located, or any two or more of them jointly,¹ may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation or expropriation, in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of five years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion costs, not to exceed 10 per centum of the sum of the cost of constructing the bridge and its approaches and acquiring such interests in real property; and (4) actual expenditures for necessary improvements.

Acquisition author-
ized after completion,
by Pennsylvania, New
Jersey, etc.

Conveyance subject
only to indebtedness,
etc., for construction,
etc.

¹ So in original.

Tolls under State,
etc., operation.

Rates applied to oper-
ation, sinking fund,
etc.

Maintenance as free
bridge, etc., after amor-
tizing costs.

Record of expendi-
tures and receipts.

Sworn statement of
construction cost, etc.,
to be filed after com-
pletion.

Investigation by Sec-
retary of War.

Records to be avail-
able.

Findings of Secretary
conclusive.

Right to sell, etc.,
conferred.

Columbia River near
The Dalles, Oreg.

(e) If such bridge shall be at any time be¹ taken over or acquired by the States or public agencies or political subdivisions thereof, or by either of them, as provided in section 4 of this Act, and if tolls are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed twenty years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

(f) The Bushkill Bridge Company, its successors and assigns, shall within ninety days after the completion of such bridge file with the Secretary of War and with the Highway Departments of the States of Pennsylvania and New Jersey a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of War may, and upon request of the highway department of either of such States shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said Bushkill Bridge Company, its successors and assigns, shall make available all of its records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 4 of this Act, subject only to review in a court of equity for fraud or gross mistake.

(g) The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this Act is hereby granted to the Bushkill Bridge Company, its successors and assigns; and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

COLUMBIA RIVER NEAR THE DALLES, OREGON

SEC. 2. (a) That in order to facilitate interstate commerce, improve the postal service, and provide for military and other purposes The Dalles Bridge Company, its successors and assigns, be and is hereby, authorized to construct, maintain, and operate a

¹ So in original.

bridge and approaches thereto across the Columbia River, at a point suitable to the interests of navigation, the bridge to be located at approximately in either section 20, 29, or 30, township 2 north, range 14 east, Willamette meridian, in the State of Oregon, and from the point of beginning on the Oregon shore of said river, thence running in a northerly direction to a suitable landing in the State of Washington and on the Washington side of said Columbia River, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, subject to the conditions and limitations contained in this Act.

Construction.
Vol. 34, p. 84.

(b) There is hereby conferred upon The Dalles Bridge Company, its successors and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

Acquisition of ap-
proaches.

(c) The said The Dalles Bridge Company, its successors and assigns, is hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the Act of March 23, 1906.

Toll rates.
Vol. 34, p. 85.

(d) After the completion of such bridge, as determined by the Secretary of War, either the State of Washington, the State of Oregon, any public agency or political subdivision of either of such States, within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation or expropriation, in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of twenty years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion costs, not to exceed 10 per centum of the sum of the cost of constructing the bridge and its approaches and acquiring such interests in real property; and (4) actual expenditures for necessary improvements.

Acquisition author-
ized after completion
by Washington, Ore-
gon, etc.

Conveyance subject
only to indebtedness,
etc., for construction,
etc.

(e) If such bridge shall at any time be taken over or acquired by the States or public agencies or political subdivisions thereof, or by either of them, as provided in section 4 of this Act, and if tolls are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reason-

Tolls under State,
etc., operation.

Rates applied to op-
eration, sinking fund,
etc.

¹ So in original.

Maintenance as free bridge, etc., after amortizing costs.

Record of expenditures and receipts.

Sworn statement of construction cost, etc., to be filed after completion.

Investigation by Secretary of War.

Records to be available.

Findings of Secretary conclusive.

Right to sell, etc., conferred.

Ohio River near Shawneetown Ill.

Time extended for bridging.

Vol. 45, p. 478; Vol. 46, pp. 29, 1490, amended.

Missouri River at Brownville, Nebr. Time extended for bridging.

Vol. 46, p. 551, amended.

able charges, but within a period of not to exceed fifteen years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

(f) The Dalles Bridge Company, its successors and assigns, shall within ninety days after the completion of such bridge file with the Secretary of War and with the highway departments of the States of Washington and Oregon, a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of War may, and upon request of the highway department of either of such States shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said The Dalles Bridge Company, its successors and assigns, shall make available all of its records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 4 of this Act, subject only to review in a court of equity for fraud or gross mistake.

(g) The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this Act is hereby granted to The Dalles Bridge Company, its successors and assigns, and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

OHIO RIVER NEAR SHAWNEETOWN, ILLINOIS

SEC. 3. That the times for commencing and completing the construction of a bridge across the Ohio River at or near Shawneetown, Gallatin County, Illinois, and a point opposite thereto in Union County, Kentucky, authorized to be built by J. L. Rowan, his heirs, legal representatives, and assigns, by an Act of Congress, approved May 1, 1928, heretofore extended by Acts of Congress, approved June 20, 1929, and March 3, 1931, are hereby further extended one and three years, respectively, from March 3, 1933.

MISSOURI RIVER AT BROWNVILLE, NEBRASKA

SEC. 4. That the times for commencing and completing the construction of a bridge across the Missouri River at or near Brownville, Nebraska, authorized to be built by the Brownville Bridge Company, its successors and assigns, by an Act of Congress approved February 26, 1929, heretofore extended by an Act of Congress

approved June 10, 1930, are hereby further extended one and three years, respectively, from February 26, 1933.

MISSOURI RIVER AT RULO, NEBRASKA

SEC. 5. (a) That in order to facilitate interstate commerce, improve the postal service, and provide for military and other purposes, John C. Mullen, John H. Hutchings, and William Shepherd, their heirs, legal representatives, and assigns be, and are hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Missouri River at a point suitable to the interests of navigation, at or near Rulo, Nebraska, in accordance with the provision of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

Missouri River at Rulo, Nebr. Bridge construction.

Vol. 34, p. 84.

(b) There is hereby conferred upon John C. Mullen, John H. Hutchings, and William Shepherd, their heirs, legal representatives, and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

Acquisition of approaches.

(c) The said John C. Mullen, John H. Hutchings, and William Shepherd, their heirs, legal representatives, and assigns, are hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the Act of March 23, 1906.

Toll rates.

Vol. 34, p. 85.

(d) After the completion of such bridge, as determined by the Secretary of War, either the State of Nebraska, the State of Missouri, any public agency or political subdivision of either of such States within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation or expropriation, in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of twenty years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion costs, not to exceed 10 per centum of the sum of the cost of constructing the bridge and its approaches and acquiring such interest in real property; and (4) actual expenditures for necessary improvements.

Acquisition authorized, after completion, by Nebraska, Missouri, etc.

Conveyance subject only to indebtedness, etc., for construction, etc.

(e) If such bridge shall at any time be taken over or acquired by the States or public agencies or political subdivisions thereof, or by either of them, as provided in section 4 of this Act, and if tolls

Tolls under State, etc., operation.

Rates applied to operation, sinking fund, etc.

Maintenance as free bridge, etc., after amortizing costs.

Record of expenditures and receipts.

Sworn statement of construction cost, etc., to be filed upon completion.

Investigation by Secretary of War.

Records to be available.

Findings of Secretary conclusive.

Right to sell, etc., conferred.

Mississippi River near Baton Rouge, La.

Time extended for bridging.

Vol. 45, pp. 130, 1093; Vol. 46, p. 551. *Ante*, pp. 45, 1413.

are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed twenty years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

(f) The said John C. Mullen, John H. Hutchings, and William Shepherd, their heirs, legal representatives, and assigns, shall within ninety days after the completion of such bridge file with the Secretary of War and with the Highway Departments of the States of Nebraska and Missouri a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of War may, and upon request of the highway department of either of such States shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said John C. Mullen, John H. Hutchings, and William Shepherd, their heirs, legal representatives, and assigns, shall make available all of the records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 4 of this Act, subject only to review in a court of equity for fraud or gross mistake.

(g) The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this Act is hereby granted to John C. Mullen, John H. Hutchings, and William Shepherd, their heirs, legal representatives, and assigns, and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

MISSISSIPPI RIVER NEAR BATON ROUGE, LOUISIANA

SEC. 6. That the times for commencing and completing the construction of the bridge across the Mississippi River at or near Baton Rouge, Louisiana, authorized to be built by the Baton Rouge-Mississippi River Bridge Company, its successors and assigns, by an Act of Congress approved February 20, 1928, heretofore extended by Acts of Congress approved January 25, 1929, June 10, 1930, and February 10, 1932, are hereby further extended two and four years, respectively, from February 20, 1933.

OHIO RIVER AT SISTERSVILLE, WEST VIRGINIA

Ohio River at Sistersville, W. Va.

Time extended for bridging.

Vol. 45, pp. 135, 1528;
Vol. 46, p. 1063.

SEC. 7. That the times for commencing and completing the construction of a bridge authorized by an Act of Congress approved February 20, 1928, to be built by the Sistersville Ohio River Bridge Company, its successors and assigns, across the Ohio River at or near Sistersville, Tyler County, West Virginia, heretofore extended by Acts of Congress approved March 2, 1929, and February 7, 1931, are hereby further extended one and three years, respectively, from February 20, 1933.

POTOMAC RIVER NEAR DAHLGREN, VIRGINIA

Potomac River near Dahlgren, Va.

Bridge construction.

Location.

Construction.
Vol. 34, p. 84.

Acquisition of approaches.

SEC. 8. (a) That in order to facilitate interstate commerce, improve the postal service, and provide for military and other purposes, the George Washington-Wakefield Memorial Bridge, Inc., its successors and assigns, be, and is hereby, authorized to construct, maintain, and operate a highway or combined highway and railroad bridge and approaches thereto across the Potomac River at a point suitable to the interests of navigation from a point in the vicinity of Dahlgren in the northeastern end of King George County, in the State of Virginia, to a point south of Popes Creek, in the county of Charles, in the State of Maryland, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

(b) There is hereby conferred upon the said George Washington-Wakefield Memorial Bridge, Inc., its successors and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation and maintenance of such bridge and its approaches and terminals as are possessed by railroad corporations for railroad purposes, or by bridge corporations for bridge purposes in the State or States in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State or States, and the proceedings therefor shall be the same as in the condemnation and expropriation of property for public purposes in such State or States.

Toll rates.

(c) The said George Washington-Wakefield Memorial Bridge, Inc., its successors and assigns, is hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the Act of March 23, 1906.

Vol. 34, p. 85.

Acquisition authorized after completion, by Virginia, Maryland, etc.

(d) After the completion of such bridge, as determined by the Secretary of War, either the State of Virginia, the State of Maryland, any public agency or political subdivision of either of such States, within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interests in real property necessary therefor, by purchase, or by condemnation or expropriation, in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of twenty years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable

Conveyance subject only to indebtedness, etc., for construction, etc.

deduction for actual depreciation in value; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion costs (not to exceed 10 per centum of the sum of the cost of constructing the bridge and its approaches and acquiring such interests in real property); and (4) actual expenditures for necessary improvements.

Tolls under State, etc., operation.

Rates applied to operation, sinking fund, etc.

Maintenance, as free bridge, etc., after amortizing costs.

Record of expenditures and receipts.

Sworn statement of construction cost, etc., to be filed upon completion.

Investigation by Secretary of War.

Records to be available.

Findings of Secretary conclusive.

Right to sell, etc., conferred.

(e) If such bridge shall at any time be taken over or acquired by the States or public agencies or political subdivisions thereof, or by either of them, as provided in section 4 of this Act, and if tolls are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches, under economical management to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, within a period of not to exceed thirty years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for operation, repairing, and maintaining the same, and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

(f) The said George Washington-Wakefield Memorial Bridge, Inc., its successors and assigns, shall within ninety days after the completion of such bridge file with the Secretary of War and with the Highway Departments of the States of Virginia and Maryland a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor and actual financing and promotion costs. The Secretary of War may, and upon request of the highway department of either of such States shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said George Washington-Wakefield Memorial Bridge, Inc., its successors and assigns, shall make available all of its records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 4 of this Act, subject only to review in a court of equity for fraud or gross mistake.

(g) The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this Act is hereby granted to the said George Washington-Wakefield Memorial Bridge, Inc., its successors and assigns, and any corporation to which or any persons to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

MERRIMACK RIVER NEAR PLUM ISLAND POINT, MASSACHUSETTS

SEC. 9. (a) That in order to promote interstate commerce, improve the postal service, and provide for military and other purposes, Essex Shore Way (Incorporated), its successors and assigns, be, and is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Merrimack River, at a point suitable to the interests of navigation, at or near Plum Island Point, Massachusetts, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

Merrimack River
near Plum Island
Point, Mass.

Construction.
Vol. 34, p. 84.

(b) After the completion of such bridge, as determined by the Secretary of War, either the Commonwealth of Massachusetts, any political subdivision thereof within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation or expropriation, in accordance with the laws of such Commonwealth governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of ten years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion cost, not to exceed 10 per centum of the sum of the cost of constructing the bridge and its approaches and acquiring such interests in real property; and (4) actual expenditures for necessary improvements.

Acquisition authorized after completion by Massachusetts, etc.

Conveyance subject only to indebtedness, etc., after construction.

(c) If such bridge shall at any time be taken over or acquired by the Commonwealth of Massachusetts, or by any municipality or other political subdivision or public agency thereof, under the provisions of section 2 of this Act, and if tolls are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed twenty years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

Tolls under State, etc., operation.

Rates applied to operation, sinking fund, etc.

Maintenance as free bridge, etc., after amortizing costs.

Record of expenditures and receipts.

(d) The Essex Shore Way (Incorporated), its successors and assigns, shall, within ninety days after the completion of such bridge, file with the Secretary of War and with the Public Works Department of the Commonwealth of Massachusetts a sworn itemized statement showing the actual original cost of constructing the bridge

Sworn statement of construction cost, etc., to be filed after completion.

Investigation by Secretary of War.

Records to be available.

Findings of Secretary conclusive.

Right to sell, etc., conferred.

and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of War may, and at the request of the Public Works Department of the Commonwealth of Massachusetts shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said Essex Shore Way (Incorporated), its successors and assigns, shall make available all of its records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 2 of this Act, subject only to review in a court of equity for fraud or gross mistake.

(e) The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this Act is hereby granted to Essex Shore Way (Incorporated), its successors and assigns; and any corporation to which, or any person to whom, such rights, powers, and privileges may be sold, assigned, or transferred or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

Chesapeake Bay, between Baltimore and Kent Counties, Md.

CHESAPEAKE BAY BETWEEN BALTIMORE AND KENT COUNTIES, MARYLAND

Location.

Construction.
Vol. 34, p. 84.

Proviso.
Emergency closing.

Acquisition authorized after completion, by Maryland, etc.

SEC. 11. (a) That in order to promote interstate commerce, improve the postal service, and provide for military and other purposes, the Chesapeake Bay Bridge Company, a corporation organized and existing under the laws of the State of Maryland, its successors and assigns, is hereby authorized to construct, maintain, and operate a bridge and approaches thereto across the Chesapeake Bay, at a point suitable to the interests of navigation, from a point in Baltimore County, Maryland, south of Back River, to Hart Island, to Miller Island, and thence to some point in Kent County, Maryland, between thirty-nine degrees and twelve minutes and thirty-nine degrees and thirteen minutes and thirty seconds north latitude, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act: *Provided*, That in the interests of national defense, and for the protection of life and property, the Secretary of War is hereby authorized and empowered, when, in his judgment, military necessity shall require it, to close said bridge to traffic at such time and during such periods as he may determine.

(b) After the completion of such bridge, as determined by the Secretary of War, either the State of Maryland, any political subdivision thereof within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interests in real property necessary therefor, by purchase or condemnation or expropriation, in accordance with the laws of such State governing the acquisition of private property for public purposes by condemnation or expropriation.

If at any time after the expiration of thirty years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion cost, not to exceed 10 per centum of the sum of the cost of constructing the bridge and its approaches and acquiring such interest in real property; and (4) actual expenditures for necessary improvements.

Conveyance subject only to indebtedness, etc., for construction, etc.

(c) If such bridge shall at any time be taken over or acquired by the State of Maryland, or by any municipality or other political subdivision or public agency thereof, under the provisions of section 2 of this Act, and if tolls are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed thirty years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of tolls shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper repair, maintenance, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for operating, repairing, and maintaining the same, and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

Tolls under State, etc., operation.

Rates applied to operation, sinking fund, etc.

Maintenance as free bridge, etc., after amortizing costs, etc.

Record of expenditures and costs.

(d) The said Chesapeake Bay Bridge Company, its successors and assigns, shall, within ninety days after the completion of such bridge, file with the Secretary of War and with the highway department of the State of Maryland a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion cost. The Secretary of War may, and at the request of the highway department of the State of Maryland shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said Chesapeake Bay Bridge Company, its successors and assigns, shall make available all of its records in connection with the financing and the construction thereof. The findings of the Secretary of War as to the reasonable cost of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 2 of this Act, subject only to review in a court of equity for fraud or gross mistake.

Sworn statement of construction costs, etc., to be filed after completion.

Investigation by Secretary of War.

Records to be available.

Findings of Secretary conclusive.

(e) The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this Act is hereby granted to the said Chesapeake Bay Bridge Company, its successors and assigns, and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or trans-

Right to sell, etc., conferred.

ferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

Missouri River near
Niobrara, Nebr.

MISSOURI RIVER NEAR NIOBRARA, NEBRASKA

Time extended for
bridging.

SEC. 12. That the times for the commencing and completing the construction of a bridge across the Missouri River at or near Niobrara, Nebraska, authorized to be built by H. A. Rinder, his heirs, legal representatives, and assigns, by Act of Congress approved May 22, 1928, and extended by Act of Congress approved March 4, 1929, and further extended by Act of Congress approved March 3, 1930, are hereby further extended one and three years, respectively, from May 22, 1933.

Vol. 45, pp. 708, 1562;
Vol. 46, p. 75.

East branch of Ni-
agara River.

EAST BRANCH OF THE NIAGARA RIVER NEAR NIAGARA FALLS, NEW YORK,
AND TONAWANDA, NEW YORK

Bridge construction.

SEC. 13. (a) That the consent of Congress is hereby granted to the Niagara Frontier Bridge Commission, a State commission, created by an act of the Legislature of the State of New York (chapter 594 of the Laws of 1929), as amended, its successors and assigns, to construct, maintain, and operate two toll bridges and approaches thereto across the east branch of the Niagara River, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, one such bridge to be located at a point suitable to the interests of navigation, from the city of Niagara Falls, in the county of Niagara and State of New York, at a point east of Evershed Avenue in said city of Niagara Falls, to Grand Island, in the county of Erie and State of New York, and the other such bridge to be located at a point suitable to the interests of navigation, from the town of Tonawanda about midway between the southerly city limits of the city of Tonawanda and the northerly city limits of the city of Buffalo to Grand Island, in the county of Erie and State of New York.

Construction.
Vol. 34, p. 84.

At Niagara Falls,
N. Y.

At Tonawanda,
N. Y.

Time limitation.

(b) That this Act shall be null and void unless construction of each of such bridges is commenced within two years and completed within five years from the date of approval hereof.

Use of tolls to pro-
vide for operation and
sinking fund.

(c) If tolls are charged for the use of such bridges, the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating such bridges and their approaches under economical management, and to provide a sinking fund sufficient to amortize the cost of such bridges and their approaches, including reasonable interest and financing costs, as soon as possible under reasonable charges: *Provided, however,* That nothing herein contained shall prevent the payment of the reasonable cost of maintaining, repairing, and operating such bridges and their approaches from funds derived other than from such tolls. After a sinking fund sufficient for such amortization of the total cost of such bridges and their approaches shall have been so provided, such bridges shall thereafter be maintained and operated free of tolls, or the rates of tolls shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of such bridges and their approaches under economical management. An accurate record of the cost of such bridges and their approaches, the expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

Proviso.
Payment of opera-
ting expenses.

Maintenance as free
bridge, etc., after amor-
tizing costs.

Record of expendi-
tures and receipts.

(d) That Public Acts Numbered 363 and 364 of the Seventy-first Congress and Public Acts Numbered 195 and 221 of the Seventy-second Congress be, and they are hereby, repealed.

Acts repealed.
Vol. 46, pp. 764, 765.
Ante, pp. 334, 448,
repealed.

HUDSON RIVER NEAR CATSKILL, NEW YORK

Hudson River near
Catskill, N. Y.

Former Acts
amended.

SEC. 14. That the Act entitled "An Act granting the consent of Congress to the State of New York to construct, maintain, and operate a highway bridge across the Hudson River at or near Catskill, Greene County, New York," approved June 5, 1930, as supplemented by the Act of April 15, 1932, be, and the same is hereby, amended to read as follows:

Vol. 46, p. 501.
Ante, p. 36, amended.

Provisions for bridg-
ing, modified.

"The consent of Congress is hereby granted to the State of New York to construct, maintain, and operate, pursuant to chapter 548 of the Laws of the State of New York of 1932, as heretofore or hereafter amended, a highway bridge and approaches thereto across the Hudson River, at a point suitable to the interests of navigation, at or near Catskill, Greene County, New York, in accordance with the provisions of an Act entitled 'An Act to regulate the construction of bridge¹ over navigable waters', approved March 23, 1906.

Construction.
Vol. 34, p. 84.

"SEC. 2. The consent hereby granted shall inure to the benefit of all successors in the ownership of said highway bridge and approaches, or any part thereof.

Benefits to succee-
sors.

"SEC. 3. The actual work of construction of said bridge shall be begun, in accordance with the plans therefor approved or to be approved by or under authority of the Chief of Engineers and the Secretary of War, within one year from the approval of this Act, as amended, and such work shall be completed within three years from the date of such approval."

Time limitations.

MISSISSIPPI RIVER AT SAINT LOUIS, MISSOURI

SEC. 15. That the time for completing the construction of approaches and also extensions or additions thereto of the municipal bridge across the Mississippi River at Saint Louis, Missouri, authorized to be built by the city of Saint Louis, Missouri, by an Act of Congress approved June 25, 1906, and heretofore extended by Acts of Congress approved February 11, 1918, June 14, 1920, February 13, 1924, January 26, 1927, and February 7, 1930, is hereby extended three years from June 25, 1933.

Mississippi River at
Saint Louis, Mo.
Time extended for
bridging.

Vol. 34, p. 461; Vol.
40, p. 436; Vol. 41, p.
1077; Vol. 43, p. 7;
Vol. 44, p. 1052; Vol. 46,
p. 65.

SEC. 16. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, March 4, 1933.

[CHAPTER 272.]

AN ACT

To add certain lands to the Modoc National Forest, in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act approved March 20, 1922 (U. S. C., title 16, secs. 486, 487), entitled "An Act to consolidate national forest lands", as amended, are hereby extended and made applicable to all lands within the following described area: northeast quarter, northeast quarter northwest quarter, south half northwest quarter, southwest quarter, east half southeast quarter, southwest quarter southeast

March 4, 1933.
[H. R. 189.]
[Public, No. 432.]

Modoc National For-
est, Calif.
Lands added to.
Vol. 43, p. 1090.
U. S. C., p. 420.
Description.

¹ So in original.

quarter, section 15; and the east half northeast quarter, section 22; all in township 39 north, range 11 east, Modoc County, California, Mount Diablo base and meridian.

Approved, March 4, 1933.

[CHAPTER 273.]

AN ACT

For the improvement of the inland waterway from Norfolk, Virginia, to Beaufort Inlet, North Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following works of improvement are hereby adopted and authorized, to be prosecuted under the direction of the Secretary of War and supervision of Chief of Engineers, in accordance with the plans recommended in the report hereinafter designated: Inland waterway from Norfolk, Virginia, to Beaufort Inlet, North Carolina, in accordance with the report submitted in Rivers and Harbors Committee Document Numbered 5, Seventy-second Congress, first session, and subject to the conditions and limitations set forth in said document.

Approved, March 4, 1933.

[CHAPTER 274.]

AN ACT

To further regulate banking, banks, trust companies, and building and loan associations in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of April 26, 1922 (42 Stat. L., pt. 1, p. 500; D. C. Code, title 5, sec. 300), be amended to read as follows:

“(a) That after the enactment of this Act no banking business shall be done in the District of Columbia except by corporations organized in accordance with the provisions of the Act of March 3, 1901, entitled ‘An Act to establish a code of law for the District of Columbia,’ as amended, or by national-banking associations organized in accordance with the laws of the United States, except that this paragraph shall not apply to (1) corporations engaged in and doing a banking business on the date of the enactment of this Act, (2) individuals, partnerships, associations, or corporations primarily engaged as brokers in buying, selling, exchanging, and/or otherwise dealing in stocks, bonds, and/or other securities, for the account of others, and incidentally thereto conducts banking transactions, (3) individuals, partnerships, associations, or corporations not doing a bank of deposit business.

“(b) That no corporation shall engage in or do the business of a bank of deposit or a fiduciary business in the District of Columbia nor shall any branch be established to carry on any phase of such banking or fiduciary business in the District of Columbia until the approval and consent of the Comptroller of the Currency is secured. The term ‘branch’ as used in this Act shall be held to include any branch bank, branch office, branch agency, additional office, or any place of business located in the District of Columbia, at which deposits are received, or checks paid, or money lent, or at which the public is served or any phase of business conducted by the parent institution.

