

# The Citizens Bank of Midway

MIDWAY, KENTUCKY

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INCORPORATED 1880

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**CAPITAL \$50,000.00**  
**SURPLUS \$12,000.00**

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C. B. PATTERSON, Vice Prest.              H. C. POYNTER, Asst. Cashier

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# Kentucky Farm Laws

WITH

BUSINESS FORMS

AND

BUSINESS LETTERS

CODIFIED BY

E. S. NICHOLS

OF THE

OHIO BAR

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1911

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## PREFACE.

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When a man is brought before a court of justice for some offense he may have committed and offers his want of knowledge of the law in excuse for his conduct, he is told that "Ignorance of the law is no excuse," and he is made suffer the penalty. As courts only require of each citizen the full and fair performance of his duty, and nothing beyond, we must therefore conclude that the reason the plea of ignorance is not accepted is because it falls within the duty of every man to know the law. But this does not mean that a man shall know all the law; none but those who make its study and practice a profession are expected to have a special knowledge of its many branches or departments. The average citizen has probably performed his full duty when he has made himself familiar with those laws of his state relating to his own occupation, his property rights, and those which govern his conduct and course of action as a member of society.

To afford to the farmers of Kentucky and those interested in that occupation, an opportunity to gain a knowledge of the laws of the state relating to farms, farming and kindred matters, has been the object in the preparation and revision of this volume. A careful study of its pages will advance the reader well toward that point where he may feel that he has fairly discharged the duty of informing himself in those matters which are of daily concern to all persons residing in farming communities, or who are in any way interested in agricultural pursuits.

The laws contained in this volume are based upon the Kentucky Statutes and the laws enacted by the legislature at its last session, thereby bring the volume down to date. The number inclosed in brackets at the end of each section is, except where otherwise indicated, the same as the section of like number as found in the Kentucky Statutes.

The number inclosed in brackets at the end of any paragraph indicates that such paragraph is in the same language, or, is, in substance, the same as the section of like number in the Statutes of Kentucky. The other references indicate decisions of courts, usually the highest court of the state, in which the case was decided. The effort has been throughout to give the law accurately as it is found in force and operation in the state to-day.

It is not to be inferred by any one into whose hands this book may fall that he shall thereby become his own lawyer. No man not intending to make the practice of law a profession should study it with any view other than to educate himself and thus broaden his qualifications for the discharge of his duties as a citizen.

AUTHOR.

Columbus, Ohio, November 1, 1911.

# J. D. HOPKINS

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## CHAPTER 1.

### Animals.

- I. Running at large; strays.
- II. Dogs.
- III. Contagious diseases among animals.
- IV. Crimes and offenses relating to animals.
- V. License to stand stud, jack or bull.
- VI. Lien on animal.
- VII. Miscellaneous.

#### I. Running at Large.

**Unaltered horse or jack at large:** If any unaltered horse or jackass, over one year old, is permitted by its owner to run at large outside of his inclosure, it may be taken up and confined by any person; and if the owner be known, notice in writing of such confinement shall be given him, whose duty it shall be forthwith to take such animal into his possession, and pay to the taker-up two dollars. If it be not called for by the owner, allowing him twenty-five miles for each day he may necessarily have to travel after the service of such notice, the taker-up, at the expiration of the time, shall take it before a justice of the peace within the district where he resides, who shall, upon the proof of the facts, order said animal to be gelded by some one skilled in the art. [43]

**Fee for gelding; fee to taker-up; lien:** The fee for gelding shall be one dollar. The taker-up, besides the fee for gelding, shall be allowed two dollars for his trouble, and twenty cents per day for each day he may keep the horse or jackass, to be paid by the owner, and may retain the possession of, and shall have a lien on, the animal until paid. If the animal dies or escapes, the owner shall nevertheless be liable for the expenses. [44]

**Unknown owner of animal:** When the owner of such animal is unknown to the taker-up, and so verified by his oath, he shall take the same before a justice of the peace within his district, who shall cause it to be appraised and dealt with as an estray, except that a notice in writing of the description of the animal, and residence of the taker-up, shall be posted up at the door of the court-house, and at one or more public places in the county; and if it be not called for by the owner, and his property proved as required in the case of other estrays, within two weeks, the taker-up shall again take it before the justice of the peace, who shall cause it to be gelded, as provided in the first section of this chapter. The taker-up shall be allowed two dollars for his trouble, and all reasonable charges paid; and if the animal be not proven and taken by the owner, he shall, after one year, become the absolute property of the taker-up. The owner may, at any time, within three years, by proving his property, recover the valuation of said horse or jackass. [45]

**Bulls running at large may be taken up:** If bulls, known to be mischievous and breachy, are permitted by their owners to run at large outside of their inclosures, they may be taken up and proceeded with, and dealt with as provided in cases of horses or jackasses [see section 43, preceding page]; and the liability of the owners shall be the same. [46]

**Submission of question:** Upon the petition of one hundred voters of any county or twenty voters of any magisterial or voting district, filed in the county court of such county, asking a submission of the question whether cattle or any species thereof shall be permitted to run at large in such county, justice's or voting district, the county court shall direct the officers of election in such county or district to open a poll at the next regular election held in such county or district, in not less than sixty days after the filing of such petition, for the purpose of ascertaining the will of the voters of such county or district upon the question whether or not they wish cattle or any species thereof to run at large in said county or district: *Provided, however,* That before any election shall be held under the provisions of this act that the fiscal court of the county shall decide by a majority of the members composing the same whether said election shall be confined to voting or magisterial districts, or shall be to take the sense of the voters of the entire county, such decision of said court to be entered on the records of said court, and the same shall not be changed for a period of four years: *And provided, further,* That no subsequent order of said court in respect to the territory to be embraced at any election shall have the effect to annul or render void any election held under the provisions hereof until after the expiration of four years from the date of such election. [4646]

**Vote may be taken every four years:** In any district, districts or county in which a vote is taken under this law another vote shall not be taken until after the expiration of four years from the time the last vote was taken. [4651]

**Cattle, when and by whom taken up:** Stray cattle may be taken up and posted by any free-holder by legal or equitable title, by a tenant of an unexpired lease for not less than three years, or a keeper of a toll-gate, when found on their respective places of residence. [4652]

**Time when strays may be taken up and posted:** Stray horses, mules, jacks or jennets may be posted at any time. Other stray cattle shall not be taken up or posted between the first day of April and the first day of November, unless taken within the inclosure of the taker-up, having broken into the same. [4653]

**Property in strays:** The absolute property in a stray horse, mule, jack, or jennet shall be vested in the taker-up at the expiration of two years after the justice shall have received the evidence of the valuation and administered the oath to the taker-up. The like right in other

stray cattle shall be vested in the taker-up after the expiration of twelve months from the day the same shall have been posted. [4654]

**Value of strays, when paid owner; death of strays:** The taker-up of any stray cattle shall be bound to pay to the owner the valuation of the same, if the stray be a horse, jack, jennet or mule, upon due and legal proof of his right to the same, at any time within three years from the day the right of property in the stray shall have been vested in the taker-up. The valuation of all other stray cattle to be paid in like manner, upon proof of ownership, at any time within one year after the right of property is vested in the taker-up. If the stray shall die or escape from the possession of the taker-up before the owner shall have claimed the same, he shall not be bound to pay the valuation or account for the stray. The proof of such death or escape shall rest upon the taker-up. [4655]

**Posting of strays:** Strays shall be taken up and posted. [4657]

**NOTE**—As the taker-up is required to go before a justice of the peace, full particulars can be obtained from him as to procedure.

## II. Dogs.

**Listing with clerk, fee for:** Any person may list any dog, of which he may be the owner, with the clerk of the county court of the county of his residence, and shall pay to such clerk a State tax thereon of one dollar for each dog so listed. [64]

**Dogs to be listed by assessors, who deemed owner of:** Each year every dog over four months old shall be listed for taxation as herein provided, either by the owner or by the assessor in the name of the owner, without fixing any valuation thereto. *Provided*, The owner may, if he so desires, affix any value thereto he wishes. Every person who keeps or harbors a dog, or who knowingly permits the keeping or harboring of a dog upon his premises, shall, for the purposes of listing and taxation, be deemed the owner thereof; and the assessor and his deputies shall ascertain the owner or harborer of each dog within his territory, and list and return the same by magisterial districts. \* \* \* [68a-1]

**When tax due and collectible:** The owner of every dog over four months of age shall pay a license tax thereon of one dollar. The first assessment under this act shall be made in the year 1906, between the fifteenth day of September and the thirty-first day of December. Said license tax shall be due and collectible as other taxes. \* \* \* The amount collected by license tax on dogs shall be used to indemnify losses by the killing or injuring of sheep by dogs, as herein provided. [68a-2]

**Sheep killed by dogs, appraisal of:** Whenever any sheep are killed or injured by dogs, the owner or person having custody of same shall, without delay and within twenty-four hours after such killing or

injury is made known to him, notify the magistrate in whose district the sheep are located and make affidavit setting forth the number of sheep killed and the number injured, the kind, grade or quality, amount and nature of injury thereto, and that such damage was not caused in whole or in part by a dog owned or harbored by him, and that he does not know whose dog caused the damage, or, if known, and such account reduced to judgment could not be collected on execution. The magistrate shall then appoint two disinterested and discreet freeholders of the neighborhood where the injury was done, to appraise the damage, and shall furnish them with claimant's affidavit or a copy thereof, and the appraisers shall forthwith examine such sheep and make a written report on the claim to the magistrate, who shall forthwith forward the claimant's affidavit and the appraiser's report to the county clerk, together with his recommendation endorsed thereon. The clerk shall file same in his office and endorse thereon the date of such filing. The magistrate and each of the appraisers shall be allowed fifty cents for their services, to be paid out of the dog tax fund of such county as other claims. [68a-3]

**Fiscal court to allow claims:** At each meeting of the fiscal court the claims for loss or damage to sheep, which have been filed not less than thirty days prior to such meeting, shall be taken up and considered, and rejected, or, if correct and just, allow the same, or such parts thereof as may be deemed right: *Provided*, That the fiscal court may require additional evidence on any such claims, either by oral testimony or affidavits. Such claims as are allowed shall be filed with the auditor, who shall, after the first of January of each year, take up all such claims by counties, and draw his warrants upon the treasurer in favor of claimant for the amount allowed by the fiscal court: *Provided*, If the amount of the dog tax fund to the credit of any county be not sufficient to pay all claims for such county, the auditor shall pro rate the claims from such county. Any surplus remaining to the credit of a county after all such claims are allowed shall be transferred to the credit of the school fund of such county. [68a-4]

**Owner or harbinger of dog, when liable for damages:** Every person owning or harboring a dog shall be liable to the party injured for all damages done by such dog; but no recovery shall be had for personal injuries to any person when they are upon the premises of the owner of the dog after night, or upon the owner's premises engaged in some unlawful act in the day time. Whenever recovery is had before any court for damages to sheep by a dog, the court may order the defendant to kill or cause to be killed such dog within two days after the rendition of the judgment. [68a-5]

**Dogs assessed are property, liability for killing:** Any dog returned for taxation, and the tax on which is paid when due, shall be regarded as property and shall be entitled to the same protection as live stock. \* \* \* [68a-6]