March 4, 1933.
[H. R. 6184.]
[Public, No. 433.]

Inland waterway,
Norfolk, Va., to Beau-
fort Inlet, N. C.
Improvement author-
ized.

March 4, 1933.
[H. R. 6402.]
[Public, No. 434.]

Banks, etc., D. C.

Further regulations,
prescribed.
Vol. 42, p. 500,
amended.
Foreign corporations
not allowed to do bank-
ing business.
Vol. 31, pp. 1285, 1298,
1302, 1303; Vol. 31, p.
458.

Exceptions.
Existing corporations.

Brokers, etc.

Those not doing a
bank of deposit busi-
ness.

Corporations not per-
mitted to do business,
etc., without approval
of Comptroller of the
Currency.

Term “branch” con-
strued.

"(c) That after the passage of this Act no building association, incorporated or unincorporated, shall do a building-association business or maintain any office in the District of Columbia until it shall have secured the approval and consent of the Comptroller of the Currency; and the Comptroller of the Currency shall not give consent or approval to any building association to maintain any office or place of business in the District of Columbia where such association is not incorporated under the laws of the District of Columbia in accordance with the Act of March 4, 1909 (35 Stat. L., pt. 1, p. 1058; D. C. Code, title 5, ch. 3, sec. 41-54), except that this paragraph shall not apply to associations, incorporated or unincorporated, engaged in and doing a building-association business on the date of the passage of this Act.

Building associations forbidden to do business without consent of Comptroller.

Consent forbidden unless incorporated under D. C. laws.

Vol. 35, p. 1058.

Present associations not affected.

Dissolution of solvent institutions.

Proceedings.

"(d) Any solvent financial institution in the District of Columbia under the supervision of the Comptroller of the Currency may go into liquidation and discontinue business by the vote of its shareholders owning two-thirds of its stock. Whenever a vote is taken to go into liquidation it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the institution, by its president, secretary, or cashier, to the Comptroller of the Currency, and publication thereof to be made for a period of two weeks in a newspaper published in the District of Columbia, that the institution has discontinued business and is winding up its affairs, and notifying its creditors to present claims against the institution for payment. The shareholders shall at the time of going into liquidation elect a committee or liquidating agent who shall liquidate the institution. No institution which has gone into voluntary liquidation shall be permitted to resume business but until its liquidation is complete shall remain a legal corporation or association for the purpose of suing or being sued. The liquidating agent shall give satisfactory surety bond to the board of directors of the institution and shall annually, on request of the Comptroller of the Currency, render such reports to the Comptroller as he shall require. Any such institution in liquidation may be examined by the Comptroller of the Currency who if he finds such institution insolvent may appoint a receiver and wind up its affairs in the same manner as provided by law for national banking associations.

Liquidating agent, etc.

Resumption of business after liquidation forbidden.

Bond, report, etc., of liquidating agent.

Comptroller may appoint a receiver if findings warrant.

Receiver may be appointed for supervised institution if discontinuing operations 90 days.

"(e) If any financial institution under the supervision of the Comptroller of the Currency, which has not gone into liquidation and for which a receiver has not already been appointed for other lawful cause, shall discontinue its operations for a period of sixty days, the Comptroller of the Currency may, if he deems it advisable, appoint a receiver for such institution.

If already relinquished, may not resume.

"(f) Any financial institution over which the Comptroller of the Currency has or had supervision which prior to the passage of this Act has in any manner ceased to do a banking business shall not resume such banking business and shall advise the Comptroller of the Currency when its business has been fully liquidated whereupon by operation of this Act its charter is terminated. Such financial institution may in the discretion of the Comptroller of the Currency be subject to all the provisions of paragraph (d) of section 1 of this Act.

Provisions governing.

"(g) Each person, copartnership, each director, liquidating committee or liquidating agent, and each one of the officers and employees of an association or corporation violating any of the provisions of this section shall be punished by a fine not exceeding \$1,000, or imprisonment not exceeding one year, or by both fine and imprisonment, in the discretion of the court."

Punishment for violation.

Reports to Comptroller. Vol. 31, p. 1303; Vol. 42, p. 1067.

Publication in newspapers. R. S., sec. 5211, p. 1007. U. S. C., p. 269.

Vol. 34, p. 459.

Additional powers of examination.

Payment of expenses. R. S., sec. 5240, p. 1013.

Limit to liability which may be incurred. R. S., sec. 5200, p. 1005.

U. S. C., p. 264. Nonmember banks to maintain same reserve basis as national banks.

Agencies as depositaries.

Proviso. Regulations governing withdrawals.

Effect of, on new loans, dividends, etc

Shareholders of savings banks, etc., and foreign institutions doing banking business in the District.

Liability of any future bank.

Existing corporations, for contracts, etc., incurred subsequent to enactment of Act.

SEC. 2. That the last proviso of section 713 of the Act of March 3, 1901, entitled "An Act to establish a Code of Law for the District of Columbia" (D. C. Code, Title 5, sec. 298), as amended, be amended to read as follows: "And provided further, That all publications authorized or required by section 5211, Revised Statutes, and all other publications authorized or required by existing law to be made in the District of Columbia, shall be printed in one or more daily newspapers of general circulation, published in the city of Washington."

SEC. 3. That section 714 of the Act of March 3, 1901, entitled "An Act to establish a Code of Law for the District of Columbia" (D. C. Code, title 5, sec. 299), as amended, be amended to read as follows:

"SEC. 714. (a) The Comptroller of the Currency, in addition to the powers now conferred upon him by law for the examination of national banks, is hereby further authorized, whenever he may deem it advisable, to cause examination to be made into the condition of any bank mentioned in the preceding section. The expense of such examination shall be paid in the manner provided by section 5240 of the Revised Statutes relating to the examination of national banks.

"(b) The provision of section 5200 of the Revised Statutes, as amended (12 U. S. C. 84), are hereby extended to apply to all banks and trust companies doing business in the District of Columbia.

"(c) Each bank and trust company doing business in the District of Columbia and not a member of the Federal reserve system shall within six months from the enactment of this section, establish and maintain reserves on the same basis and subject to the same conditions as may by law now or hereafter be prescribed for national banks located in the District of Columbia, except that such reserves shall be established and maintained at such agency or agencies which shall have the approval of the Comptroller of the Currency: *Provided, however,* (1) That the required reserves carried by such bank or trust company with an agency or agencies may, under the regulations and subject to such penalties as may be prescribed by the Comptroller of the Currency, be checked against and withdrawn by such bank or trust company for the purpose of meeting existing liabilities, and (2) that no such bank or trust company shall at any time make new loans or shall pay any dividends unless and until the total reserves required by law shall be fully restored."

SEC. 4. (a) The shareholders of every savings bank or savings company other than building associations now or hereafter organized under authority of any Act of Congress to do business in the District of Columbia and of every banking institution organized by virtue of the laws of any of the States of the Union to do or doing a banking business in the District of Columbia, who acquire in any manner the shares of any such savings bank or savings company or such banking institutions other than building associations after the enactment of this Act, shall be held individually responsible equally and ratably, and not one for another, for all contracts, debts, and engagements of such bank or company, to the extent of the amount of their stock so acquired therein, at the par value thereof, in addition to the amount invested in such shares.

(b) The shareholders, at the date of the enactment of this Act, of every savings bank or savings company other than building associations organized under authority of any Act of Congress to do business in the District of Columbia, and of every banking institution organized by virtue of the laws of any of the States of this Union to do or doing a banking business in the District of Columbia, shall be held individually responsible, equally and ratably, and not

one for another for all contracts, debts, and engagements of such savings bank, savings company, or banking institution, entered into or incurred subsequent to the date of the enactment of this Act to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares. The words "entered into or incurred" as used in this section, shall be held to include any extension or renewal of any contracts, debt, and engagement renewed or extended after the enactment of this Act.

(c) The provisions of section 5205 of the Revised Statutes of the United States as amended (U. S. C., title 12, ch. 2, sec. 55); sections 5234, 5235, and 5236 of the Revised Statutes of the United States as amended (U. S. C., title 12, ch. 2, secs. 192, 193, and 194); the Act of March 29, 1886 (ch. 28, secs. 1, 2, and 3; 24 Stat. 8; U. S. C., title 12, ch. 2, secs. 198, 199, and 200); the Act of February 25, 1930 (ch. 58, 46 Stat. 74; U. S. C., title 12, ch. 2, sec. 67); the Act of June 30, 1876 (ch. 156, secs. 1, 2, and 3; 19 Stat. 63; U. S. C., title 12, ch. 2, secs. 191, 65, and 197); and section 5210 of the Revised Statutes of the United States (U. S. C., title 12, ch. 2, sec. 62) are extended to apply to any bank, savings bank, or trust company organized, hereafter organized, or doing a banking business in the District of Columbia and to the shareholders of such institutions, except as limited by the provisions of paragraph (b) of this section: *Provided, however,* That the provisions of section 713 of the Act of March 3, 1901, entitled "An Act to establish a code of law for the District of Columbia" (D. C. Code, title 5, sec. 298), as amended, shall not be construed to be repealed by this Act but shall have application to the banks, savings banks, savings companies, other than building associations, and trust companies embraced within this Act.

(d) That portion of section 24 of the Judicial Code, as amended, applying to suits against national-banking associations (U. S. C., title 28, ch. 2, sec. 41, par. 16) shall be extended and shall apply to all actions arising under the provisions of this Act.

SEC. 5. Section 747 of the Act of March 3, 1901, entitled "An Act to establish a code of law for the District of Columbia" (D. C. Code, title 5, sec. 374), as amended, is amended to read as follows:

"SEC. 747. No corporation or company organized by virtue of the laws of any of the States of this Union shall carry on in the District of Columbia any of the kinds of business named in this subchapter without strict compliance in all particulars with the provisions of this subchapter for the government of such corporations formed under it, and each one of the officers of the corporation or company so offending shall be punished by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or by both fine and imprisonment, in the discretion of the court."

SEC. 6. No corporation, association, partnership, or individual shall carry on any business in the District of Columbia under any name or title containing the word "bank" or the words "trust company" unless (1) the business is being carried on under the name or title at the time of the approval of this Act, or (2) the business is carried on under the supervision of the Comptroller of the Currency and the name or title is approved by the Comptroller of the Currency. Any individual who, or corporation, association, or partnership which, violates any of the provisions of this section, and any officer of any such corporation or association and any officer or member of any such partnership, who assents to any such violation, shall, upon conviction thereof, be fined not more than \$5,000.

SEC. 7. Any person who maliciously makes or repeats to, or in the hearing of, or under such circumstances that it becomes known to,

Clause construed.

Application of existing laws.
R. S., sec. 5205, p. 1006.
U. S. C., p. 262.
R. S., secs. 5234-5236, p. 1012.
U. S. C., p. 271.
Vol. 24, p. 8.
U. S. C., p. 273.
Vol. 46, p. 74.
U. S. C., Supp. VI, p. 131.
Vol. 19, p. 63.
U. S. C., pp. 263, 271, 272.
R. S., sec. 5210, p. 1007.
U. S. C., p. 262.
Exception.

Provisio.
Supervision.
Vol. 31, p. 1302; Vol. 32, p. 534; Vol. 34, p. 458.

Suits against national banks.
Laws applicable.
Vol. 36, p. 1092.
U. S. C., p. 867.

Vol. 31, p. 1309, amended.

Corporations organized under State laws.
Compliance with provisions governing.

Punishment for violation.

Unauthorized use of designated words.

Penalty for violation.

False statements against financial institutions.

Prosecution for maliciously making or repeating.

Proviso.
Truth of statement, a complete defense.

Nonmember banks. Restrictions.
Vol. 38, p. 272; Vol. 40, pp. 240, 970; Vol. 44, p. 1232.
R. S., secs. 5208, 5209, p. 1007.
U. S. C., p. 284, 288, 291, 292; Supp. VI, p. 140.

Amendment.
Separability provisions.

any other person any false statement imputing insolvency or unsound financial condition to any bank, trust company, or building and loan association in the District of Columbia, or tending to cause a general withdrawal of deposits or funds from any such institution, shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than five years, or both: *Provided*, That the truth of said statement, established by the maker thereof, shall be a complete defense in any prosecution under the provisions of this Act.

SEC. 8. All acts prohibited by the provisions of sections 5208 and 5209 of the Revised Statutes, as amended, and section 22 of the Federal Reserve Act, as amended, in the case of Federal reserve banks or member banks thereof, or of directors, officers, or employees of such banks, are likewise prohibited, respectively, in the case of banks in the District of Columbia which are not members of a Federal reserve bank, or of directors, officers, or employees of such banks, and shall be punishable by the respective penalties provided in such section.

SEC. 9. The right to alter, amend, or repeal this Act is hereby expressly reserved. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved, March 4, 1933.

[CHAPTER 275.]

AN ACT

To authorize the Secretary of the Interior to modify the terms of existing contracts for the sale of timber on Indian land when it is in the interest of the Indians so to do.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, with the consent of the Indians involved, expressed through a regularly called general council, and of the purchasers, is hereby authorized and directed to modify the terms of now existing and uncompleted contracts of sale of Indian tribal timber: *Provided*, That the prices are not reduced below the basic sale prices: *Provided further*, That any such modifications shall be upon the express condition that said purchaser shall forthwith proceed to operate under all the terms of said contract as modified or suffer forfeiture of such contract and collection upon his bond: *And provided further*, That any modification of said contracts shall stipulate that in the event of sufficiently improved economic conditions the Secretary of the Interior with the consent of the said general council is authorized and directed, after consultation with the purchasers and the Indians involved and after ninety days' notice to them, to increase stumpage prices of timber reduced in any such modified contract: *And provided further*, That hereafter no contract of sale of Indian timber on the Klamath Indian Reservation in Oregon shall be entered into without the consent of the said general council.

SEC. 2. The Secretary of the Interior may modify existing contracts between individual Indian allottees or their heirs and purchasers of their timber, under the terms and requirements of section 1 of this Act, with the consent of the allottee or his heirs.

Timber sales, Indian lands.

Terms of existing contracts may be modified, with consent of Indians.

Vol. 36, p. 857; Vol. 48, p. 311.

Provisos.
Reduction below basic price.

Conditions of operation.

Provision for increasing stumpage prices.

Consent of Klamath Council to sale of its timber.

Existing contracts between individual allottees, etc., may be modified.

March 4, 1933.
[H. R. 6684.]
[Public, No. 435.]

SEC. 3. In all such modified contracts the purchasers of Indian timber on tribal lands or on restricted or trust allotments in all operations pertaining to the logging and manufacturing of said timber shall be required to give preference to the employment of Indian labor.

Indian labor.

Approved, March 4, 1933.

[CHAPTER 276.]

AN ACT

To provide for expenses of the Northern Cheyenne Indian Tribal Council and authorized delegates of the tribe.

March 4, 1933.
[H. R. 11896.]
[Public, No. 436.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated the sum of \$1,000, or as much thereof as may be necessary, of the funds standing to the credit of the Northern Cheyenne Indians in the Treasury of the United States for expenses of the Northern Cheyenne Indian Tribal Council and authorized delegates of the tribe.

Northern Cheyenne
Indian Council, etc.
Sum authorized for
expenses.

Approved, March 4, 1933.

[CHAPTER 277.]

AN ACT

To add certain lands to the Gunnison National Forest, Colorado.

March 4, 1933.
[H. R. 12126.]
[Public, No. 437.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of protecting, improving, and utilizing their forest, watershed, and other resources, all lands of the United States, within the following-described areas are hereby, subject to existing valid claims, added to and made a part of the Gunnison National Forest, and the provisions of the Forest Exchange Act of March 20, 1922, are hereby extended to said lands:

Gunnison National
Forest, Colo.
Lands added to.

Vol. 42, p. 485.
U. S. C., p. 420.

Township 51 north, range 1 west, sections 9 to 16, inclusive, 23, 24, 25, 26, 36; township 51 north, range 1 east, sections 7 to 36, inclusive; township 50 north, range 2 east, unsurveyed sections 1 to 16, inclusive, 22, 23, 24; township 51 north, range 2 east, unsurveyed sections 7, 8, 9, 16 to 21, inclusive, 28 to 33, inclusive; township 49 north, range 3 east, unsurveyed sections 1, 2, 11, 12; township 50 north, range 3 east, unsurveyed sections 1 to 27, inclusive, 34, 35, 36; township 48 north, range 4 east, sections 1, 2, 11, and 12; township 49 north, range 4 east, unsurveyed sections 2, 7, 8, 9, 10, 12, 15, 16, 17, 18, 20, 21, 22, 25, 27, 28, 33, 34, 35, 36; township 48 north, range 4½ east, sections 1, 12, 13, all New Mexico principal meridian.

Description.

Township 15 south, range 84 west, west half section 7, southwest quarter section 15, sections 16 to 21, inclusive, west half section 22, south half and northwest quarter section 27, sections 29 to 34, inclusive; township 14 south, range 85 west, north half section 4, sections 5, 6, west half section 19, sections 30, 31; township 15 south, range 85 west, sections 1, 2, 5, 6, 7, 8, 9, 16 to 21, inclusive, 28 to 33, inclusive; township 13 south, range 86 west, sections 22, 26, 27, east half section 28, east half section 33, sections 34, 35; township 14 south, range 86 west, south half and northwest quarter section 13, sections 14, 15, sections 24, 25, 36; township 15 south, range 86 west, sections 1, 2, 3, lots 1, 7, and 8, section 4, lots 1 and 4, section 9, sections 10 to 14, inclusive, north half section 23, sections 24, 25, 34, 35, 36, all sixth principal meridian, consisting of a total of approximately two hundred and sixty thousand acres.

Approved, March 4, 1933.

[CHAPTER 278.]

AN ACT

March 4, 1933.

[H. R. 13745.]

[Public, No. 438.]

To provide for agricultural entry of lands withdrawn, classified, or reported as containing any of the minerals subject to disposition under the general leasing law or Acts amendatory thereof or supplementary thereto.

Public lands.
Entry on classified,
etc., lands, containing
sodium or sulphur, for
agricultural purposes.
Vol. 41, p. 447.

Vol. 38, p. 509.
U. S. C., p. 962.

Proviso.
Reservation for min-
ing, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That lands withdrawn, classified, or reported as valuable for sodium and/or sulphur and subject to prospecting, leasing, or development under the General Leasing Act of February 25, 1920, or Acts amendatory thereof or supplementary thereto, shall be subject to appropriation, location, selection, entry, or purchase if otherwise available in the form and manner and subject to the reservations, provisions, limitations, and conditions of the Act of Congress approved July 17, 1914 (38 Stat. L. 509; U. S. C., title 30, sec. 123): *Provided, however,* That lands lying within the geologic structure of a field, or withdrawn, classified, or reported as valuable for any of the minerals named herein and/or in any of said Acts, or upon which leases or prospecting permits have been applied for or granted, for the production of any of such minerals, shall not be subject to such appropriation, location, selection, entry, or purchase unless it shall be determined by the Secretary of the Interior that such disposal will not unreasonably interfere with operations under said leasing Acts.

Approved, March 4, 1933.

[CHAPTER 279.]

AN ACT

March 4, 1933.

[H. R. 13817.]

[Public, No. 439.]

To amend section 1 of the Act entitled "An Act to provide books for the adult blind", approved March 3, 1931.

Books for the adult
blind.
Provisions extended.
Vol. 46, p. 1487,
amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act entitled "An Act to provide books for the adult blind", approved March 3, 1931, is amended by adding after the word "books" the following: "published either in raised characters, on sound-reproduction records, or in any other form,".

Approved, March 4, 1933.

[CHAPTER 280.]

AN ACT

March 4, 1933.

[H. R. 14579.]

[Public, No. 440.]

To provide for the free importation of certain articles exported temporarily for scientific or educational purposes.

Tariff Act of 1930,
amendment.
Vol. 46, p. 685,
amended.
Free list.
Articles exported
temporarily for scien-
tific, etc., purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title II of the Tariff Act of 1930 is amended by adding at the end thereof the following:

"PAR. 1815. Articles, when returned after having been loaned and exported for use temporarily abroad solely for exhibition, examination, or experimentation, for scientific or educational purposes, if imported by or for the account of the person who exported them from the United States, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe."

Approved, March 4, 1933.

[CHAPTER 281.]

AN ACT

Making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1934, and for other purposes.

March 4, 1933.
[H. R. 14198.]
[Public, No. 441.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1934, and for other purposes, namely:

War Department appropriations, fiscal year 1934.

TITLE I—MILITARY ACTIVITIES AND OTHER EXPENSES OF THE WAR DEPARTMENT INCIDENT THERETO

Military activities.

SALARIES, WAR DEPARTMENT

Department salaries.

For compensation for personal services in the District of Columbia, as follows:

Personal services.

Office of Secretary of War: Secretary of War, two Assistant Secretaries of War, and other personal services, \$263,934: *Provided*, That no field-service appropriation shall be available for personal services in the War Department except as may be expressly authorized herein.

Secretary, Assistants, civilian personnel.
Proviso.
Field service appropriations not available for designated offices.

Office of Chief of Staff, \$208,704.

Adjutant General's office, \$1,301,651.

For personal services in and without the District of Columbia, to be employed exclusively in assembling, classifying, and indexing the military personnel records of the World War, and for the purchase of necessary supplies and materials used in such work, \$206,324.

Office of the Inspector General, \$24,467.

Office of the Judge Advocate General, \$103,542.

Office of the Chief of Finance, \$347,806.

Office of the Quartermaster General, \$757,667.

Office of the Chief Signal Officer, \$97,259.

Office of the Chief of Air Corps, \$213,584.

Office of the Surgeon General, \$252,466.

Office of the Chief of Bureau of Insular Affairs, \$77,636.

Office of Chief of Engineers, \$113,759: *Provided*, That the services of skilled draftsmen, civil engineers, and such other services as the Secretary of War may deem necessary may be employed only in the office of the Chief of Engineers, to carry into effect the various appropriations for rivers and harbors, surveys, and preparation for and the consideration of river and harbor estimates and bills, to be paid from such appropriations: *Provided further*, That the expenditures on this account for the fiscal year 1934 shall not exceed \$193,955; the Secretary of War shall each year, in the Budget, report to Congress the number of persons so employed, their duties, and the amount paid to each.

Proviso.
Draftsmen, etc., payable from other appropriations.

Limitations, etc.

Office of Chief of Ordnance, \$405,343.

Office of Chief of Chemical Warfare Service, \$47,922.

Office of Chief of Coast Artillery, \$23,580.

Militia Bureau, War Department, \$136,634.

In all, salaries, War Department, \$4,582,278.

In expending appropriations or portions of appropriations, contained in this Act, for the payment of personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, with the exception of the Assistant Secretaries of War the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriation unit

Restriction on, exceeding average salaries.
Vol. 42, p. 1438;
Vol. 45, p. 776; Vol. 46, p. 1003.
U. S. C., p. 68; Supp. VI, p. 31.

shall not at any time exceed the average of the compensation rates specified for the grade by such Act, as amended: *Provided*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed as of July 1, 1924, in accordance with the rules of section 6 of such Act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade in the same or a different bureau, office, or other appropriation unit, (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923, as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated.

Proviso.
Not applicable to clerical-mechanical service.
No reduction in fixed salary.
Vol. 42, p. 1490.
U. S. C., p. 66.
Transfers without reduction.

Higher salary rates allowed.

If only one position in grade.

CONTINGENT EXPENSES, WAR DEPARTMENT

Department contingent expenses.

For stationery; purchase of professional and scientific books, law books, including their exchange; books of reference, pamphlets, periodicals, newspapers, maps; typewriting and adding machines, and other labor-saving devices, including their repair and exchange; furniture and repairs to same; carpets, matting, linoleum, filing equipment, photo supplies, towels, ice, brooms, soap, sponges; maintenance, repair, and operation of motor trucks and motor cycles; freight and express charges; street-car fares, not exceeding \$750; postage to Postal Union countries; and other absolutely necessary expenses, including not to exceed \$750 for traveling expenses, \$144,750.

PRINTING AND BINDING

Printing and binding.

For printing and binding for the War Department, its bureaus and offices, and for all printing and binding for the field activities under the War Department, except such as may be authorized in accordance with existing law to be done elsewhere than at the Government Printing Office, \$450,000: *Provided*, That the sum of \$3,000, or so much thereof as may be necessary, may be used for the publication, from time to time, of bulletins prepared under the direction of the Surgeon General of the Army, for the instruction of medical officers, when approved by the Secretary of War, and not exceeding \$89,300 shall be available for printing and binding under the direction of the Chief of Engineers.

Proviso.
Medical bulletins.

For Chief of Engineers.

Military activities.

MILITARY ACTIVITIES

CONTINGENCIES OF THE ARMY

Army contingencies.

For all contingent expenses of the War Department and of the Army not otherwise provided for and embracing all branches of the military service, including the office of the Chief of Staff; for all emergencies and extraordinary expenses, including the employment of translators and exclusive of all other personal services in the War Department or any of its subordinate bureaus or offices in the District of Columbia, or in the Army at large, but impossible to be anticipated or classified, to be expended on the approval or authority of the Secretary of War, and for such purposes as he may deem proper, and for examination of estimates of appropriations and of military activities in the field, \$9,500.

GENERAL STAFF CORPS

General Staff Corps.

CONTINGENCIES, MILITARY INTELLIGENCE DIVISION

Military Intelligence
Division.

Contingent expenses.

For contingent expenses of the Military Intelligence Division, General Staff Corps, and of the military attachés at the United States embassies and legations abroad, including the purchase of law books, professional books of reference, and subscriptions to newspapers and periodicals; for the hire of interpreters, special agents, and guides, and for such other purposes as the Secretary of War may deem proper, including \$5,000 for the actual and necessary expenses of officers of the Army on duty abroad for the purpose of observing operations of armies of foreign states at war, to be paid upon certificates of the Secretary of War that the expenditures were necessary for obtaining military information, \$39,990, to be expended under the direction of the Secretary of War: *Provided*, That section 3648, Revised Statutes (U. S. C., title 31, sec. 529), shall not apply to payments made from appropriations contained in this Act in compliance with the laws of foreign countries or their ministerial regulations under which the military attachés are required to operate.

Observing operations
of foreign armies.

Proviso.
Conditions waived.
R. S., sec. 3648, p. 718.
U. S. C., p. 1069.

ARMY WAR COLLEGE

Army War College.

For expenses of the Army War College, being for the purchase of the necessary special stationery; textbooks, books of reference, scientific and professional papers, newspapers, and periodicals; maps; police utensils; employment of temporary, technical, or special services, and expenses of special lecturers; for the pay of employees (not to exceed \$60,093); and for all other absolutely necessary expenses, \$63,927.

Instruction expenses.

Employees, etc.

ADJUTANT GENERAL'S DEPARTMENT

Adjutant General's
Department.

COMMAND AND GENERAL STAFF SCHOOL, FORT LEAVENWORTH, KANSAS

Fort Leavenworth,
Kans.Command and Gen-
eral Staff School.

For the purchase of textbooks, books of reference, scientific and professional papers, instruments, and material for instruction; employment of temporary technical, special, and clerical services; and for other necessary expenses of instruction, at the Command and General Staff School, Fort Leavenworth, Kansas, \$33,000.

WELFARE OF ENLISTED MEN

Welfare of enlisted
men.Equipment, etc., of
post exchanges.

For the equipment and conduct of school, reading, lunch, and amusement rooms, service clubs, chapels, gymnasiums, and libraries, including periodicals and other publications and subscriptions for newspapers, salaries and travel of civilians employed in the hostess and library services, transportation of books and equipment for these services, rental of films, purchase of slides for and making repairs to moving-picture outfits, and for similar and other recreational purposes at training and mobilization camps now established or which may be hereafter established, and travel (not to exceed \$825), \$66,778: *Provided*, That the Secretary of War shall deposit in the Treasury of the United States the unobligated balances on January 12, 1933, to the credit of the funds unobligated entitled "Other funds" and "Stars and Stripes," the money so deposited to be credited to a fund to be entitled "Recreation fund, Army," and such fund shall not be subject to withdrawal except in time of war, when it shall be available for expenditure by the Secretary of War for the recreation, amusement, comfort, contentment, and health of the enlisted personnel of the Military Establishment.

Travel.
Proviso.
"Recreation fund,
Army," established.

A available only in war
time.

Finance Department.

FINANCE DEPARTMENT

Pay, etc., of the Army.

PAY, AND SO FORTH, OF THE ARMY

Officers. For pay of not to exceed an average of twelve thousand commissioned officers, \$28,871,420; pay of officers, National Guard, \$100;

Aviation increase. pay of warrant officers, \$1,450,300; aviation increase to commissioned and warrant officers of the Army, not to exceed \$1,608,093;

Enlisted men. additional pay to officers for length of service, \$7,440,760; pay of enlisted men of the line and staff, not including the Philippine Scouts, \$51,247,821; pay of enlisted men of National Guard, \$100;

Aviation increase. aviation increase to enlisted men of the Army, \$588,279; pay of enlisted men of the Philippine Scouts, \$1,050,446; additional pay for length of service to enlisted men, \$3,667,172; pay of the officers on the retired list, \$8,563,492; increased pay to retired officers on active duty, \$3,810, and the appropriation for Pay of the Army, fiscal year 1933, shall be available for the increased pay and allowances of one retired officer on active duty in addition to the two retired officers specified in the War Department Act for that fiscal year; pay of retired enlisted men, \$12,322,241; pay of retired pay clerks, \$1,548; pay not to exceed sixty civil-service messengers at \$1,200 each at headquarters of the several Territorial departments, corps areas, Army and corps headquarters, Territorial districts, tactical divisions and brigades, service schools, camps, and ports of embarkation and debarkation, \$66,000; pay and allowances of contract surgeons, \$47,228; pay of nurses, \$781,073; pay of hospital matrons, \$600; rental allowances, including allowances for quarters for enlisted men on duty where public quarters are not available, \$5,655,160; subsistence allowances, \$5,056,751; interest on soldiers' deposits, \$30,000; payment of exchange by officers serving in foreign countries, and when specially authorized by the Secretary of War, by officers disbursing funds pertaining to the War Department, when serving in Alaska, and all foreign money received shall be charged to and paid out by disbursing officers of the Army at the legal valuation fixed by the Secretary of the Treasury, \$100; in all, \$128,452,494, less \$285,000 to be supplied by the Secretary of War for this purpose from funds received during the fiscal year 1934 from the purchase by enlisted men of the Army of their discharges, \$128,167,494; and the money herein appropriated for "Pay, and so forth, of the Army" shall be accounted for as one fund: *Provided*, That no part of this appropriation shall be available to pay any officer detailed as a military aide to any civil officer of the United States outside of the War Department except the President: *Provided further*, That no appropriation contained in this Act shall be available for or on account of the maintenance of more than thirty-two military attachés: *Provided further*, That no appropriation contained in this Act shall be available for or on account of the maintenance of more than eighty-three bands: *Provided further*, That during the fiscal year ending June 30, 1934, no officer of the Army shall be entitled to receive an addition to his pay in consequence of the provisions of the Act approved May 11, 1908 (U. S. C., title 10, sec. 803), or of section 1261 of the Revised Statutes (U. S. C., title 10, sec. 692): *Provided further*, That no appropriation contained in this Act shall be available for the pay and allowance of any commissioned officer convicted of felony and which conviction has been affirmed by an appellate court unless approved by the Secretary of War.

Ante, p. 667.

Civil-service messengers at headquarters.

Contract surgeons, nurses, etc.

Rent and subsistence allowances, etc.

Loss by exchange.

Deduction of sums from purchase of discharges by enlisted men.

Accounted for as one fund.

Provisos.
Limitation on detail of military aides.

Number of military attachés limited.

Maximum number of bands.

No addition for furnishing mounts or service as aide.

Vol. 35, p. 108.
R. S., sec. 1261, p. 220.
U. S. C., pp. 196, 198.

No pay to officer convicted of felony, etc.

¹ So in original.

None of the money appropriated in this Act shall be used to pay any officer on the retired list of the Army who for himself or for others engages in the selling, contracting for the sale of, negotiating for the sale of, or furnishing to the Army or the War Department any supplies, materials, equipment, lands, buildings, plants, vessels, or munitions. None of the money appropriated in this Act shall be paid to any officer on the retired list of the Army who, having been retired before reaching the age of sixty-four, is employed in the United States or its possessions by any individual, partnership, corporation, or association regularly or frequently engaged in making direct sales of any merchandise or material to the War Department or the Army.

Pay forbidden to retired officer selling supplies to Army.

To officer retired before 64, employed by parties making sales to department, etc.

No appropriation for the pay of the Army shall be available for the pay of any officer or enlisted man on active list of the Army who is engaged in any manner with any publication which is or may be issued by or for any branch or organization of the Army or military association in which officers or enlisted men have membership and which carries paid advertising of firms doing business with the War Department: *Provided, however,* That nothing herein contained shall be construed to prohibit officers from writing or disseminating articles in accordance with regulations issued by the Secretary of War.

Engaged in issuing certain service publications.

Proviso.
Exception.

MILEAGE OF THE ARMY

For mileage, reimbursement of actual traveling expenses, or per diem allowances in lieu thereof, as authorized by law, to commissioned officers, warrant officers, contract surgeons, and expert accountant, Inspector General's Department, not to exceed \$506,250.

Mileage.

Officers, etc.

EXPENSES OF COURTS-MARTIAL

For expenses of courts-martial, courts of inquiry, military commissions, retiring boards, and compensation of reporters and witnesses attending same, contract stenographic reporting services, and expenses of taking depositions and securing other evidence for use before the same, including not to exceed \$3,225 for traveling expenses, \$50,000.

Courts-martial, etc.

APPREHENSION OF DESERTERS, AND SO FORTH

For the apprehension, securing, and delivering of soldiers absent without leave and of deserters, including escaped military prisoners, and the expenses incident to their pursuit; and no greater sum than \$25 for each deserter or escaped military prisoner shall, in the discretion of the Secretary of War, be paid to any civil officer or citizen for such services and expenses; for a donation of \$10 to prisoner discharged otherwise than honorably upon his release from confinement under court-martial sentence involving dishonorable discharge, \$30,000.

Deserters, etc.

Payment for apprehension, etc.

Donation to discharged prisoners.

FINANCE SERVICE

For compensation of clerks and other employees of the Finance Department, including not to exceed \$450 for allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, title 5, sec. 118a), \$1,024,061.

Finance Service.

Pay of clerks, etc.

Vol. 46, p. 813.
U. S. C., Supp. VI,
p. 20.

Private property damages.

CLAIMS FOR DAMAGES TO AND LOSS OF PRIVATE PROPERTY

Payment of claims.

For payment of claims not exceeding \$500 each in amount for damages to or loss of private property incident to the training, practice, operation, or maintenance of the Army that have accrued, or may hereafter accrue, from time to time, \$10,000: *Provided*, That settlement of such claims shall be made by the General Accounting Office, upon the approval and recommendation of the Secretary of War, where the amount of damages has been ascertained by the War Department, and payment thereof will be accepted by the owners of the property in full satisfaction of such damages.

Proviso.
Settlement by General Accounting Office.

Destruction of private property of officers, etc.

CLAIMS OF OFFICERS, ENLISTED MEN, AND NURSES OF THE ARMY FOR DESTRUCTION OF PRIVATE PROPERTY

Payment of claims for, in service.

For the payment of claims of officers, enlisted men, and nurses of the Army for private property loss, destroyed, captured, abandoned, or damaged in the military service of the United States, under the provisions of an Act approved March 4, 1921 (U. S. C., title 31, secs. 218-222), \$20,000.

Vol. 41, p. 1436.
U. S. C., p. 989.

Quartermaster Corps.

QUARTERMASTER CORPS

Subsistence.
Purchase of supplies for issue as rations.

Subsistence of the Army: Purchase of subsistence supplies: For issue as rations to troops, including retired enlisted men when ordered to active duty, civil employees when entitled thereto, hospital matrons, applicants for enlistment while held under observation, general prisoners of war (including Indians held by the Army as prisoners, but for whose subsistence appropriation is not otherwise made), Indians employed by the Army as guides and scouts, and general prisoners at posts; for the subsistence of the masters, officers, crews, and employees of the vessels of the Army Transport Service; hot coffee for troops traveling when supplied with cooked or travel rations; meals for recruiting parties and applicants for enlistment while under observation; for sales to officers, including members of the Officers' Reserve Corps while on active duty, and enlisted men of the Army. For payments: Of the regulation allowances of commutation in lieu of rations to enlisted men on furlough, enlisted men when stationed at places where rations in kind can not be economically issued, including retired enlisted men when ordered to active duty and when traveling on detached duty where it is impracticable to carry rations of any kind, enlisted men selected to contest for places or prizes in department and Army rifle competitions when traveling to and from places of contest, applicants for enlistment, and general prisoners while traveling under orders. For payment of the regulation allowances of commutation in lieu of rations for enlisted men, applicants for enlistment while held under observation, civilian employees who are entitled to subsistence at public expense, and general prisoners while sick in hospitals, to be paid to the surgeon in charge; advertising; for providing prizes to be established by the Secretary of War for enlisted men of the Army who graduate from the Army schools for bakers and cooks, the total amount of such prizes at the various schools not to exceed \$900 per annum; and for other necessary expenses incident to the purchase, testing, care, preservation, issue, sale, and accounting for subsistence supplies for the Army; in all, including not to exceed \$100,706 for traveling expenses, \$15,160,196: *Provided*, That none of the money appropriated in this Act shall be used for the purchase of oleomargarine or butter substitutes for other than cooking purposes,

Sales to officers, etc.

Payments.
Commutation allowances.

Advertising.
Prizes for bakers and cooks.

Traveling expenses.
Proviso.
Oleomargarine restriction.

except to supply an expressed preference therefor or for use where climatic or other conditions render the use of butter impracticable.

Regular supplies of the Army: Regular supplies of the Quartermaster Corps, including their care and protection; stoves required for the use of the Army for heating offices, hospitals, barracks, and quarters, and recruiting stations, and United States disciplinary barracks; also ranges, stoves, coffee roasters, and appliances for cooking and serving food at posts in the field and when traveling, and repair and maintenance of such heating and cooking appliances; authorized issues of candles and matches; for post bakery and bake-oven equipment and apparatus; for ice for issue to organizations of enlisted men and offices at such places as the Secretary of War may determine, and for preservation of stores; authorized issues of soap, toilet paper, and towels; for the necessary furniture, textbooks, paper, and equipment for the post schools and libraries, and for schools for noncommissioned officers; for the purchase and issue of instruments, office furniture, stationery, and other authorized articles for the use of officers' schools at the several military posts; for purchase of commercial newspapers, market reports, and so forth; for the tableware and mess furniture for kitchens and mess halls, each and all for the enlisted men, including recruits; for forage, salt, and vinegar for the horses, mules, oxen, and other draft and riding animals of the Quartermaster Corps at the several posts and stations and with the armies in the field, for the horses of the several regiments of Cavalry and batteries of Artillery and such companies of Infantry and Scouts as may be mounted, and for remounts and for the authorized number of officers' horses, including bedding for the animals; for seeds and implements required for the raising of forage at remount depots and on military reservations in the Hawaiian, Philippine, and Panama Canal Departments, and for labor and expenses incident thereto, including, when specifically authorized by the Secretary of War, the cost of irrigation; for the purchase of implements and hire of labor for harvesting hay on military reservations; for straw for soldiers' bedding, stationery, typewriters and exchange of same, including blank books and blank forms for the Army, certificates for discharged soldiers, and for printing department orders and reports, \$2,796,465.

Clothing and equipage: For cloth, woolsens, materials, and for the purchase and manufacture of clothing for the Army, including retired enlisted men when ordered to active duty, for issue and for sale; for payment of commutation of clothing due to warrant officers of the mine planter service and to enlisted men; for altering and fitting clothing and washing and cleaning when necessary; for operation of laundries, existing or now under construction, including purchase and repair of laundry machinery therefor; for the authorized issues of laundry materials for use of general prisoners confined at military posts without pay or allowances, and for applicants for enlistment while held under observation; for equipment and repair of equipment of existing dry-cleaning plants, salvage and sorting storehouses, hat repairing shops, shoe repair shops, clothing repair shops, and garbage reduction works; for equipage, including authorized issues of toilet articles, barbers' and tailors' materials, for use of general prisoners confined at military posts without pay or allowances and applicants for enlistment while held under observation; issue of toilet kits to recruits upon their first enlistment, and issue of housewives to the Army; for expenses of packing and handling and similar necessities; for a suit of citizen's outer clothing and when necessary an overcoat, the cost of all not to exceed \$30, to be issued to each soldier discharged otherwise than honorably, to each enlisted

Regular quartermaster supplies.

Bakeries, ice, etc.

Furniture, school supplies, etc.

Forage, etc.

Stationery, etc.

Clothing, etc. Purchase, manufacture, etc.

Laundries.

Equipage, toilet kits, etc.

Citizen's outer clothing.

man convicted by civil court for an offense resulting in confinement in a penitentiary or other civil prison, and to each enlisted man ordered interned by reason of the fact that he is an alien enemy, or, for the same reason, discharged without internment; for indemnity to officers and men of the Army for clothing and bedding, and so forth, destroyed since April 22, 1898, by order of medical officers of the Army for sanitary reasons, \$5,444,045, of which amount not exceeding \$60,000 shall be available immediately for the procurement and transportation of fuel for the service of the fiscal year 1934.

INCIDENTAL EXPENSES OF THE ARMY: Postage, hire of laborers in the Quartermaster Corps, including the care of officers' mounts when the same are furnished by the Government; compensation of clerks and other employees of the Quartermaster Corps, including not to exceed \$9,325 in the aggregate or \$450 for any one person for allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, title 5, sec. 118a), and clerks, foremen, watchmen, and organist for the United States Disciplinary Barracks, and incidental expenses of recruiting; for the operation of coffee-roasting plants; for tests and experimental and development work and scientific research to be performed by the Bureau of Standards for the Quartermaster Corps; for inspection service and instruction furnished by the Department of Agriculture which may be transferred in advance; for such additional expenditures as are necessary and authorized by law in the movements and operation of the Army and at military posts, and not expressly assigned to any other departments, \$3,373,659: *Provided*, That no appropriation contained in this Act shall be available for any expense incident to the employment of an average number of officers, enlisted men, or civilian employees greater than the largest number employed during the fiscal year ended June 30, 1929, in connection with work incident to the assurance of adequate provision for the mobilization of matériel and industrial organizations essential to war-time needs.

Army transportation: For transportation of the Army and its supplies; of authorized baggage, including that of retired officers, warrant officers, and enlisted men upon relief from active duty, and including packing and crating; of recruits and recruiting parties; of applicants for enlistment between recruiting stations and recruiting depots; of necessary agents and other employees, including their traveling expenses; of dependents of officers and enlisted men as provided by law; of discharged prisoners, and persons discharged from Saint Elizabeths Hospital after transfer thereto from the military service, to their homes (or elsewhere as they may elect): *Provided*, That the cost in each case shall not be greater than to the place of last enlistment: *Provided further*, That not to exceed \$2,700,000 shall be available for expenditure for or on account of the transportation of persons pursuant to the provisions of this appropriation; for transportation of horse equipment; and of funds for the Army; for the alteration, operation, and repair of boats and other vessels, for wharfage, tolls, and ferriage; for drayage and cartage; for the purchase, manufacture (including both material and labor), maintenance, hire, and repair of packsaddles and harness; for the purchase, hire, operation, maintenance, and repair of wagons, carts, drays, other vehicles, and horse-drawn and motor-propelled passenger-carrying vehicles required for the transportation of troops and supplies and for official military and garrison purposes, maintenance and repair expenditures on motor-propelled vehicles not to exceed \$873,963, exclusive of labor; for hire of draft and pack

Indemnity for destroyed clothing, etc.

Fuel.

Incidental expenses.

Civilian personnel.

Allowances for living quarters.
Vol. 46, p. 818.
U. S. C., Supp. VI,
p. 20.

Recruiting.

Tests, etc.

Inspection service.

Proviso.
Limitation on employment of average number of officers, etc.

Transportation of troops and supplies.

Dependents.

Proviso.
Cost restriction.
Maximum expenditures.

Vehicles, draft and pack animals, etc.

animals; for travel allowances to officers and enlisted men on discharge, to officers of National Guard on discharge from Federal service as prescribed in the Act of March 2, 1901 (U. S. C., title 10, sec. 751), and to enlisted men of National Guard on discharge from Federal service, as prescribed in amendatory Act of September 22, 1922 (U. S. C., title 10, sec. 752), and to members of the National Guard who have been mustered into Federal service and discharged on account of physical disability; in all, \$11,383,865, of which amount not exceeding \$250,000 shall be available immediately for the procurement and transportation of fuel for the service of the fiscal year 1934: *Provided*, That no part of this appropriation shall be available for the purchase or exchange of motor-propelled passenger-carrying vehicles other than not exceeding \$75,000 for the purchase or exchange of motor-propelled ambulances and motor cycles, and not exceeding (except as otherwise in this paragraph provided) \$250,000 of this appropriation shall be available for the purchase or exchange of motor-propelled trucks, including station wagon types and trucks purchased in complete units for experimental purposes, *Provided further*, That, in addition to the foregoing, completely assembled and equipped motor-propelled trucks, including station wagon types, may be purchased out of this appropriation, and other appropriations for the fiscal year 1934 under the Quartermaster Corps, which may be available for or on account of the maintenance of animals, or for or on account of the purchase, maintenance, and operation of animal drawn equipment, or for or on account of rail transportation of persons and materials, the cost of any such vehicle so procured not to exceed \$750, including the value of any vehicle exchanged: *Provided further*, That no appropriation contained in this Act shall be available for any expense for or incident to the transportation of privately owned automobiles except on account of the return to the United States of such privately owned automobiles as may have been transported to points outside of the continental limits of the United States at public expense prior to July 14, 1932: *Provided further*, That no appropriation contained in this Act shall be available for any expense for or incident to the maintenance, operation, or repair of any motor-propelled vehicle procured out of appropriations for the Regular Army that may be transferred to the custody and maintenance of any of the civil components of the Regular Army or to any of the activities embraced by Title II of this Act that is more than two years old from the date of purchase at the time of such transfer: *Provided further*, That during the fiscal year 1934 the cost of transportation from point of origin to the first point of storage or consumption of supplies, equipment, and material in connection with the manufacturing and purchasing activities of the Quartermaster Corps may be charged to the appropriations from which such supplies, equipment, and material are procured.

HORSES, DRAFT AND PACK ANIMALS

For the purchase of draft and pack animals and horses within limits as to age, sex, and size to be prescribed by the Secretary of War for remounts for officers entitled to public mounts, for the United States Military Academy, and for such organizations and members of the military service as may be required to be mounted, and for all expenses incident to such purchases (including \$120,000 for encouragement of the breeding of riding horses suitable for the Army, in cooperation with the Bureau of Animal Industry, Department of Agriculture, including the purchase of animals for breeding purposes and their maintenance), \$168,827.

Travel allowances, enlisted men, National Guard, etc.
Vol. 31, p. 902; Vol. 42, p. 1021.
U. S. C., p. 197.

Purchase of motor vehicles restricted.

Additional purchases of, fully equipped, etc.

Transporting private cars at public expense restricted.

Use of old Army vehicles for department nonmilitary purposes.

Post, p. 1506.

Transportation costs charged to appropriation from which supplies procured.

Horses, etc.

Purchase, etc.

Encouraging breeding of riding horses.

Barracks, quarters,
etc.

BARRACKS AND QUARTERS AND OTHER BUILDINGS AND UTILITIES

All expenses for construction, maintenance,
etc.

For all expenses incident to the construction, installation, operation, and maintenance of buildings, utilities, appurtenances, and accessories necessary for the shelter, protection, and accommodation of the Army and its personnel and property, where not specifically provided for in other appropriations, including personal services, purchase and repair of furniture for quarters for officers, warrant officers, and noncommissioned officers, and officers' messes and wall lockers and refrigerators for Government-owned buildings as may be approved by the Secretary of War, care and improvement of grounds, flooring and framing for tents, rental of buildings, including not to exceed \$900 in the District of Columbia, provided space is not available in Government-owned buildings, and grounds for military purposes and lodgings for recruits and applicants for enlistments, water supply, sewer and fire-alarm systems, fire apparatus, roads, walks, wharves, drainage, dredging channels, purchase of water, disposal of sewage, shooting galleries, ranges for small-arms target practice, field, mobile, and railway artillery practice, including flour for paste for marking targets, such ranges and galleries to be open as far as practicable to the National Guard and organized rifle clubs under regulations to be prescribed by the Secretary of War, for furnishing heat and light for the authorized allowance of quarters for officers, enlisted men, and warrant officers, including retired enlisted men when ordered to active duty, contract surgeons when stationed at and occupying public quarters at military posts, officers of the National Guard attending service and garrison schools, and for recruits, guards, hospitals, storehouses, offices, the buildings erected at private cost, in the operation of the Act approved May 31, 1902 (U. S. C., title 10, sec. 1346), and buildings for a similar purpose on military reservations authorized by War Department regulations; for sale of fuel to officers; fuel and engine supplies required in the operation of modern batteries at established posts, \$11,628,787, and, in addition, \$1,203,700, which is hereby reappropriated of appropriations heretofore made for construction at military posts as follows: In the Act entitled "An Act to relieve destitution, to broaden the lending powers of the Reconstruction Finance Corporation, and to create employment by providing for and expediting a public-works program," approved July 21, 1932, the following projects: Camp Devens, Massachusetts: Service club, \$27,000, post exchange and gymnasium, \$45,000; Fitzsimons General Hospital, Colorado: Gymnasium, recreation, and social hall, \$135,000; Fort Huachuca, Arizona: Post exchange, gymnasium, and service club, \$90,000; Fort McClellan, Alabama: Recreation hall, \$31,500, gymnasium, \$40,500; March Field, California: Enlisted men's service club, \$45,000; Randolph Field, Texas: Gymnasium, completion of, including \$27,000 in the War Department Appropriation Act, fiscal year 1930, \$90,000; Selfridge Field, Michigan: Gymnasium and theater, \$72,000; Albrook Field, Canal Zone: Post exchange, theater, and gymnasium, completion of, including \$39,600 in the War Department Appropriation Act, fiscal year 1932, \$77,400; noncommissioned officers' service club (War Department Appropriation Act, fiscal year 1932), \$27,000; Chanute Field, Illinois: Noncommissioned officers' quarters, \$123,300, central heating plant for technical and quarters area, \$180,000, and in the War Department Appropriation Acts, fiscal years 1930 and 1931, barracks, \$150,000, and officers' quarters, \$70,000, and \$2,500,000 of this appropriation shall be available immediately for the procurement and transportation of fuel for

Rentals, etc.