**Penalty for failure to assess and pay tax, sheriff may kill:** Any owner or harbinger of a dog, subject to be taxed, who shall fail or refuse to list the same with the assessor, shall be fined in any sum not exceeding \$10 for each dog he so fails or refuses to list for taxation; and any person who shall keep or harbor a dog upon his premises or elsewhere, and who fails or refuses to pay the tax thereon when due, shall be fined in any sum not exceeding \$25 for each offense and, upon conviction, the judgment may include an order requiring such dog to be killed, which order may be executed by any peace officer, who shall be allowed \$1 therefor, to be taxed as costs. It shall be the duty of the sheriff and his deputies, and each constable in his district, to kill or cause to be killed any dog, the owner of which has failed or refused to pay the tax thereon when due, and for each dog so killed, without the order of a court, such officer shall be allowed by the fiscal court fifty cents, to be paid out of the dog tax fund. For the purpose of this act, the tax on dogs shall be considered due on the first day of March of each year: *Provided, however,* The sheriff may collect such tax at any time and in such manner as taxes are now collectible by law. [68a-7]

**Poisoning dog, penalty for:** If any person shall willfully poison any dog not his own, and not upon the premises of the one so poisoning, shall be fined not less than \$5 nor more than \$25. Any person violating the provisions of this section shall be liable in damages for any dog poisoned thereby. But nothing herein shall be construed to affect or render invalid any ordinance of any city providing for killing dogs running at large. [68a-8]

**Mad dog to be killed, penalty for concealing:** A justice of the peace, on proof that any dog is mad, or has been bitten by a mad dog, or has killed or wounded any sheep, shall order such dog to be killed; and the officer who executes the order shall be paid one dollar by the owner of the dog and collected as costs. If any person shall conceal a dog so ordered to be killed, or prevent the execution of the order, he shall be fined \$5 for every day he shall so offend. Any mad dog or dogs having the disease known as the "rabies" may be killed by any person. [68a-9]

### III. Contagious Diseases Among Animals.

**Diseased cattle and hogs to be confined:** If the owner of any distempered cattle, or hogs diseased with hog-cholera, shall permit them to run at large outside of his inclosure, or shall drive the same into or through any part of this Commonwealth, unless it be from one portion of his own inclosure to another, he shall forfeit and pay the sum of ten dollars for each head, and be liable by civil action for any damage that may occur by the spreading of the disease; and when any such cattle or hogs shall die, the owner thereof shall cause them to be burned or buried, and if he fail, he shall be fined five dollars for each offense. [62]

**Failure to confine diseased cattle or hogs:** If a justice of the peace be informed, by affidavit, that the owner of such cattle or hogs as are described in the preceding section has violated its provisions, it shall be his duty to issue his order, in the name of the Commonwealth, to such owner, commanding him to impound them; and if he fail or refuse to do so, or permit them to escape, or to be taken from the pound before the disease has been removed, he shall have power to order the cattle or hogs to be killed and burned or buried; and the constable, or other officer who is directed to execute the order, shall be paid by the owner two dollars for killing and burning or burying each head, and if he fail or refuse to execute the order, he shall be fined two dollars in each case. [63]

*(Act of March 22, 1910.)*

**Owner of diseased stock to report:** 1. That it shall be the duty of the owner or person in charge of any domestic animal or animals, who discovers, suspects, or has reason to believe that such animal or animals as aforesaid are affected with any communicable disease, to immediately report the fact, belief or suspicion to the county live stock inspector of the county in which the said domestic animal or animals are found.

**Duties of county live stock inspector:** 3. The county live stock inspector of each county, whenever any case or cases of communicable disease of any domestic animal of his county are reported to exist, shall immediately cause the same to be investigated, and, should such investigation show a reasonable probability that such animal or animals are affected with a communicable disease, the said county live stock inspector shall immediately establish such temporary quarantine as may be necessary, in his judgment, to prevent the spread of disease, and shall, without delay report all action taken to the state live stock sanitary board, and the acts of the county live stock inspector establishing said temporary quarantine shall have the same force and effect as though established by the state live stock sanitary board, until such time as they shall take charge of the case or cases, and the county live stock inspector of every county in the state shall adopt and enforce such rules and regulations as said state live stock sanitary board may prescribe, having for their object the prevention and restriction of any communicable diseases among domestic animals which may be either threatened or developed in such localities; and all expense incurred by county live stock inspector in carrying out this act shall be a county charge, and shall be paid in like manner as other expenses of the county are.

**Penalties:** 4. Any person who shall have in his or her possession any domestic animal affected with any communicable disease, knowing such animal to be affected, who shall permit such animal or animals to run at large, or who shall keep such animal or animals where the

domestic animals not affected by or previously exposed to such communicable disease may be exposed to its contagion or infection; or who shall ship, drive, sell, traffic or give away such animal or animals which have been exposed to such contagion or infection; or who shall move or drive any domestic animal in violation of any direction, rule, regulation or order of the state live stock sanitary board or county live stock inspector, establishing and regulating live stock quarantine, or the restriction or spread of communicable diseases among domestic animals, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any amount not less than twenty-five dollars nor more than one hundred dollars for each of such exposed or diseased domestic animals which he or she shall permit to run at large, or sell, ship, drive, trade or give away, in violation of the provisions of this act: *Provided*, That any owner of domestic animals which have been affected with or exposed to any communicable disease may dispose of the same after having obtained from the said state live stock sanitary board or county live stock inspector a certificate of health for such animals.