Water, roads, etc.

Target practice, etc.

Heat and light for
quarters, etc.

Recreation buildings.
Vol. 32, p. 232.
U. S. C., p. 219.

Military posts.
Construction, etc.,
obligations.
Ante, p. 718.

Ante, pp. 720, 721.

the service of the fiscal year 1934: *Provided*, That not more than \$16,000 of the appropriations contained in this Act shall be available for rent of offices outside the District in Columbia in connection with work incident to the assurance of adequate provision for the mobilization of matériel and industrial organizations essential to war-time needs: *Provided further*, That this appropriation shall be available for the rental of offices, garages, and stables for military attachés: *Provided further*, That no part of the funds herein appropriated shall be available for construction of a permanent nature of an additional building or an extension or addition to an existing building, the cost of which in any case exceeds \$20,000; *Provided further*, That the monthly rental rate to be paid out of this appropriation for stabling any animal shall not exceed \$15.

SEWERAGE SYSTEM, FORT MONROE, VIRGINIA

For repair and maintenance of wharf and apron of wharf, including all necessary labor and material therefor, fuel for waiting rooms; water, brooms, and shovels, \$20,280; for one-third of said sum, to be supplied by the United States, \$6,760.

For rakes, shovels, and brooms; repairs to roadway, pavements, macadam and asphalt block; repairs to street crossings; repairs to street drains, and labor for cleaning roads, \$8,469; for two-thirds of said sum, to be supplied by the United States, \$5,646.

For waste, oil, motor and pump repairs, sewer pipe, cement, brick, stone, supplies, and personal services, \$6,690; for two-thirds of said sum, to be supplied by the United States, \$4,460.

CONSTRUCTION AND REPAIR OF HOSPITALS

For construction and repair of hospitals at military posts already established and occupied, including all expenditures for construction and repairs required at the Army and Navy Hospital at Hot Springs, Arkansas, and for the construction and repair of general hospitals and expenses incident thereto, and for additions needed to meet the requirements of increased garrisons, and for temporary hospitals in standing camps and cantonments; for the alteration of permanent buildings at posts for use as hospitals, construction and repair of temporary hospital buildings at permanent posts, construction and repair of temporary general hospitals, rental or purchase of grounds, and rental and alteration of buildings for use for hospital purposes in the District of Columbia and elsewhere, including necessary temporary quarters for hospital personnel, outbuildings, heating and laundry apparatus, plumbing, water and sewers, and electric work, cooking apparatus, and roads and walks for the same, \$497,232.

SIGNAL CORPS

SIGNAL SERVICE OF THE ARMY

Telegraph and telephone systems: Purchase, equipment, operation, and repair of military telegraph, telephone, radio, cable, and signaling systems; signal equipment and stores, heliographs, signal lanterns, flags, and other necessary instruments; wind vanes, barometers, anemometers, thermometers, and other meteorological instruments; photographic and cinematographic work performed for the Army by the Signal Corps; not to exceed \$18,641 for mileage or other travel allowances of officers, and traveling expenses of employees, traveling on duty in connection with the Signal Service

Proviso.
Rent outside District.

Rentals for military attachés.

Limitation on additional construction.

Stable rent.

Fort Monroe, Va.

Wharf, etc.

Roads, etc.

Sewers.

Hospitals.

Construction, repair, etc.

Temporary camp hospitals, etc.

Signal Corps.

Signal Service.

Telegraph and telephone systems.
Purchase, operation, etc.

of the Army; motor cycles, motor-driven and other vehicles for technical and official purposes in connection with the construction, operation, and maintenance of communication or signaling systems, and supplies for their operation and maintenance; professional and scientific books of reference, pamphlets, periodicals, newspapers, and maps for use of the Signal Corps and in the office of the Chief Signal Officer; telephone apparatus, including rental and payment for commercial, exchange, message, trunk-line, long-distance, and leased-line telephone service at or connecting any post, camp, cantonment, depot, arsenal, headquarters, hospital, aviation station, or other office or station of the Army, excepting the local telephone service for the various bureaus of the War Department in the District of Columbia, and toll messages pertaining to the office of the Secretary of War; electric time service; the rental of commercial telegraph lines and equipment and their operation at or connecting any post, camp, cantonment, depot, arsenal, headquarters, hospital, aviation station, or other office or station of the Army, including payment for official individual telegraph messages transmitted over commercial lines; electrical installations and maintenance thereof at military posts, cantonments, camps, and stations of the Army, fire control and direction apparatus and material for Field Artillery; salaries of civilian employees, including those necessary as instructors at vocational schools; supplies, general repairs, reserve supplies, and other expenses connected with the collecting and transmitting of information for the Army by telegraph or otherwise; experimental investigation, research, purchase, and development of improvements in apparatus, and maintenance of signaling and accessories thereto, including patent rights and other rights thereto, including machines, instruments, and other equipment for laboratory and repair purposes; lease, alteration, and repair of such buildings required for storing or guarding Signal Corps supplies, equipment, and personnel when not otherwise provided for, including the land therefor, the introduction of water, electric light and power, sewerage, grading, roads and walks, and other equipment required, \$2,401,870, of which amount not to exceed \$150,000 shall remain available until June 30, 1935, for the construction and rehabilitation of Signal Corps telephone systems.

Air Corps.

AIR CORPS

AIR CORPS, ARMY

Designated purposes. For creating, maintaining, and operating at established flying schools and balloon schools courses of instruction for officers, students, and enlisted men, including cost of equipment and supplies necessary for instruction, purchase of tools, equipment, materials, machines, textbooks, books of reference, scientific and professional papers, instruments, and materials for theoretical and practical instruction; for maintenance, repair, storage, and operation of airships, war balloons, and other aerial machines, including instruments, materials, gas plants, hangars, and repair shops, and appliances of every sort and description necessary for the operation, construction, or equipment of all types of aircraft, and all necessary spare parts and equipment connected therewith and the establishment of landing and take-off runways; for purchase of supplies for securing, developing, printing, and reproducing photographs in connection with aerial photography; improvement, equipment, maintenance, and operation of plants for testing and experimental work, and procuring and introducing water, electric light and power, gas, and sewerage, including maintenance, operation, and repair of such

Aircraft operation, construction, etc.

Landing, etc., runways.

Local exemption.

Electrical installations.

Civilian employees.

Experimental research, etc.

Supply houses.

Telephone systems.

utilities at such plants; for the procurement of helium gas; for travel of officers of the Air Corps by air and rail in connection with the administration of this appropriation, not to exceed \$92,825, exclusive of the cost of transporting new aircraft from factory to first destination; salaries and wages of civilian employees as may be necessary, and not to exceed \$38,490 for payment of their traveling and other necessary expenses as authorized by existing law; transportation of materials in connection with consolidation of Air Corps activities; experimental investigation and purchase and development of new types of airplanes and balloons, accessories thereto, and aviation engines, including plans, drawings, and specifications thereof, and the purchase of letters patent, application for letters patent, licenses under letters patent and applications for letters patent; for the purchase, manufacture, and construction of airplanes and balloons, including instruments and appliances of every sort and description necessary for the operation, construction (airplanes and balloons), or equipment of all types of aircraft, and all necessary spare parts and equipment connected therewith; for the marking of military airways where the purchase of land is not involved; for the purchase, manufacture, and issue of special clothing, wearing apparel, and similar equipment for aviation purposes; for all necessary expenses connected with the sale or disposal of surplus or obsolete aeronautical equipment, and the rental of buildings, and other facilities for the handling or storage of such equipment; for the services of not more than four consulting engineers at experimental stations of the Air Corps as the Secretary of War may deem necessary, at rates of pay to be fixed by him not to exceed \$50 a day for not exceeding fifty days each and necessary traveling expenses; purchase of special apparatus and appliances, repairs and replacements of same used in connection with special scientific medical research in the Air Corps; for maintenance and operation of such Air Corps printing plants outside of the District of Columbia as may be authorized in accordance with law; for publications, station libraries, special furniture, supplies and equipment for offices, shops, and laboratories; for special services, including the salvaging of wrecked aircraft, \$23,324,185: *Provided*, That from the amount herein appropriated and the amount herein authorized for obligation not to exceed \$3,670,875 may be expended for pay and expenses of civilian employees other than those employed in experimental and research work; not exceeding \$17,000 may be expended for the procurement of helium from the Bureau of Mines, of which sum such amounts as may be required may be transferred in advance to that bureau; not exceeding \$3,035,429 may be expended for experimental and research work with airplanes or balloons and their equipment, including the pay of necessary civilian employees; not less than \$8,257,807 shall be expended for the production or purchase of new airplanes and their equipment, and accessories, of which \$7,614,522 shall be available exclusively for combat airplanes, their equipment and accessories; not less than \$9,130,100 shall be expended, other than for pay of civilian employees, for aviation fuel and oil and for the repair and maintenance of airplanes and their equipment, spare parts, and accessories; and not more than \$6,000 may be expended for settlement of claims (not exceeding \$250 each) for damages to persons and private property resulting from the operation of aircraft at home and abroad when each claim is substantiated by a survey report of a board of officers appointed by the commanding officer of the nearest aviation post and approved by the Chief of Air Corps and the

Helium gas.
Ante, p. 1406.

Civilian employees.

Purchase, manufacture, etc., of aircraft.

Balloons.

Marking military airways.

Special clothing, etc.

Consulting engineers.

Outside printing plants, etc.

Special services.

Proviso.
Designated allotments.
Civilian employees.Purchase of helium.
Ante, p. 1406.

Experimental and research work.

New airplanes, etc.

Fuel, oil, repair, etc.

Settlement of claims.

Additional contracts for purchase of airplanes, etc.

Secretary of War: *Provided further*, That in addition to the amounts herein provided for the procurement of new airplanes and for the procurement of equipment, spare parts, and accessories for airplanes, the Chief of the Air Corps, when authorized by the Secretary of War, may enter into contracts prior to July 1, 1934, for the procurement of new airplanes and for the procurement of equipment, spare parts, and accessories for airplanes to an amount not in excess of \$3,000,000, and his action in so doing shall be deemed a contractual obligation of the Federal Government for the payment of the cost thereof:

Sums for incurred obligations. Vol. 46, p. 444.

Provided further, That the sum of \$25,000 of the appropriation for Air Corps, Army, fiscal year 1931, shall remain available until June 30, 1934, for the payment of obligations incurred under contracts executed prior to July 1, 1931: *Provided further*, That none of the money appropriated in this Act shall be used for the purchase of any airplane ordered after the approval of this Act which is equipped or propelled by a Liberty motor or by any motor or airplane engine purchased or constructed prior to July 1, 1920.

Engine equipment restricted.

Medical Department.

MEDICAL DEPARTMENT

ARMY

MEDICAL AND HOSPITAL DEPARTMENT

Supplies.

For the manufacture and purchase of medical and hospital supplies, including disinfectants, for military posts, camps, hospitals, hospital ships and transports, for laundry work for enlisted men and Army nurses while patients in a hospital, and supplies required for mosquito destruction in and about military posts in the Canal Zone; for the purchase of veterinary supplies and hire of veterinary surgeons; for inspection service and instruction furnished by the Department of Agriculture which may be transferred in advance; for expenses of medical supply depots; for medical care and treatment not otherwise provided for, including care and subsistence in private hospitals of officers, enlisted men, and civilian employees of the Army, of applicants for enlistment, and of prisoners of war and other persons in military custody or confinement, when entitled thereto by law, regulation, or contract: *Provided*, That this shall not apply to officers and enlisted men who are treated in private hospitals or by civilian physicians while on furlough; for the proper care and treatment of epidemic and contagious diseases in the Army or at military posts or stations, including measures to prevent the spread thereof, and the payment of reasonable damages not otherwise provided for for bedding and clothing injured or destroyed in such prevention; for the care of insane Filipino soldiers in conformity with the Act of Congress approved May 11, 1908 (U. S. C., title 24, sec. 198); for the pay of male and female nurses, not including the Army Nurse Corps, and of cooks and other civilians employed for the proper care of sick officers and soldiers, under such regulations fixing their number, qualifications, assignments, pay, and allowances as shall have been or shall be prescribed by the Secretary of War; for the pay of civilian physicians employed to examine physically applicants for enlistment and enlisted men and to render other professional services from time

Services, etc., by Agricultural Department.

Private treatment.

Proviso. Not applicable, if on furlough.

Contagious, etc., disease expenses.

Insane Filipino soldiers. Vol. 35, p. 122. U. S. C., p. 681.

to time under proper authority; for the pay of other employees of the Medical Department; for the payment of express companies and local transfers employed directly by the Medical Department for the transportation of medical and hospital supplies, including bidders' samples and water for analysis; for supplies for use in teaching the art of cooking to the enlisted force of the Medical Department; or the supply of the Army and Navy Hospital at Hot Springs, Arkansas; or advertising, laundry, and all other necessary miscellaneous expenses of the Medical Department, \$1,183,723.

Transporting supplies, etc.

Hot Springs, Ark., hospital.

HOSPITAL CARE, CANAL ZONE GARRISONS

Canal Zone.

For paying the Panama Canal such reasonable charges, exclusive of subsistence, as may be approved by the Secretary of War for caring in its hospitals for officers, enlisted men, military prisoners, and civilian employees of the Army admitted thereto upon the request of proper military authority, \$40,000: *Provided*, That the subsistence of the said patients, except commissioned officers, shall be paid to said hospitals out of the appropriation for subsistence of the Army at the rates provided therein for commutation of rations for enlisted patients in general hospitals.

Care of troops at hospitals in.

Proviso. Subsistence payments.

ARMY MEDICAL MUSEUM

Army Medical Museum.

For Army Medical Museum, preservation of specimens, and the preparation and purchase of new specimens, \$8,500.

Preservation, etc., of specimens.

LIBRARY, SURGEON GENERAL'S OFFICE

Library.

For the library of the Surgeon General's office, including the purchase of the necessary books of reference and periodicals, \$19,500.

Purchase of books, etc.

CORPS OF ENGINEERS

Engineer Corps.

ENGINEER SERVICE, ARMY

For the design, development, procurement, maintenance, alteration, repair, installation, storage, and issue of engineer equipment, instruments, appliances, supplies, materials, tools, and machinery required in the equipment and training of troops and in military operations, including military surveys and the Engineer School; for the operation and maintenance of the Engineer School, including (a) compensation of civilian lecturers, (b) travel expenses in lieu of mileage of officers on authorized journeys made for the purpose of instruction, and (c) purchase and binding of scientific and professional books, pamphlets, papers, and periodicals; for the procurement, preparation, and reproduction of maps and similar data for military purposes; for expenses incident to the Engineer service in military operations, including military surveys, and including (a) research and development of improved methods in such operations, (b) the rental of storehouses and grounds within and outside of the District of Columbia, and (c) repair and alteration of buildings; for heat, light, power, water, and communication service, not otherwise provided for; and for the compensation of employees required in these activities, \$427,072, including not to exceed \$1,510 for traveling expenses.

Equipment, instruments, etc.

Engineer School. Maintenance, etc.

Military maps.

Rent.

Operating, etc., expenses.

Ordnance Department.

ORDNANCE DEPARTMENT

Ordnance service and supplies.

ORDNANCE SERVICE AND SUPPLIES, ARMY

Manufacture, issue, etc.

For manufacture, procurement, storage and issue, including research, planning, design, development, inspection, test, alteration, maintenance, repair, and handling of ordnance material together with the machinery, supplies, and services necessary thereto; for supplies and services in connection with the general work of the Ordnance Department, comprising police and office duties, rents, tolls, fuel, light, water, advertising, stationery, typewriting, and computing machines, including their exchange, and furniture, tools, and instruments of service; to provide for training and other incidental expenses of the ordnance service; for instruction purposes, other than tuition; for the purchase, completely equipped, of trucks, and for maintenance, repair, and operation of motor-propelled and horse-drawn freight and passenger-carrying vehicles; for ammunition for military salutes at Government establishments and institutions to which the issues of arms for salutes are authorized; for services, material, tools, and appliances for operation of the testing machines and chemical laboratory in connection therewith; for publications for libraries of the Ordnance Department, including the Ordnance Office, including subscriptions to periodicals; for necessary traveling expenses, not to exceed \$44,315; for services of not more than four consulting engineers as the Secretary of War may deem necessary, at rates of pay to be fixed by him not to exceed \$50 per day for not exceeding fifty days each, and for their necessary traveling expenses, \$9,366,116: *Provided*, That \$100,000 of this appropriation shall be available exclusively for the procurement of convertible armored tanks.

Current expenses.

Ammunition for military salutes.

Publications.

Consulting engineers.

Proviso.
Sum for armored tanks.

Rock Island, Ill.

ROCK ISLAND BRIDGE, ROCK ISLAND, ILLINOIS

Operating bridges, etc.

For operating, repair, and preservation of Rock Island bridges and viaduct, and maintenance and repair of the arsenal street connecting the bridges, \$31,700.

Arsenals.

REPAIRS OF ARSENALS

Repairs, etc.

For repairs and improvements of ordnance establishments, and to meet such unforeseen expenditures as accidents or other contingencies may require, \$767,881, of which amount \$74,000, or so much thereof as may be necessary, shall be used for lining ammunition storage galleries in Hawaii.

Gauges, dies, and jigs.

GAUGES, DIES, AND JIGS FOR MANUFACTURE

Procuring, for armament manufacture.

For the development and procurement of gauges, dies, jigs, and other special aids and appliances, including specifications and detailed drawings, to carry out the purpose of section 123 of the National Defense Act, approved June 3, 1916 (U. S. C., title 50, sec. 78), including not to exceed \$600 for traveling expenses, \$70,300.

Vol. 39, p. 215.
U. S. C., p. 1694.

Chemical Warfare Service.

CHEMICAL WARFARE SERVICE

Purchase, manufacture, etc., of gases.

For purchase, manufacture, and test of chemical warfare gases or other toxic substances, gas masks, or other offensive or defensive materials or appliances required for gas-warfare purposes, including all necessary investigations, research, design, experimentation,

and operation connected therewith; purchase of chemicals, special scientific and technical apparatus and instruments; construction, maintenance, and repair of plants, buildings, and equipment, and the machinery therefor; receiving, storing, and issuing of supplies, comprising police and office duties, rents, tolls, fuels, gasoline, lubricants, paints and oils, rope and cordage, light, water, advertising, stationery, typewriting and adding machines, including their exchange, office furniture, tools, and instruments; for incidental expenses; for civilian employees; for libraries of the Chemical Warfare Service and subscriptions to periodicals; for expenses incidental to the organization, training, and equipment of special gas troops not otherwise provided for, including the training of the Army in chemical warfare, both offensive and defensive, together with the necessary schools, tactical demonstrations, and maneuvers; for current expenses of chemical projectile filling plants and proving grounds, including construction and maintenance of rail transportation, repairs, alterations, accessories, building and repairing butts and targets, clearing and grading ranges, \$1,255,563.

Plants, buildings, machinery, etc.

Organizing, etc., special gas troops.

Current expenses.

CHIEF OF INFANTRY

INFANTRY SCHOOL, FORT BENNING, GEORGIA

Infantry School, Fort Benning, Ga.

For the procurement of books, publications, instruments, and materials, and other necessary expenses for instruction at the Infantry School, and for pay of employees at the Infantry School and in the office of the Chief of Infantry, \$60,583.

Instruction expenses.

CHIEF OF CAVALRY

CAVALRY SCHOOL, FORT RILEY, KANSAS

Cavalry School, Fort Riley, Kans.

For the purchase of textbooks, books of reference, scientific and professional papers, instruments, and materials for instruction; employment of temporary, technical, special, and clerical services; and for other necessary expenses of instruction at the Cavalry School, Fort Riley, Kansas, \$19,690.

Instruction expenses.

CHIEF OF FIELD ARTILLERY

FIELD ARTILLERY INSTRUCTION ACTIVITIES

Field Artillery activities.

For the pay of employees, the purchase of books, pamphlets, periodicals, and newspapers, procurement of supplies, materials, and equipment for instruction purposes, and other expenses necessary in the operation of the Field Artillery School of the Army, and for the instruction of the Army in Field Artillery activities, \$24,220.

Instruction expenses.

CHIEF OF COAST ARTILLERY

COAST ARTILLERY SCHOOL, FORT MONROE, VIRGINIA

Coast Artillery School, Fort Monroe, Va.

For purchase of engines, generators, motors, machines, measuring and nautical instruments, special apparatus, and materials for experimental purposes for the engineering and artillery and military art departments and enlisted specialists division; for purchase and binding of professional books treating of military and scientific subjects for library, for use of school, and for temporary use in coast defense; for incidental expenses of the school, including chemicals, stationery,

Instruction expenses.

printing and binding; hardware; materials; cost of special instruction of officers detailed as instructors; employment of temporary, technical, or special services; for office furniture and fixtures; for machinery; for maintenance, operation, and repair of motor trucks; and unforeseen expenses; in all, \$27,385.

Seacoast defenses.

SEACOAST DEFENSES

All expenses of, etc., under specified branches.

For all expenses incidental to the preparation of plans and the construction, purchase, installation, equipment, maintenance, repair, and operation of fortifications and other works of defense, and their accessories, including personal services, maintenance of channels to submarine mine wharves, purchase of lands and rights of way as authorized by law, and experimental, test, and development work, as follows:

United States, \$986,082;
Insular departments, \$514,463;
Panama Canal, \$534,886;

In all, including not to exceed \$17,265 in the aggregate for traveling expenses, \$2,035,431.

Military Academy.

UNITED STATES MILITARY ACADEMY

Pay, etc.

PAY OF MILITARY ACADEMY

Cadets.
Provisos.
Army detail, pay restrictions.

Retired Army officer as librarian.

R. S. sec. 1251, p. 218.
U. S. C., p. 204.

Civilians.

Cadets: For pay of cadets, \$964,080: *Provided*, That during the fiscal year ending June 30, 1934, no officer of the Army shall be entitled to receive any increase in pay or allowances because of detail or assignment to duty in any capacity at the Military Academy: *Provided*, That the duties of librarian of the United States Military Academy may be performed by an officer of the Regular Army retired from active service under the provisions of section 1251, Revised Statutes, and detailed on active duty for that purpose.

Civilians: For pay of employees, \$258,407.

Maintenance.

MAINTENANCE, UNITED STATES MILITARY ACADEMY

Designated expenses.

For text and reference books for instruction; increase and expense of library (not exceeding \$6,000); office equipment and supplies; stationery, blank books, forms, printing and binding, and periodicals; diplomas for graduates (not exceeding \$1.100); expense of lectures; apparatus, equipment, supplies, and materials for purpose of instruction and athletics, and maintenance and repair thereof; musical instruments and maintenance of band; care and maintenance of organ; equipment for cadet mess; postage, telephones, and telegrams; freight and expressage; including not to exceed \$31,235 for transportation of cadets and accepted cadets from their homes to the Military Academy, and discharged cadets, including reimbursement of traveling expenses; for payment of commutation of rations for the cadets of the United States Military Academy in lieu of the regular established ration; maintenance of children's school (not exceeding \$12,200); contingencies for superintendent of the academy, to be expended in his discretion (not to exceed \$3,500); expenses of the members of the Board of Visitors (not exceeding \$1,500); contingent fund, to be expended under the direction of the Academic Board (not exceeding \$500); improvement, repair, and maintenance of buildings and grounds (including roads, walls, and fences); shooting galleries and ranges; cooking, heating, and lighting apparatus and fixtures

Board of Visitors.

and operation and maintenance thereof; maintenance of water, sewer; and plumbing systems; maintenance of and repairs to cadet camp; fire-extinguishing apparatus; machinery and tools and repairs of same; maintenance, repair, and operation of motor-propelled vehicles; policing buildings and grounds; furniture, refrigerators, and lockers for Government-owned buildings at the academy and repair and maintenance thereof; fuel for heat, light, and power; and other necessary incidental expenses in the discretion of the superintendent; in all, \$1,122,097.

MILITIA BUREAU

Militia Bureau.

NATIONAL GUARD

National Guard.

ARMING, EQUIPPING, AND TRAINING THE NATIONAL GUARD

Arming, etc.

For procurement of forage, bedding, and so forth, for animals used by the National Guard, \$801,886.

Forage, etc.

For compensation of help for care of materials, animals, and equipment, \$2,142,800.

Care of animals, etc.

For expenses, camps of instruction, field and supplemental training, and including medical and hospital treatment authorized by law, and the hire (at a rate not to exceed \$1 per diem), repair, maintenance, and operation of motor-propelled passenger-carrying vehicles, \$9,983,981, of which \$200,000 shall be available immediately.