**Animals in transit:** 5. The state live stock sanitary board shall have the general supervision of all communicable diseases among domestic animals within or that may be in transit through the state, and they are hereby empowered to establish quarantine against any animal or animals thus diseased whether within or without the state, and may make such rules and regulations against the spread of and for the suppression of said disease or diseases as in their judgment may seem necessary and proper; and in the enforcement of such rules and regulations they shall have the power to call on any one or more of the peace officers whose duty it shall be to give all assistance in their power.

**Penalty for obstructing board:** 6. Any person who wilfully hinders, obstructs or otherwise disregards or evades such quarantine as they may declare, or violates any rule or regulation they shall make in attempting to stamp out or restrict the spread of any disease or diseases aforementioned, or who shall resist any peace officer acting under them or either of them shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars nor more than fifty dollars.

**Penalty for failure to notify:** 7. In the event of any communicable disease aforesaid breaking out, or being reasonably suspected to exist in any locality in this state it shall be the duty of the local authorities or person owning or having any interest whatever in said animals, immediately to notify the county live stock inspector of the fact, when he shall institute such measures for the restriction or stamping out of such disease or diseases as he may think necessary. Any person or persons specified, who shall neglect or refuse to notify said county live stock inspector of the existence of any communicable disease shall be deemed guilty of a misdemeanor and upon conviction be fined not less than five dollars nor more than twenty-five dollars.

**Animals may be killed:** 8. Whenever in the opinion of the state live stock sanitary board the public safety demands the destruction of any animal or animals, under the provisions of this act, they shall, before ordering the killing or slaughtering of same, appoint three disinterested freeholders, who shall be sworn before proceeding to act, and they shall make a just and true valuation of said animal or animals to be killed or slaughtered, and in valuing shall consider the health and condition of the animal or animals when killed, and disease proven, and they shall make and deliver a written certificate setting forth all the essential facts in the case to the lawful owner, who shall present the same to the county judge of the county in which such animal or animals are so killed or slaughtered and the same shall constitute a county charge to be paid as other claims of the county are.

**Penalty for importing diseased animals:** 9. Any person or persons who knowingly shall import or bring into this state any animal or animals affected with pleuro-pneumonia, rinderpest, glanders, scabies, footrot, lip and leg or any other communicable disease, or who shall sell or trade any animal or animals so diseased, shall be guilty of a misdemeanor and upon conviction shall be fined in any amount not less than twenty-five dollars nor more than one hundred dollars.

**Governor to co-operate with other states and U. S.:** 10. The governor of this state, with the live stock sanitary board may co-operate with the government of the United States for carrying out the purposes of this act, and the said live stock sanitary board may appoint in writing any inspector or employee of the United States department of agriculture as state inspector of live stock in enforcing the provisions of this act, in any county or state, when in their judgment it may be proper and necessary, who shall have and may exercise the powers of county live stock inspector, and shall be authorized and empowered to enter premises to inspect live stock and to enforce the quarantine of counties, districts, farms and town lots, and to control the movement of live stock therefrom; and all such inspectors of live stock and the county live stock inspectors are hereby authorized and empowered to quarantine and enforce such disinfection of animals and premises as may be deemed necessary. But no inspector or employee of the United States department of agriculture shall be paid for their services by the state of Kentucky or any county of this state. \* \* \*

**State live stock sanitary board, county live stock inspector:** 11. To carry out the provisions of this act there is hereby constituted a state live stock sanitary board which shall consist of three members of the state board of agriculture, forestry and immigration, to be chosen therefrom by the members of said board of agriculture, forestry and immigration, the commissioner of agriculture, forestry and immigration and the head of the division of animal husbandry Kentucky agricultural experiment station, are to be ex-officio members of the board. \* \* \*

There shall also be a county live stock inspector appointed in each county of the state, the said appointment to be made by the county judge of each county in the state and he shall be paid by the fiscal court of the county for which he is appointed. The fiscal court of each county is to fix the amount paid to its county live stock inspector.

**Not applicable to diseases of hogs:** 12. All laws and parts of laws inconsistent with or repugnant to this act in this state are hereby repealed, except the laws as to those communicable diseases in domestic animals which are also dangerous and likely to be communicated to human beings; and provided, that the provisions of this act shall not apply to the diseases of hogs.

*(Act of March 21, 1910.)*

**Cholera serum plant:** 1. That there be, and is hereby, established at the Kentucky agricultural experiment station a plant for the manufacture of serum and virus for the prevention of hog cholera.

**How serum distributed:** 2. The preparation of such serum shall be under the rules and regulations of the director of the experiment station and shall be distributed by the commissioner of agriculture and the state board of agriculture, forestry and immigration.

**Cost of serum:** 3. Said experiment station shall charge for the hog cholera serum manufactured under the provision of this act, cost price of manufacture not to exceed two cents per cubic centimeter, and one cent per cubic centimeter for the virus.

#### IV. Crimes and Offenses Relating to Animals.

**Stealing horse, mule, jack or jennet:** If any person shall steal a horse, mule, jack or jennet, he shall be confined in the penitentiary not less than two nor more than ten years. [1195]

**Stealing hog of the value of four dollars:** If any person shall steal a hog of the value of four dollars or more he shall be confined in the penitentiary not less than one nor more than five years. [1196]

**Killing cattle by poison:** If any person shall unlawfully give or administer poison to any cattle, and thereby cause their death, he shall be punished by confinement in the penitentiary for not less than one nor more than five years. [1240]

**Altering brands on cattle or other property:** If any person shall knowingly alter or deface the marks or brands on any cattle or other property not his own, without the consent of the owner, he shall be fined a sum not exceeding two hundred dollars, or imprisoned not exceeding six months, or both, in the discretion of the jury. [1245]

**Killing, maiming, poisoning or attempting to poison cattle:** If any person shall unlawfully kill, disfigure, injure, maim, poison or attempt to administer poison to any cattle, not his own, he shall be fined not less than ten nor more than one thousand dollars, or imprisoned not less than

one nor more than twelve months, or both so fined and imprisoned. [1249]

**Driving unbranded sheep on highway:** If any person shall drive sheep for a distance of more than ten miles along a public road, without each sheep being plainly branded, or marked with one or more letters or crosses, he shall be fined not less than two nor more than ten dollars for each sheep so driven. [1324]

**Furnishing false pedigree of stock:** Any person who shall knowingly and willfully furnish to any purchaser of stock any false pedigree of such stock, shall, upon conviction thereof, be fined in any sum not less than one hundred nor more than one thousand dollars, or imprisoned in the county jail not less than three nor more than twelve months, or both so fined and imprisoned. [1325]

**Horse, entering for competition under assumed name:** That it is hereby made unlawful, in this State, for any person or persons, knowingly to enter or cause to be entered for competition, or to compete for any purse, prize, premium, stake or sweepstake offered or given by any agricultural or other society, association, person or persons, or to drive any horse, mare, gelding, colt or filly, under an assumed name, or out of its proper class, where such prize, purse, premium, stake or sweepstake is to be decided by a contest of speed. That any person or persons found guilty of a violation of this section shall, upon conviction thereof, be imprisoned in the penitentiary for a period of not more than two years, or imprisoned in the county jail of the county in which the accused may be convicted for any period of not more than one year, and shall be fined in any sum not exceeding one thousand dollars. [1326]

**Horse's name after competing not to be changed:** That the name of any horse, for the purpose of entry for competition in any contest of speed, shall not be changed after once having contested for a prize, purse, premium, stake or sweepstake, except as provided by the code of rules of the society or association under which the contest is advertised to be conducted. \* \* \* [1327]

**Exhibiting studhorse, jack or bull in public place:** If any person shall exhibit or show, by riding or leading, a stud-horse, jack or bull, or use him in covering, within view or hearing of any place of public religious worship, during the time that an assemblage of persons are engaged in such worship, or assembled for that purpose, or dispersing therefrom, he shall be fined not less than ten nor more than fifty dollars; or if he shall use such horse, jack or bull in covering within view of any private residence, school-house or seminary, he shall be fined not less than ten nor more than fifty dollars. [1329]

**Running horse on public highway:** If any person shall be engaged, directly or indirectly, in running a horse, by way of practicing him, or in running a horse race, on a public highway or on the street of any town or city, or shall ride or drive any horse in a gallop, or run

on or through the street of any city or town, he shall be fined not less than [five nor more than twenty-five] dollars for each offense. [1330]

**Horse-thief, conviction or arrest and delivery:** That if any person shall arrest, or directly and immediately cause the arrest, of any person guilty of stealing a horse or mule within this Commonwealth, and shall secure the indictment and conviction of such person in a court of competent jurisdiction, or shall deliver said person so arrested to a court having jurisdiction of said charge, and if the court, or any one to whom the person arrested shall be sent for trial, shall permit said person to give bond, with security, for his future appearance in court, and said bond shall be forfeited and collected, the person so securing the conviction or delivery shall be entitled to a reward of fifty dollars therefor. [4282]

**Penalty for altering marks or brands on a stray:** If the taker-up of any cattle shall, either before or after the same be posted, alter the marks or brands of the same, or shall trade, sell or remove the same out of the State, kill or destroy the same, if the stray be a horse, mule, jack or jennet, within two years after the same has been posted, if of other cattle, within twelve months after the day the same was posted, he shall, upon conviction, be fined fifty dollars for each offense. [4656]

*(Act of March 16, 1910.)*

**Cruelty to animal:** 1. If any person unnecessarily or cruelly beats, tortures, uses or otherwise mistreats any animal, whether his own or not, he shall be fined not exceeding one hundred dollars.

**Peace officers may kill animals:** 2. Any peace officer of the State of Kentucky, or any subdivision thereof, or any officer of the accredited humane society, or society for the prevention of cruelty to animals, may lawfully destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be glandered, injured or diseased past recovery for any useful purpose, or from any cause suffering without hope of recovery for any useful purpose.

**Consent of veterinary surgeon:** 3. Such officer shall, however, first obtain the judgment to that effect of a veterinary surgeon or the judgment to that effect of two reputable citizens called by him to view such animal in his presence.

**Consent of owner:** 4. Or such officer shall obtain from the owner of such animal his consent to such destruction.

## V. License to Stand Stud, Jack or Bull.

**Stud, jack or bull, license to stand:** Before engaging in any occupation or selling any article named in this subdivision of article 12 of this act, the person desiring to do so shall procure license and pay the

tax thereon as follows: \* \* \* To stand a stud-horse, jack or bull, a sum equal to the greatest sum charged for the service of the animal, whether the same be for the season or for insurance. The license for breeding stock shall expire on the thirty-first day of December after it is granted. The applicant for such license shall state on oath, the largest amount he intends to charge, directly or indirectly, for the service of the animal, and if in property or other things, the value thereof. If any such animal be purchased or brought into the State, or from one county to another, by a citizen of this State, between the first day of July and the first day of December in any year, the tax on the license until December the thirty-first, after the purchase or removal, shall be in proportion to the annual tax as the time for which the license has to run bears to the whole year. All persons making application for such reduced license shall make and file with the clerk an affidavit, stating when the animal was brought into the State or another county, and the name of the owner or owners and their place of residence. [4224]

#### VI. Lien on Animal.

**Lien on animal for grazing, etc.:** All owners and keepers of livery stables, and persons feeding or grazing cattle for compensation, shall have a lien upon the cattle placed in such stable or put out to be fed or grazed by the owner or owners thereof, for their reasonable charges for keeping, caring for, feeding and grazing the same; and this lien shall attach whether the cattle are merely temporarily lodged, fed, grazed and cared for, or are placed at such stables or other place or pasture for regular board; but it shall be subject to the limitations and restrictions as provided in case of a landlord's lien for rent. [2500]