Instruction expenses, etc.

For expenses, selected officers and enlisted men, military service schools, including medical and hospital treatment authorized by law, \$359,300.

Service schools, instruction, etc.

For pay of property and disbursing officers for the United States, \$75,500.

Property, etc., officers.

For general expenses, equipment, and instruction, National Guard, including medical and hospital treatment authorized by law, and the hire (at a rate not to exceed \$1 per diem), repair, maintenance, and operation of motor-propelled passenger and nonpassenger carrying vehicles, \$730,776.

Equipment, etc.

For travel of officers, warrant officers, and enlisted men of the Regular Army in connection with the National Guard, \$305,980: *Provided*, That not to exceed \$2,000 of this sum shall be expended for travel of officers of the War Department General Staff in connection with the National Guard.

Travel, Army officers, etc.

Proviso.
War Department General Staff.

For transportation of equipment and supplies, \$225,000.

Transporting supplies.

For expenses of enlisted men of the Regular Army on duty with the National Guard, including the hiring of quarters in kind, \$468,450.

Army enlisted men.

For pay of National Guard (armory drills), \$15,867,385, of which \$2,000,000 shall be available immediately.

Pay, armory drills.

No part of the appropriations made in this Act shall be available for pay, allowances, or traveling or other expenses of any officer or enlisted man of the National Guard who may be drawing a pension, disability allowance, disability compensation, or retired pay from the Government of the United States: *Provided*, That nothing in this provision shall be so construed as to prevent the application of funds herein contained to the pay, allowances, or traveling expenses of any officer or enlisted man of the National Guard who may surrender said pension, disability allowance, disability compensation, or retired pay for the period of his service in the National Guard: *Provided further*, That present adjutants general who may be drawing such emoluments may be continued in a federally recognized status without pay under this Act.

No pay to National Guard officer, etc., drawing pension, etc.

Provisos.
Pay on surrender of pension, etc.

Adjutants general continued in present status without pay.

Field service.

ARMS, UNIFORMS, EQUIPMENT, AND SO FORTH, FOR FIELD SERVICE,
NATIONAL GUARD

Procuring arms, etc.,
for issue.
Requisitions from
governors, etc.

To procure by purchase or manufacture and issue from time to time to the National Guard, upon requisition of the governors of the several States and Territories or the commanding general, National Guard of the District of Columbia, such military equipment and stores of all kinds and reserve supply thereof (not to exceed \$1,000,000 for ammunition) as are necessary to arm, uniform, and equip for field service the National Guard of the several States, Territories, and the District of Columbia, and to repair such of the aforementioned articles of equipage and military stores as are or may become damaged when, under regulations prescribed by the Secretary of War, such repair may be determined to be an economical measure and as necessary for their proper preservation and use, \$4,523,806, of which not to exceed \$775,075 shall be available for the production and purchase of new airplanes and their equipment, spare parts and accessories, and all of the sums appropriated in this Act on account of the National Guard shall be accounted for as one fund: *Provided*, That funds now and herein made available to the Militia Bureau may be used for the purchase of motor-propelled trucks, including station wagon types, for field-artillery use of the National Guard, at a cost of not to exceed \$750 per vehicle: *Provided further*, That the Secretary of War is hereby authorized to issue surplus or reserve stores and material on hand and purchased for the United States Army such articles of clothing and equipment and Field Artillery, Engineer, and Signal material and ammunition as may be needed by the National Guard organized under the provisions of the Act entitled "An Act for making further and more effectual provision for the national defense, and for other purposes," approved June 3, 1916 (U. S. C., title 32, sec. 21), as amended. This issue shall be made without charge against militia appropriations except for actual expenses incident to such issue.

New airplanes, etc.

Provisos.
Purchase of motor
trucks, etc.

Clothing, equipment,
etc., from Army surplus
stores.

Vol. 39, p. 199;
Vol. 45, p. 406.
U. S. C., p. 1034;
Supp. VI, p. 651.

Without charge to
militia appropriations.

No increase of
mounted, etc., units.

No appropriation contained in this Act shall be available for any expense for or on account of a larger number of mounted and medical units, and motor transport, military police, wagon and service companies of the National Guard than were in existence on June 30, 1932.

Organized Reserves.

ORGANIZED RESERVES

Officers' Reserve Corps.

For pay and allowances of members of the Officers' Reserve Corps on active duty in accordance with law; mileage, reimbursement of actual traveling expenses, or per diem allowances in lieu thereof, as authorized by law: *Provided*, That the mileage allowance to members of the Officers' Reserve Corps when called into active service for training for fifteen days or less shall not exceed 4 cents per mile; pay, transportation, subsistence, clothing, and medical and hospital treatment of members of the Enlisted Reserve Corps; conducting correspondence or extension courses for instruction of members of the Reserve Corps, including necessary supplies, procurement of maps and textbooks, and transportation and traveling expenses of employees; purchase of training manuals, including Government publications and blank forms, subscriptions to magazines and periodicals of a professional or technical nature; establishment, maintenance, and operation of divisional and regimental headquarters and of camps for training of the Organized Reserves; for miscellaneous expenses incident to the administration of the Organized Reserves,

Provisos.
Mileage allowance.

Enlisted Reserve
Corps.
Correspondence
courses.

Training manuals.

Establishment, etc.,
headquarters and train-
ing camps.

including the maintenance and operation of motor-propelled passenger-carrying vehicles; for the actual and necessary expenses, or per diem in lieu thereof, at rates authorized by law, incurred by officers and enlisted men of the Regular Army traveling on duty in connection with the Organized Reserves; for expenses incident to the use, including upkeep and depreciation costs of supplies, equipment, and material furnished in accordance with law from stocks under the control of the War Department, except that not to exceed \$334,425 of this appropriation shall be available for expenditure by the Chief of the Air Corps for the production and purchase of new airplanes and their equipment, spare parts, and accessories; for transportation of baggage, including packing and crating, of reserve officers ordered to active duty for not less than six months; for the medical and hospital treatment of members of the Officers' Reserve Corps and of the Enlisted Reserve Corps, who suffer personal injury or contract disease in line of duty, as provided by the Act of April 26, 1928 (U. S. C., Supp. V, title 10, secs. 451, 455), and for such other purposes in connection therewith as are authorized by the said Act, including pay and allowances, subsistence, transportation, and burial expenses; in all, \$6,354,348; and no part of such total sum shall be available for any expense incident to giving flight training to any officer of the Officers' Reserve Corps unless he shall be found physically and professionally qualified to perform aviation service as an aviation pilot, by such agency as the Secretary of War may designate: *Provided*, That not to exceed \$100,000 of this appropriation may be used for establishment and maintenance of divisional and regimental headquarters.

None of the funds appropriated elsewhere in this Act, except for printing and binding and for pay and allowances of officers and enlisted men of the Regular Army, and for mileage, reimbursement of actual traveling expenses, or per diem allowances in lieu thereof, as authorized by law to Air Corps reserve officers on extended active duty, shall be used for expenses in connection with the Organized Reserves, but available supplies and existing facilities at military posts shall be utilized to the fullest extent possible.

No part of the appropriation made in this Act shall be available for pay, allowances, or traveling or other expenses of any officer of the Organized Reserves who may be drawing a pension, disability allowance, disability compensation, or retired pay from the Government of the United States.

No portion of the appropriation shall be expended for the pay of a reserve officer on active duty for a longer period than fifteen days, except such as may be detailed for duty with the War Department General Staff under section 3a and section 5 (b) of the Army Reorganization Act approved June 4, 1920 (U. S. C., title 10, secs. 26, 37), or who may be detailed for courses of instruction at the general or special service schools of the Army, or who may be detailed for duty as instructors at civilian military training camps, appropriated for in this Act, or who may be detailed for duty with tactical units of the Air Corps, as provided in section 37a of the Army Reorganization Act approved June 4, 1920 (U. S. C., title 10, sec. 369): *Provided*, That the pay and allowances of such additional officers and nurses of the Medical Reserve Corps as are required to supplement the like officers and nurses of the Regular Army in the care of beneficiaries of the United States Veterans' Administration treated in Army hospitals may be paid from the funds allotted to the War Department by that bureau under existing law.

Vehicles.

Travel expenses.

Purchase of new airplanes, etc.

Medical and hospital treatment, etc., if injured in line of duty.

Vol. 45, p. 461.
U. S. C., Supp. VI, p. 100.

Burial expenses.

Restriction on flight training.

Divisional, etc., headquarters.

Other funds not to be used.

No pay to officers drawing pensions, etc.

Pay period for officers.

General Staff detail.
Vol. 41, pp. 760, 765.
U. S. C., p. 171.

Other details.

Air Corps.
Vol. 41, p. 776.
U. S. C., p. 183.*Proviso.*
Medical Reserve Corps for Veterans' Administration patients in Army hospitals.

Payments, from Army funds.

Citizens' Military
Training.

CITIZENS' MILITARY TRAINING

Reserve Officers'
Training Corps.

RESERVE OFFICERS' TRAINING CORPS

Quartermaster sup-
plies for units of.

Training camp ex-
penses.

Travel allowance.

Subsistence commu-
tation to senior divi-
sion members.

Vol. 39, p. 193; Vol.
41, p. 779.

U. S. C., p. 184.

Medical, etc., treat-
ment, injured in line of
duty.

Vol. 41, p. 778.

U. S. C., p. 185.

Burial expenses.

Vol. 43, p. 365; Vol.
45, p. 462.

U. S. C., p. 186; Supp.
VI, p. 100.

Transporting de-
pendents, etc.

Vehicles.

Provisions.
Issue of Army horses.

For the procurement, maintenance, and issue, under such regulations as may be prescribed by the Secretary of War, to institutions at which one or more units of the Reserve Officers' Training Corps are maintained, of such public animals, means of transportation, supplies, tentage, equipment, and uniforms as he may deem necessary, including cleaning and laundering of uniforms and clothing at camps; and to forage, at the expense of the United States, public animals so issued, and to pay commutation in lieu of uniforms at a rate to be fixed annually by the Secretary of War; for transporting said animals and other authorized supplies and equipment from place of issue to the several institutions and training camps and return of same to place of issue when necessary; for purchase of training manuals, including Government publications and blank forms; for the establishment and maintenance of camps for the further practical instruction of the members of the Reserve Officers' Training Corps, and for transporting members of such corps to and from such camps, and to subsist them while traveling to and from such camps and while remaining therein so far as appropriations will permit, or, in lieu of transporting them to and from such camps and subsisting them while en route, to pay them travel allowance at the rate of 5 cents per mile for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp and for the return travel thereto, and to pay the return travel pay in advance of the actual performance of the travel; for expenses incident to the use, including upkeep and depreciation costs, of supplies, equipment, and matériel furnished in accordance with law from stocks under the control of the War Department; for pay for students attending advanced camps at the rate prescribed for soldiers of the seventh grade of the Regular Army; for the payment of commutation of subsistence to members of the senior division of the Reserve Officers' Training Corps, at a rate not exceeding the cost of the garrison ration prescribed for the Army, as authorized in the Act approved June 3, 1916, as amended by the Act approved June 4, 1920 (U. S. C., title 10, sec. 387); for medical and hospital treatment until return to their homes and further medical treatment after arrival at their homes, subsistence during hospitalization and until furnished transportation to their homes, and transportation when fit for travel to their homes of members of the Reserve Officers' Training Corps who suffer personal injury in line of duty while en route to or from and while at camps of instruction under the provisions of section 47a of the National Defense Act approved June 3, 1916 (U. S. C., title 10, sec. 441), as amended; and for the cost of preparation and transportation to their homes and burial expenses of the remains of members of the Reserve Officers' Training Corps who die while attending camps of instruction as provided in the Act approved April 26, 1928 (U. S. C., Supp. V, title 10, sec. 455); for mileage, traveling expenses, or transportation, for transportation of dependents, and for packing and transportation of baggage, as authorized by law, for officers, warrant officers, and enlisted men of the Regular Army traveling on duty pertaining to or on detail to or relief from duty with the Reserve Officers' Training Corps; for the maintenance, repair, and operation of motor vehicles, \$3,466,531, of which \$400,000 shall be available immediately: *Provided*, That the Secretary of War is authorized to issue, without charge, in lieu of purchase, for the use of the Reserve Officers' Training Corps, so many horses now

belonging to the Regular Army as he may consider desirable: *Provided*, That uniforms and other equipment or material issued to the Reserve Officers' Training Corps in accordance with law shall be furnished from surplus or reserve stocks of the War Department without payment from this appropriation, except for actual expense incurred in the manufacture or issue: *Provided further*, That in no case shall the amount paid from this appropriation for uniforms, equipment, or material furnished to the Reserve Officers' Training Corps from stocks under the control of the War Department be in excess of the price current at the time the issue is made: *Provided further*, That none of the funds appropriated in this Act shall be used for the organization or maintenance of an additional number of mounted, motor transport, or tank units in the Reserve Officers' Training Corps in excess of the number in existence on January 1, 1928: *Provided further*, That none of the funds appropriated in this Act shall be available for any expense on account of any student in Air Corps, Medical Corps, Dental Corps, or Veterinary units not a member of such units on May 5, 1932, but such stoppage of further enrollments shall not interfere with the maintenance of existing units: *Provided further*, That none of the funds appropriated elsewhere in this Act, except for printing and binding and pay and allowances of officers and enlisted men of the Regular Army, shall be used for expenses in connection with the Reserve Officers' Training Corps.

Uniforms, etc., from Army surplus stock.

Current price to govern.

Additional units forbidden.

No additional students in designated units.

Use of other funds forbidden.

MILITARY SUPPLIES AND EQUIPMENT FOR SCHOOLS AND COLLEGES

For the procurement and issue as provided in section 55c of the Act approved June 4, 1920 (U. S. C., title 10, sec. 1180), and in section 1225, Revised Statutes, as amended, under such regulations as may be prescribed by the Secretary of War, to schools and colleges, other than those provided for in section 40 of the Act above referred to, of such arms, tentage, and equipment, and of ammunition, targets, and target materials, including the transporting of same, and the overhauling and repair of articles issued, as the Secretary of War shall deem necessary for proper military training in said schools and colleges, \$8,900.

Other schools and colleges.

Issue of military supplies, etc., to.
Vol. 41, p. 780.
R. S., sec. 1225, p. 216.
U. S. C., p. 213.
Vol. 41, p. 778.

CITIZEN'S MILITARY TRAINING CAMPS

For furnishing, at the expense of the United States, to warrant officers, enlisted men, and civilians attending training camps maintained under the provisions of section 47d of the National Defense Act of June 3, 1916, as amended (U. S. C., title 10, sec. 442), uniforms, including altering, fitting, washing, and cleaning when necessary, subsistence, or subsistence allowances, and transportation,¹ or transportation allowances, as prescribed in said section 47d, as amended; for such expenditures as are authorized by said section 47d as may be necessary for the establishment and maintenance of said camps, including recruiting and advertising therefor, and the cost of maintenance, repair, and operation of passenger-carrying vehicles; for expenses incident to the use, including upkeep and depreciation costs, of supplies, equipment, and matériel furnished in accordance with law from stocks under the control of the War Department; for gymnasium and athletic supplies (not exceeding \$20,000); for mileage, reimbursement of traveling expenses, or

Citizens' military training camps.

Uniforms, transportation expenses, etc., for attending.
Vol. 39, p. 193; Vol. 41, p. 778.
U. S. C., p. 186.

Maintenance.

Treatment, etc., injured in line of duty.

¹So in original.

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| <p>Vol. 45, p. 461. U. S. C., Supp. VI, p. 100. <i>Provisos.</i> Age limitation.</p> | <p>allowance in lieu thereof as authorized by law, for officers of the Regular Army and Organized Reserves traveling on duty in connection with citizens' military training camps; for purchase of training manuals, including Government publications and blank forms; for medical and hospital treatment, subsistence, and transportation, in case of injury in line of duty, of members of the citizens' military training camps and for transportation and burial of remains of any such members who die while undergoing training or hospital treatment, as provided in the Act of April 26, 1928 (U. S. C., Supp. V, title 10, secs. 454, 455); in all, \$2,500,000: <i>Provided</i>, That the funds herein appropriated shall not be used for the training of any person in the first year or lowest course, who shall have reached his twenty-fourth birthday before the day of enrollment: <i>Provided further</i>, That none of the funds appropriated elsewhere in this Act except for printing and binding and for pay and allowances of officers and enlisted ¹ men of the Regular Army shall be used for expenses in connection with citizens' military training camps: <i>Provided further</i>, That uniforms and other equipment or matériel furnished in accordance with law for use at citizens' military training camps shall be furnished from surplus or reserve stocks of the War Department without payment from this appropriation, except for actual expense incurred in the manufacture or issue: <i>Provided further</i>, That in no case shall the amount paid from this appropriation for uniforms, equipment, or matériel furnished in accordance with law for use at citizens' military training camps from stocks under control of the War Department be in excess of the price current at the time the issue is made.</p> |
| <p>Use of other funds forbidden.</p> | <p>Under the authorizations contained in this Act no issues of reserve supplies or equipment shall be made where such issues would impair the reserves held by the War Department for two field armies or one million men.</p> |
| <p>Uniforms, etc., from Army surplus stocks.</p> | <p style="text-align: center;">NATIONAL BOARD FOR PROMOTION OF RIFLE PRACTICE, ARMY QUARTERMASTER SUPPLIES AND SERVICES FOR RIFLE RANGES FOR CIVILIAN INSTRUCTION</p> |
| <p>Current price to govern.</p> | <p>To establish and maintain indoor and outdoor rifle ranges for the use of all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the National Board for the Promotion of Rifle Practice and approved by the Secretary of War; for the employment of labor in connection with the establishment of outdoor and indoor rifle ranges, including labor in operating targets; for the employment of instructors; for clerical services, including not exceeding \$25,000 in the District of Columbia; for badges and other insignia; not to exceed \$3,750 for the transportation of employees, instructors, and civilians to engage in practice; for the purchase of materials, supplies, and services, and for expenses incidental to instruction of citizens of the United States in marksmanship, and their participation in national and international matches, to be expended under the direction of the Secretary of War, \$31,465.</p> |
| <p>Restriction on use of Army reserve supplies.</p> | <p style="text-align: center;">NATIONAL TROPHY AND MEDALS FOR RIFLE CONTESTS</p> |
| <p>Promotion of rifle practice.</p> | <p>For incidental expenses of the National Board for the Promotion of Rifle Practice in accordance with the provisions of the Act approved May 28, 1928 (U. S. C., Supp. V, title 32, sec. 181c), \$3,000.</p> |
| <p>Civilian instruction.</p> | |
| <p>Quartermaster supplies, etc., for rifle ranges, etc.</p> | |
| <p>Instructors, etc.</p> | |
| <p>Participation in matches.</p> | |
| <p>Rifle contests.</p> | |
| <p>Furnishing national trophy medals, etc. Vol. 45, p. 786. U. S. C., Supp. VI, p. 656.</p> | |

¹ So in original.

ORDNANCE EQUIPMENT FOR RIFLE RANGES FOR CIVILIAN INSTRUCTION

Ordnance equipment, civilian instruction.

For arms, ammunition, targets, and other accessories for target practice, for issue and sale in accordance with rules and regulations prescribed by the National Board for the Promotion of Rifle Practice and approved by the Secretary of War, in connection with the encouragement of rifle practice, in pursuance of the provisions of law, \$125,000.

Arms, ammunition, etc.

No part of the appropriations made in this Act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch, or other time-measuring device, a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this Act be available to pay any premiums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant.

No pay to officer, etc., using time-measuring device.

Cash rewards restricted.

TITLE II.—NONMILITARY ACTIVITIES OF THE WAR DEPARTMENT

Nonmilitary activities.

QUARTERMASTER CORPS

Quartermaster Corps.

CEMETERIAL EXPENSES

For maintaining and improving national cemeteries, including fuel for and pay of superintendents and the superintendent at Mexico City, laborers and other employees, purchase of tools and materials; and for the repair, maintenance, and operation of motor vehicles; care and maintenance of the Arlington Memorial Amphitheater, chapel, and grounds in the Arlington National Cemetery, and permanent American cemeteries abroad, including not to exceed \$2,250 in the aggregate or \$450 for any one person for allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (U. S. C., Supp. V, title 5, sec. 118a); for repair to roadways but not to more than a single approach road to any national cemetery constructed under special Act of Congress; for headstones for unmarked graves of soldiers, sailors, and marines under the Acts approved March 3, 1873 (U. S. C., title 24, sec. 279), February 3, 1879 (U. S. C., title 24, sec. 280), March 9, 1906 (34 Stat., p. 56), March 14, 1914 (38 Stat., p. 768), and February 26, 1929 (U. S. C., Supp. V, title 24, sec. 280a), and civilians interred in post cemeteries; for recovery of bodies and the disposition of remains of military personnel and civilian employees of the Army under Act approved March 9, 1928 (U. S. C., Supp. V, title 10, sec. 916); for the care, protection, and maintenance of the Confederate Mound in Oakwood Cemetery at Chicago, the Confederate Stockade Cemetery at Johnstons Island, the Confederate burial plats owned by the United States in Confederate Cemetery at North Alton, the Confederate Cemetery, Camp Chase, at Columbus, the Confederate section in Greenlawn Cemetery at Indianapolis, the Confederate Cemetery at Point Lookout, and the Confederate Cemetery at Rock Island, and not to exceed \$17,625 for or on account of travel, \$837,219: *Provided*, That no railroad shall be permitted upon any right of way which may have been acquired by the United States leading to a national

National cemeteries. Maintenance, etc.

Arlington, Va.

Cemeteries abroad. Living quarters, etc. Vol. 46, p. 818. U. S. C., Supp. VI, p. 20.

Repairs to roadways.

Headstones for soldiers' graves. Vol. 20, p. 281; Vol. 34, p. 56; Vol. 38, p. 768; Vol. 45, p. 1307. U. S. C., p. 687; Supp. VI, p. 376.

Recovery of remains. Vol. 45, p. 251. U. S. C., Supp. VI, p. 109.

Confederate cemeteries, etc.

Provision. Encroachments forbidden.

Repairs restricted.

cemetery, or to encroach upon any roads or walks constructed thereon and maintained by the United States: *Provided further*, That no part of this appropriation shall be used for repairing any roadway not owned by the United States within the corporate limits of any city, town, or village.

Antietam Battlefield,
Md.

Antietam battlefield: For repair and preservation of monuments, tablets, observation tower, roads, fences, and so forth, made and constructed by the United States upon public lands within the limits of the Antietam battlefield, near Sharpsburg, Maryland; for maintenance, repair, and operation of motor vehicles, and for pay of superintendent, said superintendent to perform his duties under the direction of the Quartermaster Corps and to be selected and appointed by the Secretary of War, at his discretion, the person selected for this position to have been either a commissioned officer or enlisted man who has been honorably mustered out or discharged from the military service of the United States and who may have been disabled for active field service in line of duty, and not to exceed \$37 for or on account of travel, \$5,865.

Superintendent.

Burial places in Cuba
and China.

For repairs and preservation of monuments, tablets, roads, fences, and so forth, made and constructed by the United States in Cuba and China to mark the places where American soldiers fell, \$770.

National military
parks.

NATIONAL MILITARY PARKS

Chickamauga and
Chattanooga.

CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK

Maintenance, etc.

For continuing the establishment of the park; compensation and expenses of the superintendent, maps, surveys, clerical and other assistance; maintenance, repair, and operation of one motor-propelled passenger-carrying vehicle; maintenance, repair, and operation of one horse-drawn passenger-carrying vehicle; office and all other necessary expenses; foundations for State monuments; mowing; historical tablets, iron and bronze; iron gun carriages; roads and their maintenance, including posts and guard rails on highways, and not to exceed \$152 for or on account of travel, \$56,797.

Fort Donelson, Tenn.

FORT DONELSON NATIONAL MILITARY PARK

Maintenance, etc.

For care and maintenance of the Fort Donelson National Military Park established on the battlefield of Fort Donelson, Tennessee, in accordance with the provisions of the Act approved March 26, 1928 (U. S. C., Supp. V, title 16, secs. 428-428j), including personal services, procurement of supplies and equipment, and all other expenses incident to the care and maintenance of the park, including not to exceed \$75 for or on account of travel, \$7,274.

Vol. 45, p. 368.
U. S. C., Supp. VI,
p. 213.Fredericksburg and
Spotsylvania Memorial.

FREDERICKSBURG AND SPOTSYLVANIA COUNTY BATTLE FIELDS MEMORIAL

Maintenance, etc.
Vol. 44, p. 1091.
U. S. C., Supp. VI,
p. 210.

For continuing the establishment of a national military park to be known as the Fredericksburg and Spotsylvania County Battle Fields Memorial, in accordance with the provisions of the Act approved February 14, 1927 (U. S. C., Supp. V, title 16, secs. 425-425j), including the maintenance, repair, and operation of one motor-propelled passenger-carrying vehicle, and including not to exceed \$225 for or on account of travel, \$14,290.

GETTYSBURG NATIONAL MILITARY PARK

Gettysburg.