**Lien for one year on progeny:** The licensed keepers of stallions, jacks and bulls shall have a lien upon the get of such stallion, jack or bull for one year after the birth of the same for the payment of the service fee; but the get of such animals shall not be subject to the lien when a receipt for said services is shown by the owner of such get. [2503]

**Enforcement of lien:** The lien provided for in the preceding section may be enforced by action as in cases of other liens, or by warrant as permitted in case of the enforcement of the lien of a livery stable keeper or agister. [2504]

#### VII. Miscellaneous.

**Cattle, killing or injury of, when damages divided:** If, by the locomotive or cars of any company, cattle shall be killed or injured on the track of said road adjoining the lands belonging to or in the occupation of the owner of such cattle, who has not received compensation for fencing said land along said road, the loss shall be divided between

the railroad company and the owner of such cattle; but in every case where cattle are killed or injured by the negligence or carelessness of the agents or servants of any company, it shall pay full damages for such killing or injury; and the killing or injury of cattle by the engine or cars of any company shall be *prima facie* evidence of negligence and carelessness on the part of the company, its agents and servants. [809]

## CHAPTER 2.

### Bees.

**Poison, exposing with intent to destroy bees:** If any person on land or premises not in his possession or under his control shall lay or expose any poisonous substance with intent to destroy honey bees, he shall be fined not less than five nor more than fifty dollars. [1247]

*(Act of March 23, 1910.)*

**County judge may appoint inspector:** 1. That whenever a petition is presented to the county judge of any county in the state of Kentucky, signed by three or more persons, all of whom are residents of said county, and possessors of an apiary or place where bees are kept, praying that an inspector be appointed by said county judge, said county judge shall, within five days after the presentation of said petition, appoint a person as bee inspector who is resident of said county, who shall be a skilled bee keeper, having a thorough knowledge of foul brood and other diseases injurious to bees and their larvæ and the treatment of same.

**Inspector to accept office; removal:** 2. The person so appointed shall, within five days after his appointment, file with the said county judge his written acceptance of the office, or, in default thereof, or in case of vacancy, the county judge in the same manner may make new appointments until the said office is filled. The inspector shall hold his office for two years and until his successor is appointed and qualified, except when on petition of ten persons (each of whom is a resident of said county and possessor of an apiary), to the judge of said county, he may remove said inspector for cause after a hearing of petitioners.

**Notice of disease, killing of diseased bees, etc.:** 3. Any bee keeper or other persons who shall have cause to believe that an apiary in his county is infected with foul brood or other disease, either in his own apiary or elsewhere, shall notify the inspector stating that on information or belief he believes that certain apiaries, describing the location, naming the owner or keeper, is affected with foul brood or other disease, and his ground for such belief. On receiving said notice from any source of the existence in any apiary in his county, of the disease known as foul brood, or any other infectious or contagious disease of bees, the county inspector of bees shall forthwith inspect each colony of bees and all hives, implements and apparatus, honey and supplies on hand or used in connection with such apiary, and distinctly designate each colony or apiary which is infected and notify the owner or person in

charge of said bees thereof, in writing, and the owners of said bees, or the person in charge thereof, shall in good faith apply, and thereafter fully and effectually carry out to and upon such diseased colonies, such treatment as may have been prescribed by the said inspector for such cases; also thoroughly disinfect, to the satisfaction of the inspector, all hives, bee houses, honey and apparatus that have been used in connection with any such diseased colonies; or, at his election, the said owner or person in charge of such bees may, within the same time, utterly and completely destroy said bees, hives, houses, comb, honey and apparatus by first killing the bees (by the use of sulphur fumes when the bees are in the hives for the night), by fire, or bury the same in the ground with a covering of not less than two feet of earth.

**Premises may be entered and bees inspected:** 4. The inspector of bees shall have the right to enter the premises of any bee keeper where the bees are kept, and inspect such bees and any person resisting or refusing to allow said inspection by said bee inspector shall be guilty of a misdemeanor and may be then and there arrested by said bee inspector or person deputized by him and brought before a justice of the peace, and upon conviction shall be fined not less than ten nor more than twenty-five dollars.

**Inspector must disinfect his clothing:** 5. After inspecting, working with or handling infected fixtures, or handling diseased bees, the inspector or other person shall, before leaving the premises, or proceeding to any other apiary, thoroughly disinfect his own person and clothing, and shall see that any assistant or assistants that may have been with him have also thoroughly disinfected their clothing and person.

**Bees may be ordered transferred:** 6. The inspector shall have full power in his discretion to order any owner or possessor of bees dwelling in box hives or gums (being mere boxes or gums without frames) to transfer such bees to movable frame hives within a specified time, and in default of such transfer, after said length of time, the inspector may transfer such bees at the owner's expense, if free from disease; but, if diseased, he may destroy or order the destruction of such hives and bees as a public nuisance.

**Penalty for selling diseased bees:** 7. Should any owner, or keeper of, or other person having diseased bees or their larvæ, or of any affected hives or combs, appliances or utensils for bee keeping, sell or barter or give away the same or allow the same or any part thereof to be moved, such person shall be guilty of a misdemeanor, and upon conviction such person shall be fined not less than ten nor more than twenty-five dollars.

**Penalty for exposing infected hives, etc.:** 8. Should any person, whose bees have been destroyed or treated for foul brood, sell, or offer for sale, any bees, hives or appurtenances of any kind after such destruc-

tion or treatment and before being authorized by the inspector to do so, or should he expose, in his bee yard or elsewhere, any infected comb, honey or other infected thing, or conceal the fact that such disease exists among his bees, such person shall be guilty of a misdemeanor, and upon conviction such person shall be fined not less than ten or more than twenty-five dollars.

**Penalty for failure to comply with inspector's orders:** 9. If any owner or keeper of bees knows of, or after being notified by the bee inspector that foul brood or other infectious or contagious disease exists in any of the hives in the apiaries owned or in charge of said persons, and shall fail to comply within ten days from receiving said knowledge and the date of receiving instructions from the county inspector to cure or destroy the bees or hives, or their appliances, such person shall be guilty of a misdemeanor, and upon conviction thereof such person shall be fined not less than twenty dollars or more than fifty dollars.

**Bees, etc., may be destroyed:** 10. When the owner or possessor of bees shall disobey the directions of said bee inspector in curing or destroying any diseased bees, honey, comb, hives or appliances, said bees, honey, comb, hives and appliances shall be declared a public nuisance, and the said bee inspector shall at once destroy said bees, honey, hives or appliances, and may deputize such additional persons as he may find necessary to affect said destruction.

**Inspector to make report:** 11. The inspector shall make a semi-annual report in writing, under oath, to the fiscal court of the county. \* \* \*

**Compensation of inspector:** 12. After the inspector of bees in any county shall make report, as provided in the preceding section, said fiscal court shall allow to said inspector of bees five dollars for a full day and two dollars for each half day, necessarily and actually employed in the discharge of his duties under this act, together with his necessary and actual expenses while so employed to be audited, allowed, and paid by the county treasurer upon the warrant of the fiscal court of the county.

**Tax on bees to be levied:** 12a. There shall be levied annually on the owner of each colony of bees in each county in the State an annual tax of five cents for each colony owned, which levy shall be placed on the tax books of the county by the fiscal court of such county at the time of the levy of other taxes each year, and such levy shall be predicated upon the returns for taxation as made by the assessor having jurisdiction in the premises for the return of personalty for taxation; such assessor shall be provided with necessary authority to procure such returns from owners of colonies of bees, who shall, on demand, be required to list the same for taxation for the

purposes of this act, as in other cases of listing and valuation of personalty for taxation. The sheriff of the county shall collect the amount of said tax so assessed in the same manner and at the same time he collects other taxes, and the same shall be certified to him by the fiscal court in the same manner as other taxes for collection. The amount so collected shall constitute a special fund to be disposed of in the payment of salary and actual expenses of the inspector of bees appointed in pursuance of the provisions of this act, and said fund can be used in no other way.

## CHAPTER 3.

### Boundary Lines.

**Corner trees or stones, injuring or destroying:** If any person shall fraudulently and willfully remove, deface, cut down, or destroy a corner tree or corner stone of the boundary of this state, or to the survey of any tract of land, he shall be confined in the penitentiary not less than one nor more than five years. [1228]

**Processioners, county court to appoint three:** The county court of each county shall appoint, for the term of four years, three discreet, qualified persons in the county, processioners for the county, any two of whom shall constitute a quorum to do business. The court shall have the power to fill vacancies, and to remove any of the processioners and appoint others. Before a processioner proceeds to act, he shall take an oath to discharge the duties of his office to the best of his skill and judgment. [2367]

**Land to be processioned on application of owner:** The processioners shall, on the application of any person producing his title papers, go around his land, or such part as he may desire, and re-mark the same, taking care that the re-marks are on the old lines; and when they find the corner trees, posts or stones, or any of them, removed, defaced or rotted down, the processioners shall mark new corner trees, or place stones or posts, properly marked, where the old corners stood. The processioners shall report to the county court the land they have processioned, the lands of the persons it adjoins, and what alterations of corner trees, posts or stones have been made or added. [2368]

**Dividing lines established by consent of owners:** The processioners or any two or more persons selected by the parties and appointed by the court may, on the application of persons whose lands adjoin, go on their dividing lines, and, by their consent, mark new corner trees, set up new stones or posts, ascertain the length of the lines, and make a report to the county court, in which the names of the parties, the new corner trees marked, or stones or posts set up, and the length of the lines, shall be stated. The consent of the parties to the acts of the processioners, or persons selected, shall in such cases be indorsed on the report, and signed by such parties, and attested by one or more of the processioners or persons selected, or the proceeding shall not bind them. In all contests as to boundary, such report shall be conclusive evidence between the parties and all persons claiming through or under them, except where such report shall be obtained by fraud or misrepresentation. [2369]

**Surveyor to accompany processioners:** The surveyor of the county, or some person appointed by the court to survey, shall in all

cases attend the processioners or the persons selected by the parties, and make out a plat and certificate of the land of the applicant or applicants, noting what is done, which shall be returned with, and be considered a part of, the processioners' report. The processioners and surveyor, in establishing lines and corners, may make proper allowance for the variation of the needle. [2370]

**Land lying in different counties, processioning of:** If any person shall own a tract of land, which, in part, lies in two or more adjoining counties, the processioners of that county in which the greater part thereof lies may procession the whole tract. [2373]

**Reports, plats and depositions filed in county court:** The reports of processioners, the plats and certificates of the surveyor, notices and affidavits, and depositions taken by the processioners, shall, when returned to the county court, be filed away and carefully kept by the clerk, and the report, notice and plat be recorded, and shall be *prima facie* evidence against and between the parties interested and others claiming through or under them. [2374]

## CHAPTER 4. Dairy and Food Laws.

- I. Butter, milk and lard.
- II. Canned fruits and vegetables.
- III. Feeding stuffs.
- IV. Misbranded and adulterated food.
- V. Miscellaneous.