For continuing the establishment of the park; acquisition of lands, surveys, and maps; constructing, improving, and maintaining avenues, roads, and bridges thereon; fences and gates; marking the lines of battle with tablets and guns, each tablet bearing a brief legend giving historic facts and compiled without censure and without praise; preserving the features of the battlefield and the monuments thereon; compensation of superintendent, clerical and other services, expenses, and labor; purchase and preparation of tablets and gun carriages and placing them in position; maintenance, repair, and operation of motor-propelled freight and passenger-carrying vehicles, and all other expenses incident to the foregoing, including not to exceed \$38 for or on account of travel, \$56,810.

Maintenance, etc.

GUILFORD COURTHOUSE NATIONAL MILITARY PARK

Guilford Courthouse.

For continuing the establishment of a national military park at the battlefield of Guilford Courthouse, in accordance with the Act entitled "An Act to establish a national military park at the battlefield of Guilford Courthouse," approved March 2, 1917 (39 Stat., p. 996), including not to exceed \$52 for or on account of travel, \$7,758.

Maintenance, etc.
Vol. 39, p. 996.

MOORES CREEK NATIONAL MILITARY PARK

Moore's Creek.

For continuing the establishment of a national military park at the battlefield of Moore's Creek, North Carolina, in accordance with the Act entitled "An Act to establish a national military park at the battlefield of Moore's Creek, North Carolina," approved June 2, 1926 (U. S. C., Supp. V, title 16, secs. 422 to 422d), including not to exceed \$109 for or on account of travel, \$4,620.

Maintenance, etc.
Vol. 44, p. 684.
U. S. C., Supp. VI,
p. 207.

PETERSBURG NATIONAL MILITARY PARK

Petersburg.

For continuing the establishment of a national military park at the battlefields of the siege of Petersburg, Virginia, in accordance with the provisions of the Act approved July 3, 1926 (U. S. C., Supp. V, title 16, secs. 423-423i), including surveys, maps, and marking the boundaries of the park; pay and expenses of civilian commissioners, and pay for clerical and other services; supplies, equipment, and materials; maintenance, repair, and operation of one motor-propelled passenger-carrying vehicle, and all other expenses necessary in establishing that park, including not to exceed \$187 for or on account of travel, \$4,817.

Maintenance, etc.
Vol. 44, p. 822.
U. S. C., Supp. VI,
p. 208.

SHILOH NATIONAL MILITARY PARK

Shiloh.

For continuing the establishment of the park, including not to exceed \$5,000 for the purchase of land; compensation of superintendent of the park; clerical and other services; labor; historical tablets; maps and surveys; roads; purchase and transportation of supplies, implements, and materials; foundations for monuments; office and other necessary expenses, including purchase and exchange of one motor-propelled passenger-carrying vehicle at a total cost not to exceed \$500; maintenance, repair, and operation of one motor-propelled passenger-carrying vehicle, and including not to exceed \$95 for or on account of travel, \$39,581.

Maintenance, etc.

Stones River.

STONES RIVER NATIONAL MILITARY PARK

Maintenance, etc.
Vol. 44, p. 1399.
U. S. C., Supp. VI,
p. 212.

For continuing the establishment of a national military park at the battlefield of Stones River, Tennessee, in accordance with the provisions of the Act approved March 3, 1927 (U. S. C., Supp. V, title 16, secs. 426-426j), including the maintenance, repair, and operation of motor-propelled passenger and freight carrying vehicles, and other expenses necessary to the establishment of said park, \$5,670.

Vicksburg.

VICKSBURG NATIONAL MILITARY PARK

Maintenance, etc.

For continuing the establishment of the park; compensation of civilian commissioners; clerical and other services, labor, iron gun carriages, mounting of siege guns, memorials, monuments, markers, and historical tablets giving historical facts, compiled without praise and without censure; maps, surveys, roads, bridges, restoration of earthworks, purchase of lands, purchase, and transportation of supplies and materials; and other necessary expenses, including purchase and exchange of one motor-propelled passenger-carrying vehicle at a total cost not to exceed \$500; maintenance, repair, and operation of one motor-propelled passenger-carrying vehicle, and including not to exceed \$112 for or on account of travel, \$26,401.

National monu-
ments.

NATIONAL MONUMENTS

Maintenance, etc.
Vol. 34, p. 225.
U. S. C., p. 416.

For maintaining and improving national monuments established by proclamation of the President under the Act of June 8, 1906 (U. S. C., title 16, sec. 431), and administered by the Secretary of War, and such battlefield sites, monuments, grounds, and memorials as have been authorized from time to time by Congress, and not expressly provided for under other appropriations, including pay of the caretakers, laborers, and other employees, purchase of tools and materials, light, heat, and power, and including not to exceed \$142 for or on account of travel, \$36,223, of which not to exceed \$300 may be paid to the superintendent of the Shiloh National Military Park, in addition to his salary as such superintendent, for performing the duties of superintendent of the Meriwether Lewis National Monument.

Lincoln Birthplace
Memorial.
Preservation, etc.
Vol. 45, p. 1162.
U. S. C., Supp. VI,
p. 195.

Lincoln Birthplace Memorial: For the preservation of the birthplace of Abraham Lincoln, near Hodgenville, Larue County, Kentucky, in accordance with the provisions of the Act approved February 11, 1929 (U. S. C., Supp. V, title 16, secs. 215-216), including the purchase of necessary supplies and equipment, the salary of the caretaker and other necessary employees, and all other necessary expenses incident to the foregoing, including not to exceed \$37 for or on account of travel, \$5,580.

Signal Corps.

SIGNAL CORPS

Washington-Alaska
cable, etc.

WASHINGTON-ALASKA MILITARY CABLE AND TELEGRAPH SYSTEM

Operating expenses,
etc.

For defraying the cost of such extensions, betterments, operation, and maintenance of the Washington-Alaska Military Cable and Telegraph System as may be approved by the Secretary of War, to be available until the close of the fiscal year 1935, from the receipts of the Washington-Alaska Military Cable and Telegraph System which have been covered into the Treasury of the United States, the extent of such extensions and betterments and the cost thereof to be reported to Congress by the Secretary of War, including not to exceed \$10,005 for or on account of travel, \$160,772.

From receipts.

CORPS OF ENGINEERS

Engineer Corps.

RIVERS AND HARBORS

Rivers and harbors.

To be immediately available and to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers:

Immediately available.

For the preservation and maintenance of existing river and harbor works, and for the prosecution of such projects heretofore authorized as may be most desirable in the interests of commerce and navigation; for survey of northern and northwestern lakes, and other boundary and connecting waters as heretofore authorized, including the preparation, correction, printing, and issuing of charts and bulletins and the investigation of lake levels; for prevention of obstructive and injurious deposits within the harbor and adjacent waters of New York City; for expenses of the California Débris Commission in carrying on the work authorized by the Act approved March 1, 1893 (U. S. C., title 33, sec. 661); for examinations, surveys, and contingencies of rivers and harbors; and for printing, as may be authorized by the Committee on Printing of the House of Representatives, of surveys under House Document Numbered 308, Sixty-ninth Congress, first session, and Section 10 of the Flood Control Act, approved May 15, 1928 (U. S. C., Supp. V, title 22, sec. 702j): *Provided*, That no funds shall be expended for any preliminary examination, survey, project, or estimate not authorized by law, \$39,388,129: *Provided further*, That hereafter the provisions of section 5 of the Act of July 16, 1914 (U. S. C., title 5, sec. 78), shall be construed as applying to the Corps of Engineers as to the purchase of motor-propelled passenger-carrying vehicles: *Provided further*, That no appropriation under the Corps of Engineers for the fiscal year 1934 shall be available for any expense incident to operating any power-driven boat or vessel on other than Government business.

Preservation, construction, etc., of authorized projects.

Boundary waters, etc., surveys.

New York Harbor.
California Débris Commission.
Vol. 27, p. 607.
U. S. C., p. 1066.
Printing.

Vol. 46, p. 538.
U. S. C., Supp. VI, p. 662.
Proviso.
Unauthorized projects forbidden.

Purchase of motor vehicles.
Vol. 38, p. 508.
U. S. C., p. 33.

Motor boats, etc.

Fort Pierce Harbor: For dredging the channel of Fort Pierce Harbor, Florida, \$30,000, or so much thereof as may be necessary, to be immediately available.

Fort Pierce Harbor, Fla.

MUSCLE SHOALS

Muscle Shoals.

For operating, maintaining, and keeping in repair the works at Dam Numbered 2, Tennessee River, including the hydroelectrical development, and including not to exceed \$375 for or on account of travel, \$225,484, to remain available until June 30, 1934, and to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers.

Operating, etc., works at Dam No. 2, Tennessee River.

Flood control, Mississippi River and tributaries: For prosecuting work of flood control in accordance with the provisions of the Flood Control Act, approved May 15, 1928 (U. S. C., Supp. V, title 33, sec. 702a), \$19,653,424.

Flood control, Mississippi River, etc.
Vol. 45, p. 534.
U. S. C., Supp. VI, p. 660.

Emergency fund for flood control on tributaries of Mississippi River: For rescue work and for repair of maintenance of any flood-control work on any tributaries of the Mississippi River threatened or destroyed by flood, in accordance with section 7 of Flood Control Act, Approved May 15, 1928 (U. S. C., Supp. V, title 33, sec. 702g), \$348,000.

Emergency fund for tributaries.

Vol. 45, p. 537.
U. S. C., Supp. VI, p. 661.

Flood control, Sacramento River, California: For prosecuting work of flood control in accordance with the provisions of the Flood Control Act approved March 1, 1917 (U. S. C., title 33, sec. 703), as modified by the Flood Control Act approved May 15, 1928 (U. S. C., Supp. V, title 33, sec. 704), \$768,480.

Sacramento River.
Vol. 39, p. 948; Vol. 45, p. 539.
U. S. C., p. 1090;
Supp. VI, p. 663.

Authorized travel, etc., expenses payable from appropriate funds.

Mileage, traveling expenses, or per diem in lieu thereof, transportation of dependents, including packing and crating, and transportation of baggage, as authorized by law, for officers, warrant officers, and enlisted men of the Regular Army and civilian employees, traveling on duty pertaining to or on detail to or relief from nonmilitary activities provided for in this Act under appropriations for the Quartermaster Department, Signal Corps, and Engineer Department, shall be paid from the appropriation in connection with which such travel is performed.

Panama Canal.

THE PANAMA CANAL

Limitations not applicable to appropriations for.

The limitations on the expenditure of appropriations hereinbefore made in this Act shall not apply to the appropriations for the Panama Canal.

All expenses. Objects specified.

For every expenditure requisite for and incident to the maintenance and operation, sanitation, and civil government of the Panama Canal and Canal Zone, including the following: Compensation of all officials and employees; foreign and domestic newspapers and periodicals; law books not exceeding \$1,000; textbooks and books of reference; printing and binding, including printing of annual report; rent and personal services in the District of Columbia; purchase or exchange of typewriting, adding, and other machines; purchase or exchange, maintenance, repair, and operation of motor propelled and horse-drawn passenger-carrying vehicles, claims for damages to vessels passing through the locks of the Panama Canal, as authorized by the Panama Canal Act; claims for losses of or damages to property arising from the conduct of authorized business operations; claims for damages to property arising from the maintenance and operation, sanitation, and civil government of the Panama Canal; acquisition of land and land under water, as authorized in the Panama Canal Act; expenses incurred in assembling, assorting, storing, repairing, and selling material, machinery, and equipment heretofore or hereafter purchased or acquired for the construction of the Panama Canal which are unserviceable or no longer needed, to be reimbursed from the proceeds of such sales; expenses incident to conducting hearings and examining estimates for appropriations on the Isthmus; expenses incident to any emergency arising because of calamity by flood, fire, pestilence, or like character not foreseen or otherwise provided for herein; traveling expenses, when prescribed by the Governor of the Panama Canal to persons engaged in field work or traveling on official business; and for such other expenses not in the United States as the Governor of the Panama Canal may deem necessary best to promote the maintenance and operation, sanitation, and civil government of the Panama Canal, all to be expended under the direction of the Governor of the Panama Canal and accounted for as follows:

Operation, etc. Governor's salary. Purchase of supplies, etc.

For maintenance and operation of the Panama Canal: Salary of the governor, \$10,000; purchase, inspection, delivery, handling, and storing of materials, supplies, and equipment for issue to all departments of the Panama Canal, the Panama Railroad, other branches of the United States Government, and for authorized sales; payment in lump sums of not exceeding the amounts authorized by the Injury Compensation Act approved September 7, 1916 (U. S. C., title 5, sec. 793), to alien cripples who are now a charge upon the Panama Canal by reason of injuries sustained while employed in the construction of the Panama Canal; for continuing the construction of the Madden Dam across the Chagres River at Alhajuela for the storage of water for use in the maintenance and operation of

Payment to alien cripples. Vol. 39, p. 750. U. S. C., p. 81.

Madden Dam. Vol. 45, p. 363.

the Panama Canal, together with a hydroelectric plant, roadways, and such other work as in the judgment of the Governor of the Panama Canal may be necessary, to cost in the aggregate not to exceed \$15,500,000; in all, \$9,172,700, together with all moneys arising from the conduct of business operations authorized by the Panama Canal Act, and such sums, aggregating not to exceed \$2,000,000, as may be deposited in the Treasury of the United States as dividends by the Panama Railroad Company.

For sanitation, quarantine, hospitals, and medical aid and support of the insane and of lepers and aid and support of indigent persons legally within the Canal Zone, including expenses of their deportation when practicable, and the purchase of artificial limbs or other appliances for persons who were injured in the service of the Isthmian Canal Commission or the Panama Canal prior to September 7, 1916, and including additional compensation to any officer of the United States Public Health Service detailed with the Panama Canal as chief quarantine officer, \$698,426.

For civil government of the Panama Canal and Canal Zone, including salaries of district judge, district attorney, and marshal, and gratuities and necessary clothing for indigent discharged prisoners, \$1,235,278.

Total, Panama Canal, \$11,106,404, to be available until expended.

In addition to the foregoing sums there is appropriated for the fiscal year 1934 for expenditures and reinvestment under the several heads of appropriation aforesaid, without being covered into the Treasury of the United States, all moneys received by the Panama Canal from services rendered or materials and supplies furnished to the United States, the Panama Railroad Company, the Canal Zone government, or to their employees, respectively, or to the Panama Government, from hotel and hospital supplies and services; from rentals, wharfage, and like service; from labor, materials, and supplies and other services furnished to vessels other than those passing through the canal, and to others unable to obtain the same elsewhere; from the sale of scrap and other by-products of manufacturing and shop operations; from the sale of obsolete and unserviceable materials, supplies, and equipment purchased or acquired for the operation, maintenance, protection, sanitation, and government of the canal and Canal Zone; and any net profits accruing from such business to the Panama Canal shall annually be covered into the Treasury of the United States.

In addition there is appropriated for the operation, maintenance, and extension of waterworks, sewers, and pavements in the cities of Panama and Colon, during the fiscal year 1934, the necessary portions of such sums as shall be paid as water rentals or directly by the Government of Panama for such expenses.

SEC. 2. No part of any money appropriated by this Act shall be used for maintaining, driving, or operating any Government-owned motor-propelled passenger-carrying vehicle assigned for the exclusive use of persons other than the Secretary of War and medical officers on out-patient medical service.

SEC. 3. No part of any appropriation made by this Act shall be used in any way to pay any expense in connection with the conduct, operation, or management of any post exchange, branch exchange, or subexchange within any State, Territory, or the District of Columbia, save and except for real assistance and convenience to military personnel and civilians employed or serving at military posts in supplying them with articles of ordinary use, wear, and consumption not furnished by the Government.

Sanitation, etc.
Lepers, etc.

Artificial limbs, etc.,
to injured employees.

Chief quarantine
officer.

Civil government
expenses.

Availability.
Credits allowed.

Water, sewers, pave-
ments, etc.
Panama and Colon.

Use of Government-
owned automobiles for
private purposes pro-
hibited.

Limitation on use
of funds for post
exchanges.

Impounding of unexpended appropriations.

SEC. 4. Any sums appropriated in this Act for or on account of the Military Establishment, or any portion of such sums, that may not be needed for the purposes for which appropriated as the result of an economic survey ordered by the President shall be impounded and returned to the Treasury.

Approved, March 4, 1933.

[CHAPTER 282.]

AN ACT

March 4, 1933.

[H. R. 14769.]

[Public, No. 442.]

Making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1933, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1933, and June 30, 1934, and for other purposes.

Second Deficiency Act, fiscal year 1933.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1933, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1933, and June 30, 1934, and for other purposes, namely:

TITLE I

LEGISLATIVE BRANCH

Legislative.

Senate.

SENATE

Miscellaneous items. For miscellaneous items, exclusive of labor, fiscal year 1933, \$40,000.

Senate kitchens and restaurants.

For repairs, improvements, equipment, and supplies for Senate kitchens and restaurants, Capitol Building and Senate Office Building, including personal and other services, to be expended from the contingent fund of the Senate, under supervision of the Committee on Rules, United States Senate, fiscal year 1933, \$13,000.

Inquiries and investigations.

For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers of committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding 25 cents per hundred words, fiscal year 1933, \$15,000: *Provided*, That except in the case of the Joint Committee on Internal Revenue Taxation no part of this appropriation shall be expended for services, personal, professional, or otherwise, in excess of the rate of \$3,600 per annum: *Provided further*, That no part of this appropriation shall be expended for per diem and subsistence expenses except in accordance with the provisions of the Subsistence Expense Act of 1926, approved June 3, 1926, as amended.

Provisos.
Restriction on services.

Per diem and subsistence.
Vol. 44, p. 688.
U. S. C., Supp. VI,
p. 47.

House of Representatives.

HOUSE OF REPRESENTATIVES

Robert R. Butler.
Pay to daughter.

To pay Elizabeth A. Butler, daughter of Robert R. Butler, late a Representative from the State of Oregon, \$9,000, not to be available until June 30, 1933.

Godfrey G. Goodwin.
Pay to widow.

To pay the widow of Godfrey G. Goodwin, late a Representative from the State of Minnesota, \$9,000.

Samuel A. Kendall.
Pay to daughter.

To pay Grace K. Angus, daughter of Samuel A. Kendall, late a Representative from the State of Pennsylvania, \$9,000.

The three foregoing sums to be disbursed by the Sergeant at Arms of the House.

Contested-election expenses: For payment of expenses incurred by Stanley H. Kunz, contestant in the contested-election case of Kunz against Granata, audited and recommended by the Committee on Elections Numbered 3, \$2,000.

Contested election expenses.
Stanley H. Kunz.

For payment to Hulda Maude Vestal, administratrix of Albert H. Vestal, contestee, discharging his obligation for expenses incurred in the contested-election case of Ball against Vestal, audited and recommended by the Committee on Elections Numbered 1, \$500.

Albert H. Vestal, administratrix of.

The two foregoing appropriations to be disbursed by the Clerk of the House.

Committee on Invalid Pensions: To continue the employment of the temporary assistant clerk, fiscal year 1934, \$2,150.

Committee on Invalid Pensions.
Temporary assistant clerk.

Post office: For the employment of seven additional messengers for duty in the new House Office Building, at the rate of \$1,740 each per annum, from March 1 to June 30, 1933, inclusive, \$4,060.

Post Office.
Messengers in new House Office Building.

Contingent expenses: For expenses of special and select committees authorized by the House, fiscal year 1933, \$20,000.

Special and select committees.

For stationery allowance for Stanley H. Kunz, fiscal year 1932, \$83.33.

Stanley H. Kunz, stationery allowance.

For expenses of the Committee on Interstate and Foreign Commerce, under the terms of House Joint Resolution Numbered 572, Second Session, Seventy-second Congress, \$35,000.

Committee on Interstate and Foreign Commerce.

JOINT COMMITTEE ON PRINTING

Joint Committee on Printing.

For expenses in compiling, preparing, and indexing the Congressional Directory for the first session of the Seventy-third Congress, \$800, one-half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House.

Congressional Directory.

Sections 4 and 5 of the Public Resolution approved March 2, 1929 (U. S. C., Supp. VI, title 1, sec. 54 (a) and (b)), are hereby amended to read as follows:

Printing Congressional publications.

"SEC. 4. The publications provided for in such Act of May 29, 1928 (U. S. C., Supp. VI, title 1, Chap. 3), as amended by this resolution, and with such ancillaries, shall be printed and bound in such style, form, and manner as may be directed by the Joint Committee on Printing.

Vol. 45, p. 1542, amended.

U. S. C., Supp. VI, p. 2.

Form, style, etc., to be prescribed by Joint Committee on Printing.

Vol. 45, p. 1008, amended.

U. S. C., Supp. VI, p. 1.

Authority of Committee over printing bills, etc., to avoid waste.

"SEC. 5. In order to avoid waste in the appropriations for printing and binding for Congress, the Joint Committee on Printing is hereby empowered to authorize the printing of any bill or resolution, with index and ancillaries, before Congress in such style and form as the Joint Committee may deem to be most suitable in the interest of economy and efficiency and to so continue until final enactment thereof in both Houses of Congress; and such committee may also curtail the number of copies of such bills or resolutions to be printed in the various parliamentary stages in the Congress, including the slip form of each public act or public resolution."

Curtalement of copies.

GOVERNMENT PRINTING OFFICE

Government Printing Office.

For payment to Samuel Robinson, William Madden, Joseph De Fontes, and Preston L. George, messengers on night duty during the second session of the Seventy-second Congress, \$900 each; in all, \$3,600; to be paid from the appropriation for printing and binding for Congress for the fiscal year 1933.

Designated messengers on night duty.

ARCHITECT OF THE CAPITOL

Architect of the Capitol.

Capitol Building: To enable the Architect of the Capitol to remove any of the statues from Statuary Hall and relocate same elsewhere

Capitol Building.
Relocating statues.

Post, p. 1784.

in the Capitol in accordance with House Concurrent Resolution 47, including all personal services and other expenses in connection therewith, to be expended under the Architect of the Capitol, fiscal year 1933, to remain available during the fiscal year 1934, \$2,500.

Library buildings and grounds. Maintenance, etc., of additional structures.

Library buildings and grounds: To enable the Architect of the Capitol to provide for the care, maintenance, and repair of all buildings or other structures on the site acquired for additional buildings for the Library of Congress, including personal and other services and material necessary in connection therewith, \$2,500, to continue available until June 30, 1934.

Capitol Grounds. Demolition and removal of structures. Balance continued. Ante, p. 17.

Capitol Grounds: The unexpended balance of the appropriation of \$50,000 for the removal and demolition of structures in connection with the enlargement of the Capitol Grounds, contained in the First Deficiency Act, fiscal year 1932, is hereby continued available for the same purposes during the fiscal year 1934.

Senate Office Building. First Street wing, equipment.

Senate Office Building: To enable the Architect of the Capitol to provide furnishings and equipment for the First Street wing, Senate Office Building, \$75,000, fiscal year 1933, to remain available until June 30, 1934; and the Architect of the Capitol is hereby

Contracts authorized.

authorized to enter into contracts in the open market, to make expenditures for material, supplies, equipment, technical and reference books, and instruments, accessories, advertising, travel expenses and subsistence therefor, and, without regard to section 35 of the Public Buildings Act approved June 25, 1910, as amended, or the Classification Act of 1923, as amended, to employ all necessary personnel, including professional, architectural, and engineering, and other assistants. This appropriation shall be expended by the Architect of the Capitol under the direction of the Senate Office Building Commission and disbursed by the disbursing officer of the Interior Department.

Public Buildings and Classification Acts disregarded. Vol. 36, p. 699; Vol. 42, p. 1488. U. S. C., pp. 65, 1303. Disbursement.

For necessary labor, material, and equipment in making structural changes in offices and committee rooms in the old portion of the Senate Office Building, including cutting of doorways, installing of lavatories, enlarging space facilities of committee rooms, and overhauling, repairing, and reconditioning the electrical circuits of the legislative buzzer and signal system, fiscal year 1933, to remain available during the fiscal year 1934, \$13,500.

Senate Office Building (old). Structural changes, etc.

INDEPENDENT ESTABLISHMENTS

Independent Establishments.

NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

Advisory Committee for Aeronautics.

Advisory Committee for Aeronautics, 1929 and 1930: For an additional amount for a seaplane channel and equipment for the conduct of scientific research in aeronautics at the laboratories of the National Advisory Committee for Aeronautics, including the same objects specified under this head in the Second Deficiency Act, approved March 4, 1929, \$605.12.

Seaplane channel, etc.

Vol. 45, p. 1627.

VETERANS' ADMINISTRATION

Veterans' Administration.

Volunteer Soldiers' Home, clothing.

National Home for Disabled Volunteer Soldiers, clothing: For an additional amount for clothing for all branches, including the same objects specified under this head in the War Department Appropriation Act for the fiscal year 1930, \$1,190.83.

Grover Cleveland Ballard. Reimbursement for medical services.

Relief of Grover Cleveland Ballard: To reimburse Grover Cleveland Ballard, an ex-service man of the World War, for money expended for medical and surgical service in reamputating his leg, which was shot off below the knee during the World War, \$246.75.

DISTRICT OF COLUMBIA

District of Columbia.

CONTINGENT AND MISCELLANEOUS EXPENSES

Postage: For an additional amount for postage for strictly official mail matter, including the purchase and rental of postage meter equipment, fiscal year 1933, \$1,500.

Postage.

Judicial expenses: For an additional amount for judicial expenses, including procurement of chains of title, witness fees, and expert services in District cases before the Supreme Court of said District, fiscal year 1932, \$1,234.99.

Judicial expenses.

General advertising: For an additional amount for general advertising, authorized and required by law, and for tax and school notices and notices of changes in regulations, fiscal year 1932, \$4,230.45.

Advertising.

HEALTH DEPARTMENT

Health Department.

For additional amounts for isolating wards for minor contagious diseases at Garfield Memorial Hospital for the fiscal years that follow:

Garfield Memorial Hospital, isolating wards.

For 1932, \$304.10;

For 1933, \$2,000.

COURTS AND PRISONS

Courts and prisons.

Police court: For witness fees, fiscal year 1932, \$243.

Police court, witness fees.

Support of convicts: For an additional amount for support, maintenance, and transportation of convicts transferred from the District of Columbia, including the same objects specified under this head in the District of Columbia Appropriation Act for the fiscal year 1932, \$18,089.59.

Support of convicts.

Writs of lunacy: For an additional amount for expenses attending the execution of writs de lunatico inquirendo and commitments thereunder in all cases of indigent insane persons committed or sought to be committed to Saint Elizabeths Hospital by order of the executive authority of the District of Columbia under the provisions of existing law, and expenses of commitments to the District Training School, including personal services, fiscal year 1932, \$2,198.19.

Lunacy writs. Expenses of executing.

PUBLIC WELFARE

Public welfare.

Workhouse and reformatory: For a new heating plant at the workhouse, including the erection of the necessary building therefor, \$90,000, to continue available until June 30, 1934.

Workhouse and reformatory. Heating plant.

National Training School for Boys: For an additional amount for care and maintenance of boys committed to the National Training School for Boys by the courts of the District of Columbia under a contract made by the Board of Public Welfare with the authorities of said National Training School for Boys, fiscal year 1933, \$18,500.

National Training School for Boys. Care, etc., of boys committed thereto.

Medical charities: For an additional amount for care and treatment of indigent patients under contracts made by the Board of Public Welfare with the following institutions for the following fiscal years and for not to exceed the following amounts, respectively:

Medical charities. Care, etc., of indigent patients at designated hospitals.

Children's Hospital, 1932, \$1,802; 1933, \$5,500.

Central Dispensary and Emergency Hospital, 1932, \$919.15; 1933, \$6,000.

Eastern Dispensary and Casualty Hospital, 1932, \$1,667.70; 1933, \$11,750.

Hospital for the Insane: For an additional amount of support of indigent insane of the District of Columbia in Saint Elizabeths Hospital, as provided by law, fiscal year 1932, \$709.96.

Hospital for Insane.

Nonresident insane.
Deportation.
Vol. 30, p. 811.

Nonresident insane: For an additional amount for deportation of nonresident insane persons, in accordance with the Act of Congress "to change the proceedings for admission to the Government Hospital for the Insane in certain cases, and for other purposes," approved January 31, 1899, including persons held in the psychopathic ward of the Gallinger Municipal Hospital, fiscal year 1933, \$4,250.

Relief of the poor.
Abandoned wife or
child.
Vol. 34, p. 87; Vol. 44,
p. 758.

Relief of the poor: For an additional amount for payment to beneficiaries named in section 3 of the Act entitled "An Act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or his or her minor children in destitute or necessitous circumstances," approved March 23, 1906, to be disbursed by the disbursing officer of the District of Columbia on itemized vouchers duly audited and approved by the auditor of said District, fiscal year 1933, \$5,825.

Transportation of indigent persons.

Transportation of indigent persons: For an additional amount for transportation of indigent persons, including indigent veterans of the World War and their families, fiscal year 1933, \$3,000.

Emergency relief.

Emergency relief: For an additional amount for the purpose of affording relief to residents of the District of Columbia who are unemployed or otherwise in distress because of the existing emergency, to be expended by the Board of Public Welfare of the District of Columbia, by loan, employment, and/or direct relief, under rules and regulations to be prescribed by the Board of Commissioners, and without regard to the provisions of any other law, payable from the revenues of the District of Columbia, \$175,000, fiscal year 1933, to remain available until June 30, 1934: *Provided*, That not to exceed 8 per centum of such amount shall be available for administrative expenses including necessary personal services.

From District revenues.

Proviso.
Amount for administrative expenses.

SETTLEMENT OF CLAIMS

Payment of claims
and suits.
Vol. 45, p. 1160; Vol.
46, p. 500.

For the payment of claims approved by the commissioners under and in accordance with the provisions of the Act entitled "An Act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia," approved February 11, 1929 (45 Stat. 1160), as amended by the Act approved June 5, 1930 (46 Stat. 500), and reported in Senate Document Numbered 197 and House Document Numbered 553, Seventy-second Congress, \$113,555.15: *Provided*, That the name "Mrs. Ella M. Crawford", where it occurs on pages 5 and 37 of such House document shall be read "Mrs. Ella M. Cranford."

Proviso.
Correction in name.

REFUND OF ASSESSMENTS

Refunds of assessments for street improvements, etc.

Vol. 46, p. 1197.

For payment of refunds of assessments for paving streets, avenues, and roads, and laying curbs, as authorized by provisions of section 11 of the Act entitled "An Act to provide for special assessments for the paving of roadways and the laying of curbs and gutters," approved February 20, 1931 (46 Stat. 1197), \$217,399.70, to continue available until June 30, 1934.

Judgments.

JUDGMENTS

Payment of.

For the payment of final judgments, including costs, rendered against the District of Columbia, as set forth in Senate Document Numbered 204 and House Document Numbered 551, Seventy-second Congress, \$80,915.73, together with the further sum to pay the inter-

Interest.

est at not exceeding 4 per centum per annum on such judgments, as provided by law, from the date the same became due until the date of payment.

AUDITED CLAIMS

For the payment of the following claims, certified to be due by the accounting officers of the District of Columbia, under appropriations the balances of which have been exhausted or carried to the surplus fund under the provisions of section 5 of the Act of June 20, 1874 (U. S. C., p. 1022, sec. 713), being for the service of the fiscal year 1930 and prior fiscal years:

For coroner's office, District of Columbia, maintenance, 1928, \$32;
For motor vehicles District of Columbia, maintenance and repair, 1928, \$77.50;

For gasoline tax, road and street improvement, 1929-30, \$10;

For collection and disposal of refuse, District of Columbia, 1927, \$300;

For electrical department, District of Columbia, lighting, 1930, \$80;

For public schools, District of Columbia, science laboratories, 1929, \$73.85;

For Metropolitan police, District of Columbia, 1928, motor vehicles, \$26.31;

For fire department, District of Columbia, 1928, repairs to apparatus, \$5.80;

For fire department, District of Columbia, 1929, repairs to apparatus, \$2.56;

For salaries of employees, courthouse, District of Columbia, 1922, \$28;

For miscellaneous expenses, Supreme Court, District of Columbia, 1929, \$175;

For Court of Appeals reports, District of Columbia, 1924, \$71.50;

In all, audited claims, \$882.52.

DIVISION OF EXPENSES

The foregoing sums for the District of Columbia, unless otherwise therein specifically provided, shall be paid as follows: Such sums as relate to the fiscal year 1920 and prior fiscal years, 50 per centum out of the revenues of the District of Columbia and 50 per centum out of the Treasury of the United States; such sums as relate to the fiscal years 1921 to 1924, inclusive, 60 per centum out of the revenues of the District of Columbia and 40 per centum out of the Treasury of the United States; and such sums as relate to the fiscal years 1925 to 1934, inclusive, jointly or severally, shall be paid out of the revenues of the District of Columbia and the Treasury of the United States in the manner prescribed by the District of Columbia Appropriation Acts for such respective fiscal years.

DEPARTMENT OF COMMERCE

CONTINGENT EXPENSES

Printing and binding, Patent Office: For an additional amount for printing the weekly issue of patents, designs, trade-marks, prints, and labels, exclusive of illustrations; and for printing, engraving illustrations, and binding the Official Gazette, including weekly and annual indices, fiscal year 1933, \$200,000.

Audited claims.

Payment of specified.

Vol. 18, p. 110.
U. S. C., p. 1022.

Items designated.

Division of expenses.

From District revenues.

For fiscal year 1920 and prior.

1921-1924.

1925-1934.

Department of Commerce.

Printing, etc.

Interior Department.

DEPARTMENT OF THE INTERIOR

Indian Affairs Bureau.

BUREAU OF INDIAN AFFAIRS

- Indian supplies. Purchase and transportation of Indian supplies: For an additional amount for expenses of purchase and for transportation of goods and supplies for the Indian Service, fiscal year 1932, \$175,000.
- Five Civilized Tribes, Okla. Probate attorneys, Five Civilized Tribes, Oklahoma: For an additional amount for salaries and expenses of such attorneys and other employees as the Secretary of the Interior may, in his discretion, deem necessary in probate matters affecting restricted allottees or their heirs in the Five Civilized Tribes, and in the several tribes of the Quapaw Agency, and for the costs and other necessary expenses incident to suits instituted or conducted by such attorneys, fiscal year 1930, \$21.15.
- Hopi and Navajo Indians. Reimbursement for destroyed cattle. Suppressing contagious diseases among livestock of Indians: For reimbursing Hopi and Navajo Indians for cattle that died, or were destroyed, in connection with dipping operations for the eradication of scabies, fiscal year 1926, \$125.
- Flathead Reservation, Mont. Irrigation project. Irrigation systems, Flathead Reservation, Montana: For an additional amount for completion of lower Crow Reservoir, Flathead irrigation project, Montana, fiscal years 1933 and 1934, \$25,000, reimbursable.
- Lummi Reservation, Wash. Repairing flood damages. Reclaiming lands, Lummi Reservation, Washington: For an additional amount for repairing flood damages, Lummi diking project, Washington, fiscal years 1933 and 1934, \$17,600, reimbursable: *Provided*, That no part of this appropriation shall be expended for the benefit of any lands in private ownership until an appropriate repayment contract in form approved by the Secretary of the Interior shall have been properly executed by the landowners whose lands may be benefited thereby.
- Proviso*. Repayment for private ownership. Operation and maintenance, Wapato project, Washington: For operation and maintenance, including repairs, of the Wapato irrigation project, Yakima Indian Reservation, Washington, fiscal year 1933, \$30,000, reimbursable.
- Wapato irrigation project, Wash. Maintenance, etc. Indian school buildings: For an additional amount for construction, lease, purchase, repair, and improvement of school buildings, including the purchase of necessary lands and the installation, repair, and improvement of heating, lighting, power, and sewerage and water systems in connection therewith, fiscal year 1929, \$228.50.
- Indian schools. Construction, etc. Sacaton, Ariz. Sacaton, Arizona, Indian school building: For school building, including equipment, Sacaton, Arizona, fiscal years 1933 and 1934, \$65,000.
- Chilocco, Okla. Chilocco, Oklahoma, Indian Boarding School Building: For remodeling and repairing girls' dormitory damaged by fire at Chilocco, Oklahoma, including replacement of equipment, fiscal year 1933, to remain available during the fiscal year 1934, \$40,000.
- Truxton Canyon, Ariz. Indian boarding schools, Truxton Canyon, Arizona: For replacement of power plant and equipment destroyed by fire, \$32,000, to remain available until June 30, 1934.
- Educating Alaskan natives. Education of natives in Alaska: For an additional amount for payment of obligations for freight, fiscal years 1931 and 1932, \$33,518.59.
- Medical relief in Alaska. Medical relief in Alaska: For an additional amount to enable the Secretary of the Interior to provide for the medical and sanatorium relief of Eskimos, Aleuts, Indians, and other natives of Alaska, fiscal years 1931 and 1932, \$481.73.
- Menominee Indians, Wis. Expenses of the Menominee advisory board and general council (tribal funds); For traveling and other expenses of the advisory

board or general council of the Menominee Tribe, Wisconsin, or committees thereof, when engaged on business of the tribe, including visits to Washington, District of Columbia, when duly authorized or approved by the Secretary of the Interior, \$6,000, to remain available until June 30, 1934, and to be paid from the funds held by the United States in trust for the Menominee Tribe.

General council expenses.

Claims of individual Sioux Indians: For payment to individual enrolled Indians or their heirs under the Pine Ridge, Standing Rock, Cheyenne River, and Rosebud Sioux Agencies in full settlement of their claims against the Government, as found due by the Secretary of the Interior pursuant to the Act of May 3, 1928 (45 Stat., p. 484), and for payment of attorney fees in connection with the adjudication of such claims, as authorized by the Act of February 16, 1933 (Public, Numbered 359, Seventy-second Congress), fiscal years 1933 and 1934, \$19,357.

Sioux Indians, different tribes.

Paying claims of individual members.

Vol. 45, p. 484.
Attorney fees.
Act, p. 318.

BUREAU OF RECLAMATION

Bureau of Reclamation.

Minidoka project, Idaho: For refunds to subscribers of amounts contributed by them for construction of a storage plant for potatoes at Rupert, Idaho, such refunds being required under contracts between the United States and the subscribers, fiscal year 1933, \$2,453.43, payable from the reclamation fund.

Minidoka project, Idaho.

Shoshone project, Wyoming: For emergency repairs, replacements, and betterments to power system, not to exceed \$15,000 from power revenues, to remain available until June 30, 1934.

Shoshone project, Wyo.

Cooperative and general investigations: For an additional amount for cooperative and general investigations, \$25,000, to be payable from the reclamation fund and to remain available until June 30, 1934.

Cooperative, etc., investigations.

Reimbursement to reclamation fund: There is hereby transferred to the reclamation fund, from the unexpended balance of the appropriation, "Ammunition Storage Facilities, Navy, 1928-1932," \$513.33, for repayment of amount paid from that fund for salary of an employee of the Reclamation Service while engaged on work for the Navy Department in connection with the Cat Creek Naval Ammunition Depot, Hawthorne, Nevada.

Transfers to reclamation fund.
Act, p. 436.
Cat Creek Naval Ammunition Depot.
Personal services.

NATIONAL PARK SERVICE

National Park Service.

Proposed Shenandoah National Park, Virginia: For administration, protection, and maintenance, including fire prevention, and including not exceeding \$2,500 for the purchase (not to exceed \$750 for any vehicle), maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work; construction of physical improvements, including the construction of buildings and the alteration and improvement of old buildings; in all, \$80,000, to remain available until June 30, 1934: *Provided*, That no part of this appropriation shall be available for expenditure in advance of the acceptance on behalf of the United States of title to a minimum area of one hundred and sixty thousand acres of land within the proposed Shenandoah National Park, as prescribed in the Act approved February 4, 1932 (U. S. C., Supp. VI, title 16, secs. 403b, 403d; Act of February 4, 1932, 47 Stat. 37).

Proposed Shenandoah National Park, Va.
Administrative, etc., expenses.

Provided.
Acceptance of title.

Act, p. 37.
U. S. C., Supp. VI, p. 204.

Emergency reconstruction and fighting forest fires: For an additional amount for reconstruction, replacement, and repair of roads, trails, bridges, buildings, and other physical improvements and of equipment in national parks or national monuments that are damaged or destroyed by flood, fire, storm, or other unavoidable causes,

Forest conservation, emergency.

and for fighting or emergency prevention of forest fires in national parks or other areas administered by the National Park Service, or fires that endanger such areas, \$100,000, to remain available until June 30, 1934.

Government in the Territories.

GOVERNMENT IN THE TERRITORIES

Alaska, insane.

Insane of Alaska: For an additional amount for care and custody of persons legally adjudged insane in Alaska, including the same objects specified under this head in the Interior Department Appropriation Acts for the fiscal years that follow:

For 1932, \$230;

For 1933, \$12,000.

Virgin Islands.

Temporary government for Virgin Islands: For necessary material and labor required in repairing damage to Federal and municipal property in the Virgin Islands caused by the hurricane of September 26, 1932, fiscal year 1933, \$15,000.

Department of Justice.

DEPARTMENT OF JUSTICE

United States courts.

UNITED STATES COURTS

Commissioners, fees.

Fees of commissioners: For additional amounts for fees of commissioners, United States courts, including the same objects specified under this head in the Acts making appropriations for the Department of Justice for the following fiscal years:

For 1930, \$3.45;

For 1931, \$1,236.90;

For 1932, \$23,901.37.

Miscellaneous expenses.

Miscellaneous expenses: For an additional amount for miscellaneous expenses, United States courts, including the same objects specified under this head in the Act making appropriations for the Department of Justice for the fiscal year 1930, \$1,823.49.

Supplies.

Supplies: For additional amounts for supplies for United States courts, including the same objects specified under this head in the Acts making appropriations for the Department of Justice for the following fiscal years:

For 1931, \$176.52;

For 1932, \$3.93.

Support of prisoners.

Support of prisoners: For additional amounts for support of United States prisoners, including the same objects specified under this head in the Acts making appropriations for the Department of Justice for the following fiscal years:

For 1929, \$51.03;

For 1931, \$49.80.

Department of Labor.

DEPARTMENT OF LABOR

Immigration Bureau.

BUREAU OF IMMIGRATION

Salaries and expenses.

Salaries and expenses: For an additional amount for salaries and expenses, Bureau of Immigration, Department of Labor, including the same objects specified under this head in the Act making appropriations for the Department of Labor for the fiscal year 1933, \$450,000, for use only for or in connection with the deportation of aliens.

Navy Department.

NAVY DEPARTMENT

Secretary's Office.

SECRETARY'S OFFICE

Collision damage claims.
Vol. 42, p. 1066.
U. S. C., p. 1127.

Claims for damages by collision with naval vessels: To pay claims for damages adjusted and determined by the Secretary of the Navy under the provisions of the Act entitled "An Act to amend the Act

authorizing the Secretary of the Navy to settle claims for damages to private property arising from collisions with naval vessels," approved December 28, 1922 (U. S. C., title 34, sec. 599), as fully set forth in House Document Numbered 556, Seventy-second Congress, \$637.99.

BUREAU OF NAVIGATION

Bureau of Navigation.

Transportation, etc.

Transportation: For an additional amount for travel allowance, and so forth, including the same objects specified under this head in the Naval Appropriation Act for the fiscal year 1923, \$50.41.

DEPARTMENT OF STATE

Department of State.

Foreign Service officers.

Instruction and transit pay.

Salaries: Foreign Service officers while receiving instructions and in transit: For an additional amount for salaries, Foreign Service officers while receiving instructions and in transit, including the same objects specified under this head in the Act making appropriations for the Department of State for the fiscal year 1931, \$401.25.

International Prison Commission.

Vol. 45, p. 71.

International Prison Commission: For an additional amount for the International Prison Commission, including the same objects specified under this head in the Act making appropriations for the Department of State for the fiscal year 1929, \$70.

International Institute of Agriculture.

International Institute of Agriculture at Rome, Italy: For the payment of the quota of the United States, including the Territory of Hawaii, and the dependencies of the Philippine Islands, Puerto Rico, and the Virgin Islands, for the support of the International Institute of Agriculture for the calendar year 1933, \$5,400.

African liquor traffic convention.

Vol. 46, pp. 2202, 1320.

Convention relating to liquor traffic in Africa: To meet the share of the United States in the expenses for the calendar year 1933 of the Central International Office, created under article 7 of the convention of September 10, 1919, relating to the liquor traffic in Africa (convention of September 10, 1919, 46 Stat., pt. 2, p. 2199; Act February 23, 1931, 46 Stat., p. 1320), \$55.

Government of Mexico.

Indemnity for deaths of Emilio Cortez Rubio and Manuel Gomez.

Act, p. 907.

Payment to Government of Mexico: For payment to the Government of Mexico as authorized by Public Act Numbered 374, approved February 25, 1933, the sum of \$15,000 for the account of the family of Emilio Cortez Rubio and the sum of \$15,000 for the account of the family of Manuel Gomez, for the killing in or near Ardmore, Oklahoma, on June 7, 1931, of Emilio Cortez Rubio and Manuel Gomez by two deputy sheriffs of the State of Oklahoma; in all, \$30,000.

Monetary and economic conference.

Expenses of participation.

International monetary and economic conference: For the expenses of participation by the United States in an international monetary and economic conference to be held in London, and for each and every purpose connected therewith, including traveling expenses; personal services in the District of Columbia and elsewhere, without reference to the Classification Act of 1923, as amended; stenographic and other services by contract if deemed necessary, without regard to the provisions of section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5); rent; purchase of necessary books and documents; printing and binding; official cards; entertainment; hire, maintenance, and operation of motor-propelled passenger-carrying vehicles; and such other expenses as may be authorized by the Secretary of State, fiscal year 1933, to remain available during the fiscal year 1934, \$150,000.

Vol. 42, p. 1488; Vol. 46, p. 1003.

U. S. C., p. 65; Supp. VI, p. 31.

Advertisement. R. S., sec. 3709, p. 733. U. S. C., p. 1309.

TREASURY DEPARTMENT

Treasury Department.

Internal Revenue Bureau.

BUREAU OF INTERNAL REVENUE

Refunding taxes.

Refunding taxes illegally or erroneously collected: For refunding taxes illegally or erroneously collected as provided by law, including the payment of claims for the fiscal year 1933 and prior years, \$28,000,000: *Provided*, That a report shall be made to Congress by internal-revenue districts and alphabetically arranged of all disbursements hereunder in excess of \$500 as required by section 3 of the Act of May 29, 1928 (U. S. C., Supp. V, title 26, sec. 149), including the names of all persons and corporations to whom such payments are made, together with the amount paid to each.

Proviso.
Report to Congress.Vol. 45, p. 996.
Ante, p. 219.
U. S. C., Supp. VI,
p. 412.

Coast Guard.

COAST GUARD

Establishing new stations.

Coast Guard stations: For an additional amount for establishing and equipping new Coast Guard stations on the sea and lake coasts of the United States, including the same objects specified under this head in the Treasury Department Appropriation Act for the fiscal year 1931, \$201.19, to be available until expended.

Supervising Architect's Office.

OFFICE OF THE SUPERVISING ARCHITECT

Public buildings.
Rent of temporary quarters.

Rent of temporary quarters, public buildings: For an additional amount for rent of temporary quarters, public buildings, including the same objects specified under this head in the Act making appropriations for the Treasury Department for the fiscal year 1933, \$165,000.

Vaults and safes.

Vaults and safes for public buildings: For an additional amount for vaults and safes for public buildings, including the same objects specified under this head in the Act making appropriations for the Treasury Department for the fiscal year 1933, \$100,000.

General expenses.
Limitation increased.
Ante, pp. 594, 595.

General Expenses, Public Buildings: The limitation of \$4,500 on the amount that may be expended for the packing, draying, and transportation of household goods, incident to change of headquarters of field engineers and inspectors employed in connection with public building work, and the limitation of \$52,000 on the amount that may be expended for the rental of additional quarters in the District of Columbia for the Office of the Supervising Architect, and incidental expenses in connection with the occupancy of such quarters, contained in the Act making appropriations for the Treasury Department for the fiscal year 1933 are hereby increased to \$9,000 and \$64,000, respectively.

Rent limitations.

Public building projects.

MISCELLANEOUS PUBLIC BUILDING PROJECTS

Boston, Mass., parcel-post building.
Acquiring site and construction of building.
Amount increased.

Boston, Massachusetts, parcel-post building, and so forth: For acquisition of land belonging to the Boston Terminal Company, fronting on Dorchester Avenue, and construction of a building, and for raising the level of Dorchester Avenue to such extent as may be necessary to provide proper grade for loading platform facilities, and so forth, under an estimated total cost of \$3,700,000, in lieu of \$2,700,000 as provided by the Act of July 21, 1932 (47 Stat. 718), as modified by the Act approved June 30, 1932 (47 Stat. 412): *Provided*, That the Secretary of the Treasury may accept title subject to reservations by the grantors for light and air and the right to use for railroad purposes the space below such plane or planes as may be agreed upon: *Provided further*, That the limit of cost herein fixed shall not be reduced by the operation of section 320 of the Legislative Appropriation Act, approved June 30, 1932 (47 Stat. 412).

Ante, pp. 718, 412.*Provisos.*
Acceptance of title with reservations, authorized.Cost not to be reduced by Economy Act.
Ante, p. 412.

Calais, Maine, inspection station: The limit of cost fixed under the authority of the Act approved July 21, 1932 (47 Stat. 718), as modified by the operation of the Act approved June 30, 1932 (47 Stat. 412), is increased from \$53,100 to \$110,000, and this latter sum shall not be reduced by the operation of section 320 of the Legislative Appropriation Act, approved June 30, 1932 (47 Stat. 412).

Calais, Me.
Limit of cost increased.
Ante, pp. 718, 412.
Sum not reduced by Economy Act.

Fergus Falls, Minnesota, courthouse and post office: The limit of cost fixed in the Second Deficiency Act, fiscal year 1931, approved March 4, 1931 (46 Stat. 1592), for extension and remodeling of building, is hereby increased from \$150,000 to \$175,000: *Provided*, That the additional amount herein authorized shall not be reduced by the operation of section 320 of the Legislative Appropriation Act, approved June 30, 1932 (47 Stat. 412).

Fergus Falls, Minn.
Cost increased.
Vol. 46, p. 1592, amended.

Proviso.
Economy Act not to apply.
Ante, p. 412.

Galveston, Texas, immigrant station: The Secretary of the Treasury is hereby authorized, in his discretion and at such time as he may determine, to transfer to the Department of Labor the immigrant station site and improvements thereon.

Galveston, Tex., immigrant station.
Transfer to Department of Labor.

Grand Rapids, Michigan, post office and courthouse: The authorization contained in the Second Deficiency Act, fiscal year 1931, approved March 4, 1931 (46 Stat. 1593), for extension and remodeling of building, under an estimated total cost of \$300,000, is hereby repealed.

Grand Rapids, Mich.
Authorization for improvement, repealed.
Vol. 46, p. 1583.

New York, New York, post office, and so forth: The limit of cost fixed under the Second Deficiency Act, fiscal year 1930, approved July 3, 1930 (46 Stat. 901), for the acquisition by purchase, condemnation, or otherwise, of the block bounded by Barclay, Vesey, and Church Streets and West Broadway, is hereby increased from \$5,000,000 to \$5,020,438: *Provided*, That any cost of said site in excess of \$5,000,000 shall be charged against the \$5,715,000 authorized under the Act approved July 21, 1932 (47 Stat. 718), as modified by the operation of the Legislative Appropriation Act, approved June 30, 1932 (47 Stat. 412), for the construction of a building on said site; and the title for this project is hereby changed to Federal Office Building (Vesey Street): *Provided further*, That the limit of cost herein fixed shall not be reduced by the operation of section 320 of the said Act, approved June 30, 1932 (47 Stat. 412).

New York, N. Y., post office, etc.
Cost of site, increased.
Vol. 46, p. 901.

Provisos.
Excess to be charged against Emergency fund.
Ante, pp. 718, 412.
Title changed to Federal Office Building (Vesey Street).

Cost not reduced by Economy Act.
Ante, p. 412.

Saint Louis, Missouri, courthouse, customhouse, and so forth: The limit of cost fixed in the Second Deficiency Act, fiscal year 1928, approved May 29, 1928 (45 Stat. 918), for acquisition of site and construction of a building, is hereby increased from \$3,825,000 to \$4,900,000: *Provided*, That the increase of \$1,075,000 shall be charged against the amounts authorized to be appropriated under section 5 of the Public Buildings Act, approved May 25, 1926, as amended: *And provided further*, That the limit of cost herein fixed shall not be reduced by the operation of section 320 of the Legislative Appropriation Act, approved June 30, 1932 (47 Stat. 412).

Saint Louis, Mo., courthouse, etc.
Cost increased.
Vol. 45, p. 918, amended.

Provisos.
Fund available.
Vol. 44, p. 633.

Cost not reduced by Economy Act.
Ante, p. 412.

Saint Paul, Minnesota, post office, customhouse, and so forth: The limit of cost fixed in the Second Deficiency Act, fiscal year 1929, approved March 4, 1929 (45 Stat. 1661), for acquisition of the commercial station, additional land and construction of a building, is hereby increased from \$2,700,000 to \$3,350,000, and the authorization in said Act is hereby amended so as to authorize the construction of a tunnel: *Provided*, That the limit of cost herein fixed shall not be reduced by the operation of section 320 of the Legislative Appropriation Act, approved June 30, 1932 (47 Stat. 412).

Saint Paul, Minn.
Cost increased.
Vol. 45, p. 1661.

Tunnel provided for.

Proviso.
Cost not reduced by Economy Act.
Ante, p. 412.
Washington, D. C., central heating plant.
Service connection extended.
Vol. 46, p. 1604.

Washington, District of Columbia, central heating plant: The authorization contained in the Second Deficiency Act, fiscal year 1931, approved March 4, 1931 (46 Stat. 1604), shall include among

the buildings to be served, where an engineering survey shows that such service is justified, any Federal building now constructed or under construction or now authorized by law to be constructed.

White River Junction, Vt.
Vol. 46, p. 1604.

White River Junction, Vermont, post office, and so forth: The authorization for acquisition of site and construction of a building, contained in the Second Deficiency Act, fiscal year 1931, approved March 4, 1931 (46 Stat. 1604), is hereby amended so as to authorize the Secretary of the Treasury in his discretion to sell for an amount not less than that paid therefor the site purchased under the authority of said Act, and if such sale is made, to acquire another site, the limit of cost for the new site and building to remain as now authorized by law.

Sale of present site and acquisition of another, authorized.

Limit of cost not increased.

War Department, military activities.

WAR DEPARTMENT—MILITARY ACTIVITIES

Claims of British nationals.

CLAIMS OF BRITISH NATIONALS

Payment of.

For the payment of the claims of British nationals in the following amounts awarded them by the Commission for Adjustment of British Claims in full satisfaction of all their claims for the use of their inventions by the United States under the arrangement or agreement entered into prior to November 12, 1918, and approved by the Secretary of War in accordance with the authority contained in section 3 of the Act approved March 2, 1919 (40 Stat. 1273): Thomas Graham and Sir E. H. Tennyson d'Eyncourt, \$22,500; Commander A. L. Gwynne, \$37,000; Gwynne and Taylor, \$22,500; Colonel Henry Newton, \$100,000; Robert A. Sturgeon, \$17,500; Thornycroft and Company, \$50,000; Rear Admiral Cecil V. Usborne, \$6,000; in all, \$255,500.

Vol. 40, p. 1273.

Quartermaster Corps.

QUARTERMASTER CORPS

Barracks and quarters.
Fort Slocum, N. Y.

Barracks and quarters: For an additional amount for the construction of a sewage-disposal plant at Fort Slocum, New York, including septic tanks, collecting chambers, ejector pumps, and the installation of chlorating apparatus, together with such collecting mains and intercepting sewers as may be necessary, fiscal years 1933 and 1934, \$25,000.

Camp Bullis, Tex., additional land.

Acquisition of land, Camp Bullis, Texas: For an additional amount for completing the acquisition of land at Camp Bullis, Texas, under condemnation proceedings as authorized by the Acts approved January 12, 1929 (45 Stat. 1073), and February 28, 1933 (H. R. 12769, Seventy-second Congress), fiscal year 1933, \$6,400, together with such additional sum as may be necessary to pay interest at the rate stipulated and in accordance with the judgments rendered in condemnations to date of payment, to remain available until expended.

Vol. 45, p. 1073.
Ante, p. 1350.

Military Academy.

UNITED STATES MILITARY ACADEMY

Pay of cadets.

Pay: For an additional amount for pay of the United States Military Academy under the heading "Pay of cadets," fiscal year 1933, \$7,307.

Atlas Roofing Company.
Payment to.

Public works: For an additional amount for payment of the claim of the Atlas Roofing Company for furnishing, delivering, and erecting the monitor and hip skylights and louver inlets on the main roof, and so forth, on the new cadet mess hall, cadet store, dormitories, and drawing academy, \$2,134.

WAR DEPARTMENT—NONMILITARY ACTIVITIES

War Department,
nonmilitary activities.

QUARTERMASTER CORPS

Quartermaster
Corps.

Cemeterial expenses: For an additional amount for the development of areas D and E to provide for extension of the National Cemetery, San Francisco, California, \$30,000, to remain available until June 30, 1934.

National Cemetery,
San Francisco.
Extension.

TITLE II—JUDGMENTS AND AUTHORIZED CLAIMS

Judgments and authorized
claims.

DAMAGE CLAIMS

Damage claims.

SECTION 1. For the payment of claims for damages to or losses of privately owned property adjusted and determined by the following respective departments and independent establishments under the provisions of the Act entitled "An Act to provide for a method for the settlement of claims arising against the Government of the United States in sums not exceeding \$1,000 in any one case," approved December 28, 1922 (U. S. C., title 31, secs. 215-217), as fully set forth in Senate Documents Numbered 168, 199, and 205 and House Documents Numbered 502, 547, and 554, Seventy-second Congress, as follows:

Settlement of, not in
excess of \$1,000.Vol. 42, p. 1066.
U. S. C., p. 989.

Department of Agriculture, \$1,590.03;
Department of Commerce, \$283.90;
Department of the Interior, \$87.85;
Department of Justice, \$1,449.31;
Department of Labor, \$208.17;
Navy Department, \$996.26;
Post Office Department (out of the postal revenues), \$5,196.31;
Treasury Department, \$1,061.66;
War Department, \$204.65;
In all, \$11,078.14.

JUDGMENTS, UNITED STATES COURTS

United States courts,
judgments.

SEC. 2. For payment of the final judgments and decrees, including costs of suits, which have been rendered under the provisions of the Act of March 3, 1887, entitled "An Act to provide for the bringing of suits against the Government of the United States," as amended by the Judicial Code, approved March 3, 1911 (U. S. C., title 28, sec. 41, par. 20; sec. 258; secs. 761-765), certified to the Seventy-second Congress in Senate Document Numbered 200 and House Document Numbered 544, under the following departments, namely:

Payment of.

Vol. 24, p. 506; Vol.
36, p. 1063.
U. S. C., pp. 867, 867,
868, 938.

Department of Commerce, \$60,738;
War Department, \$10,383.16; in all, \$71,121.16, together with such additional sum as may be necessary to pay interest on the respective judgments at the rate of 4 per centum per annum from the date thereof until the time this appropriation is made.

Interest.

For the payment of judgments, including costs of suits, rendered against the Government of the United States by United States district courts under the provisions of an Act entitled "An Act authorizing suits against the United States in admiralty for damages caused by and salvage services rendered to public vessels belonging to the United States, and for other purposes", approved March 3, 1925 (U. S. C., title 46, secs. 781-789), certified to the Seventy-second Congress in Senate Document Numbered 200, under the following departments, namely:

Payment of, suits in
admiralty.Vol. 43, p. 1112.
U. S. C., p. 1529.

Navy Department, \$1,918.06;

War Department, \$52,107.97; in all, \$54,026.03, together with such additional sum as may be necessary to pay interest on any such judgment where specified therein and at the rate provided by law.

Judgments, special cases.

Vol. 46, p. 1421.

For the payment of a judgment rendered against the Government by the United States District Court, Middle District of Alabama, Northern Division, under the provisions of the Act of Congress, approved February 26, 1931 (46 Stat. 1421), and certified to the Seventy-second Congress in Senate Document Numbered 202, under the War Department, \$4,000, together with such additional sum as may be necessary to pay interest in accordance with the terms of said judgment.

Time of payments.

None of the judgments contained under this caption shall be paid until the right of appeal shall have expired except such as have become final and conclusive against the United States by failure of the parties to appeal or otherwise.

Interest.

Payment of interest wherever provided for judgments contained in this Act shall not in any case continue for more than thirty days after the date of approval of the Act.

Court of Claims.

JUDGMENTS, COURT OF CLAIMS

Judgments.

SEC. 3. For payment of the judgments rendered by the Court of Claims and reported to the Seventy-second Congress, in Senate Document Numbered 201 and House Document Numbered 546, under the following departments, namely:

Department of Agriculture, \$26,171.25;

Navy Department, \$27,420.79;

Treasury Department, \$2,306.90;

Interest.

War Department, \$260,514.03; in all, \$316,412.97, together with such additional sum as may be necessary to pay interest on certain of the judgments as and where specified in such judgments.

Time of payments.

None of the judgments contained under this caption which have not been affirmed by the Supreme Court or otherwise become final and conclusive against the United States shall be paid until the expiration of the time within which application may be made for a writ of certiorari under subdivision (b), section 3, of the Act entitled "An Act to amend the Judicial Code, and to further define the jurisdiction of the circuit courts of appeals and of the Supreme Court, and for other purposes," approved February 13, 1925 (U. S. C., title 28, sec. 288).

Vol. 43, p. 939.
U. S. C., p. 900.

Pocono Pines Assembly Hotels Company.

Payment of judgment to.

Vol. 46, p. 1622.

For payment of the judgment of the Court of Claims, numbered J-543 in favor of the Pocono Pines Assembly Hotels Company, as certified to the Congress in the report embodied in Senate Document Numbered 244, Seventy-first Congress, third session, and Senate Document Numbered 213, Seventy-second Congress, second session, \$227,239.53.

Audited claims.

AUDITED CLAIMS

Payment of.

SEC. 4. For the payment of the following claims, certified to be due by the General Accounting Office under appropriations the balances of which have been carried to the surplus fund under the provisions of section 5 of the Act of June 20, 1874 (U. S. C., title 31, sec. 713), and under appropriations heretofore treated as permanent, being for the service of the fiscal year 1930 and prior years, unless otherwise stated, and which have been certified to Congress under section 2 of the Act of July 7, 1884 (U. S. C., title 5, sec. 266), as fully set forth in House Document Numbered 543, Seventy-second Congress, there is appropriated as follows:

Vol. 18, p. 110.
U. S. C., p. 1022.

Vol. 23, p. 254.
U. S. C., p. 43.

INDEPENDENT OFFICES

Audited claims—
Continued.
Independent Offices.

For medical and hospital services, Veterans' Bureau, \$16,079.59.
For military and naval compensation, Veterans' Administration,
\$85.25.

For salaries and expenses, Veterans' Bureau, \$70.
For vocational rehabilitation, Veterans' Bureau, \$59.66.
For Army pensions, \$15.56.

DEPARTMENT OF AGRICULTURE

Department of Agri-
culture.

For salaries and expenses, Bureau of Plant Industry, \$10.08.
For salaries and expenses, Bureau of Animal Industry, \$23.20.

DEPARTMENT OF COMMERCE

Department of Com-
merce.

For photolithographing, Patent Office, \$500.

DEPARTMENT OF THE INTERIOR

Department of the
Interior.

For contingent expenses of land offices, \$32.07.
For Geological Survey, \$6.15.
For National Park Service, \$8.50.
For medical relief in Alaska, \$28.47.
For Indian schools, support, \$37.49.

DEPARTMENT OF JUSTICE

Department of Jus-
tice.

For detection and prosecution of crimes, \$24.85.
For salaries, fees, and expenses of marshals, United States courts,
\$39.52.

For miscellaneous expenses, United States courts, \$317.
For books for judicial officers, \$1,056.55.
For support of United States prisoners, \$1,052.61.

NAVY DEPARTMENT

Navy Department.

For pay, miscellaneous, 72 cents.
For transportation, Bureau of Navigation, \$4.01.
For pay, subsistence, and transportation, Navy, \$693.80.
For pay of the Navy, \$442.73.
For pay, Marine Corps, \$677.60.
For general expenses, Marine Corps, \$43.64.

POST OFFICE DEPARTMENT—POSTAL SERVICE

Post Office Depart-
ment.

(Out of the postal revenues)

For clerks, first and second class post offices, \$27.53.
For indemnities, domestic mail, \$163.16.
For indemnities, international mail, \$27.78.
For miscellaneous items, first and second class post offices, \$4.
For railroad transportation and mail-messenger service, \$4.17.
For rent, light, and fuel, \$304.50.

DEPARTMENT OF STATE

Department of State.

For salaries, Foreign Service officers, \$16.59.

Audited claims—
Continued.
Treasury Department.

TREASURY DEPARTMENT

For Coast Guard, \$233.03.
For pay and allowances, Coast Guard, \$7.46.
For enforcement of narcotic and national prohibition acts, internal revenue, \$866.29.
For collecting the internal revenue, \$240.17.
For pay of personnel and maintenance of hospitals, Public Health Service, \$18.

War Department.

WAR DEPARTMENT

For pay of the Army, 27 cents.
For apprehension of deserters, and so forth, \$5.98.
For Army transportation, \$13.46.
For replacing ordnance and ordnance stores, \$5,200.
Total, audited claims, section 4, \$28,441.44, together with such additional sum due to increases in rates of exchange as may be necessary to pay claims in the foreign currency as specified in certain of the settlements of the General Accounting Office.

Audited claims.

AUDITED CLAIMS

Payment of additional.

Vol. 18, p. 110.
U. S. C., p. 1022.

Vol. 23, p. 254.
U. S. C., p. 43.

SEC. 5. For the payment of the following claims, certified to be due by the General Accounting Office under appropriations the balances of which have been carried to the surplus fund under the provisions of section 5 of the Act of June 20, 1874 (U. S. C., title 31, sec. 713), and under appropriations heretofore treated as permanent, being for the service of the fiscal year 1930 and prior years, unless otherwise stated, and which have been certified to Congress under section 2 of the Act of July 7, 1884 (U. S. C., title 5, sec. 266), as fully set forth in Senate Document Numbered 203, Seventy-second Congress, there is appropriated as follows:

Legislative.

LEGISLATIVE ESTABLISHMENT

For public printing and binding, Government Printing Office, \$10.12.

Independent Offices.

INDEPENDENT OFFICES

For salaries and expenses, Federal Board for Vocational Education, 50 cents.
For medical and hospital services, Veterans' Bureau, \$17,226.40.
For salaries and expenses, Veterans' Bureau, \$25.96.
For Army pensions, \$120.71.

District of Columbia.

DISTRICT OF COLUMBIA

For general expenses, public parks, District of Columbia, \$460.25.

Department of Agriculture.

DEPARTMENT OF AGRICULTURE

For salaries and expenses, Weather Bureau, \$101.64.
For salaries and expenses, Bureau of Animal Industry, \$34.33.
For general expenses, Forest Service, \$15.70.
For salaries and expenses, Forest Service, \$12.57.

Department of Commerce.

DEPARTMENT OF COMMERCE

For export industries, Department of Commerce, \$7.20.

DEPARTMENT OF THE INTERIOR

Audited claims—
Continued.
Department of the
Interior.

For relieving distress and prevention, and so forth, of diseases among Indians, \$1,079.43.

For conservation of health among Indians, \$919.57.

DEPARTMENT OF JUSTICE

Department of Jus-
tice.

For books for judicial officers, \$436.95.

For salaries, fees, and expenses of marshals, United States courts, \$959.39.

For salaries and expenses of district attorneys, United States courts, \$1.25.

For salaries and expenses of clerks, United States courts, 65 cents.

For fees of jurors and witnesses, United States courts, \$36.70.

For support of United States prisoners, \$5.50.

DEPARTMENT OF LABOR

Department of La-
bor.

For salaries and expenses, commissioners of conciliation, \$2.

NAVY DEPARTMENT

Navy Department.

For pay, miscellaneous, \$90.95.

For transportation, Bureau of Navigation, \$57.75.

For organizing the Naval Reserve, \$7.76.

For engineering, Bureau of Steam Engineering, \$9.44.

For pay, subsistence, and transportation, Navy, \$705.13.

For pay of the Navy, \$2,052.77.

For aviation, Navy, \$5,000.

For pay, Marine Corps, \$206.25.

POST OFFICE DEPARTMENT—POSTAL SERVICE

Post Office Depart-
ment.

(Out of the postal revenues)

For balances due foreign countries, \$905.20.

For indemnities, domestic mail, \$2.

For rent, light, and fuel, \$2,070.84.

For separating mails, \$72.

DEPARTMENT OF STATE

Department of State.

For allowance for clerks at consulates, \$86.58.

TREASURY DEPARTMENT

Treasury Depart-
ment.

For increase of compensation, Treasury Department, \$10.

For enforcement of Narcotic and National Prohibition Acts, internal revenue, \$100.98.

For collecting the internal revenue, \$23.45.

For Coast Guard, \$534.42.

For contingent expenses, Coast Guard, 72 cents.

For pay and allowances, Coast Guard, \$5.52.

For operating force for public buildings, \$42.

For marine hospital, Carville, Louisiana, \$193.84.

WAR DEPARTMENT

War Department.

For organized Reserves, \$34.99.

For Reserve Officers' Training Corps, \$100.80.

For increase of compensation, Military Establishment, \$1,323.69.

For pay and traveling and general expenses of the Army, \$10.48.

For pay, and so forth of the Army, \$23,239.80.

Audited claims—
Continued.

For pay of the Army, \$6,826.44.

For Army transportation, \$596.92.

For clothing and equipage, \$62.77.

For pay, and so forth, of the Army, war with Spain, \$11.68.

For general appropriations, Quartermaster Corps, \$1,588.42.

For subsistence of the Army, \$30.

For supplies, services, and transportation, Quartermaster Corps,
\$4,429.79.

For armament of fortifications, \$15,252.23.

For replacing ordnance and ordnance stores, \$74.56.

For arming, equipping, and training the National Guard,
\$1,547.59.

For pay of National Guard for armory drills, \$48.43.

For disposition of remains of officers, soldiers, and civil employees,
\$10.

For monument, Kill Devil Hill, Kitty Hawk, North Carolina,
\$1,500.

Rate of exchange
added.

Total, audited claims, section 5, \$90,323.01, together with such additional sum due to increases in rates of exchange as may be necessary to pay claims in the foreign currency as specified in certain of the settlements of the General Accounting Office.

Offsets against judgments, etc.
Vol. 18, p. 481.
U. S. C., p. 990.

SEC. 6. For payment of interest on amounts withheld from claimants by the Comptroller General of the United States, Act of March 3, 1875, as allowed by the General Accounting Office, and certified to the Seventy-second Congress, second session, in Senate Document Numbered 198, under the Treasury Department, \$28,943.61 and under the War Department \$736.21, together with such additional amount as may be necessary to pay interest on one of the claims set forth in that document.

Judgments against collectors of customs.
R. S., sec. 989, p. 185.
U. S. C., p. 943.

Payment of judgments against collectors of customs: For the payment of a claim allowed by the General Accounting Office covering a judgment rendered by a United States district court against a collector of customs, where certificate of probable cause has been issued as provided for under section 989, Revised Statutes (U. S. C., title 28, sec. 842), and certified to the Seventy-second Congress, second session, in Senate Document Numbered 198, under the Department of Labor, \$978.50.

Total, audited claims, section 6, \$30,658.32.

SHORT TITLE

Title of Act.

This Act may be cited as the "Second Deficiency Act, fiscal year 1933."

Approved, March 4, 1933.

[CHAPTER 283.]

JOINT RESOLUTION

March 4, 1933.
[S. J. Res. 265.]
[Pub. Res., No. 72.]

Authorizing the acceptance by the United States of a bust of Johann Wolfgang von Goethe.

District of Columbia.
Bust of Johann Wolfgang von Goethe accepted for erection in.

Site and approval.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to accept as a gift of the Goethe Society of America (Incorporated) a bust of Johann Wolfgang von Goethe for erection on the public grounds of the United States in the city of Washington, District of Columbia, on a site selected by the Director of Public Buildings and Public Parks of the National Capital, with the approval of the National Commission

of Fine Arts: *Provided*, That if no such site suitable for the purpose shall be found, the bust shall be accepted for display in the National Museum or such other appropriate location as may indicate an appreciation of the intellectual achievements and services of Goethe to mankind.

Proviso.
To be displayed in National Museum if suitable site not found.

Approved, March 4, 1933.

[CHAPTER 284.]

JOINT RESOLUTION

To authorize and direct the Secretary of Agriculture to provide additional facilities for the classification of cotton under the United States Cotton Standards Act.

March 4, 1933.
[H. J. Res. 434.]
[Pub. Res., No. 73.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture be requested to extend to cotton growers facilities for the classification of cotton authorized in the United States Cotton Standards Act of March 4, 1923 (42 Stat. L. 1517), with such supervision of licensed classifiers as he shall deem necessary under authority of the United States Cotton Futures Act.

Cotton Standards Act, amended.
Vol. 42, p. 1517, amended.
Additional facilities for classifying cotton to be provided.
Vol. 38, p. 663; Vol. 39, p. 476.

SEC. 2. Further to carry out the purposes of the said United States Cotton Standards Act the Secretary of Agriculture is authorized to issue to any qualified person, upon presentation of satisfactory evidence of competency, a license to sample cotton. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied that such licensee is incompetent or has knowingly or carelessly sampled cotton improperly, or has violated any provision of said Act or the regulations thereunder so far as the same may relate to him, or has used his license, or allowed it to be used, for any improper purpose. The Secretary of Agriculture may prescribe by regulation the conditions under which licenses may be issued hereunder, and may require any licensed sampler to give bond for the faithful performance of his duties and for the protection of persons affected thereby and may prescribe the conditions under which cotton shall be sampled by licensed samplers for the purpose of classification by officers of the Department of Agriculture, or by licensed cotton classifiers.

Cotton samplers.
License; issue, revocation, etc.

Conditions imposed.

Bond.

Approved, March 4, 1933.

[CHAPTER 285.]

JOINT RESOLUTION

To provide for further investigation of expenditures of the Post Office Department.

March 4, 1933.
[H. J. Res. 612.]
[Pub. Res., No. 74.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of obtaining information necessary as a basis for legislation, those members of the Committee on the Post Office and Post Roads of the Seventy-second Congress who are Members elect to the Seventy-third Congress, or a majority of them, after March 4, 1933, and until the organization of the Committee on the Post Office and Post Roads of the House of the Seventy-third Congress, are authorized, as a committee, by subcommittee or otherwise, to continue the investigation begun under authority of H. Res. 226 of the Seventy-second Congress. And the unexpended balance of the appropriation of \$5,000 under H. Res. 273 of the Seventy-second Congress is hereby continued for such purposes.

House Committee on Post Office and Post Roads.

Members elect of 73d Congress authorized to continue investigation of Post Office Department.

Appropriation continued.

Approved, March 4, 1933.