Laws applying only to the farmer are here given, as it would be impossible to reproduce in a book of this size all the laws applying to persons engaged in the extensive manufacture of butter, cheese, wines, etc., such persons being manufacturers and not farmers.

### I. Butter, Milk and Lard.

**Adulterated milk:** Whoever shall knowingly sell, or cause to be sold, to any person in this state, milk diluted with water, or in any way adulterated, or milk from which any cream has been taken, or sell milk commonly known as "skimmed milk," with intent to defraud, or shall knowingly sell any milk, the product of a diseased animal, or from animals fed upon "still slop," "brewer's slop," or "brewer's grains," or shall knowingly use any poisonous or deleterious material or milk from animals diseased or fed as aforesaid, in the manufacture of butter or cheese, shall be fined in any sum not less than twenty-five nor more than two hundred dollars. [1274]

**Butter and lard, sale of impure article:** No person shall sell, supply, or offer for sale or exchange, any oleaginous substance, or any compound of the same, as butter, other than that produced from unadulterated milk, or cream of the same, or any substance as lard, other than that produced from the fat of healthy, sound hogs, unless the same, and the packages, casks or vessels containing the same, shall be marked so as to plainly show to the purchaser and establish the true character thereof, and distinguish it from the genuine butter or lard. And any person violating any of the provisions of this section shall be fined not less than twenty nor more than one thousand dollars. [1283]

### II. Canned Fruits and Vegetables.

**Canned fruits and vegetables, fraud in:** That it shall hereafter be unlawful in this State for any packer or dealer in preserved or canned fruits and vegetables, or other articles of food, to offer such canned articles for sale after July 1, one thousand eight hundred and ninety-six, with the exception of goods brought from foreign countries, or packed prior to the passage of this act, unless such articles bear a

mark to indicate the grade or quality, together with the name and address of such firm, person or corporation that packs the same or dealer who sells the same. [1283a-1]

**Soaked goods, maple syrup:** That all soaked goods, or goods put up from products dried before canning, shall be plainly marked by an adhesive label, having on its face the word "soaked," in letters not less in size than two-line pica of solid and legible type; and all cans, jugs or other packages, containing maple syrup or molasses, shall be plainly marked by an adhesive label, having on its face the name and address of the person, firm or corporation who made or prepared the same, together with the name and quality of the goods, in letters of the size provided in this section. [1283a-2]

**Penalty for violating this act:** Any person, firm or corporation who shall falsely stamp or label such cans or jars containing preserved fruit or food of any kind, or knowingly permit such false stamping or labeling, and any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and punished with a fine of not less than fifty dollars, in the case of the vendors, and in the case of manufacturers and those falsely or fraudulently stamping or labeling such cans or jars, a fine of not less than five hundred dollars nor more than one thousand dollars. \* \* [1283a-3]

### III. Feeding Stuffs.

**Commercial feeding stuffs to be labeled:** Every bag, barrel or other package of concentrated commercial feeding stuff, manufactured, sold, offered or exposed for sale in, or imported into, this state, shall have securely attached a tag or label, and plainly printed thereon the number of net pounds of concentrated commercial feeding stuff in the package, the name, brand or trademark under which the concentrated commercial feeding stuff is sold; the name and address of the manufacturer and the guaranteed analysis, \* \* \* the ingredients from which it is compounded, also the stamp showing the payment of the inspection fee provided for in this act; *Provided*, That all concentrated commercial feeding stuffs shall be in standard weight bags or packages of no other than fifty, one hundred, one hundred and fifty, or two hundred pounds each, or less than fifty pounds, or sold in bulk. [1719a-1]

**Concentrated commercial stuff defined:** The term "concentrated commercial feeding stuff," as used in this act, shall include linseed meals, corn and corn-cob meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn-feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers' grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts, and other mill products, ground beef or fish scraps, mixed feeds, clover meal, alfalfa meal and feeds, peavine meal, cotton-seed meal, velvet bean

meal, feeds and meals mixed or unmixed, made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds. [1719a-2]

**Director of experiment station to furnish label:** Upon receipt of the inspection fee, it shall be the duty of the director of said experiment station to furnish the manufacturers, dealers, or importers of concentrated commercial feeding stuffs with stamps or labels in lots to the value of five dollars, or any multiple thereof, to be attached to each package of concentrated commercial feeding stuff sold or used in this state. Such stamps or labels shall be printed in such form as may be prescribed by the director of said experiment station. [1719a-5]

**Samples for analysis, how selected:** Any person purchasing any concentrated commercial feeding stuff in this state for his own use may submit fair samples of the said feeding stuff to the director of the experiment station for analysis but in order to protect the manufacturer or vendor from the submission of spurious samples for analysis, the person selecting the sample shall do so in the presence of two or more disinterested persons, from not less than 10 per cent of the lot purchased), which sample shall be taken from one or more packages and shall be put into a bottle or can or other package and sealed in the presence of said witnesses, and this sample placed in the hands of a disinterested person, who shall forward the same at the expense of the purchaser to the director of the experiment station, and upon the receipt by him of such sample package, the director shall make, or cause to be made, an analysis of the same, and he shall return to such purchaser a certificate of analysis, and the said certificate, when verified by the affidavit of the analyst shall be competent evidence in any court of law or equity in this state. [1719a-7]

**Penalty for violating act:** Any manufacturer, importer, jobber, agent or dealer who shall sell, offer or expose for sale in this state any concentrated commercial feeding stuff, as defined in this act, without having complied with the provisions of this act, or who shall sell, offer or expose for sale any concentrated commercial feeding stuff which contains a smaller percentage of protein or fat than the minimum guarantee, or a larger percentage of crude fiber than the maximum guarantee, or who shall adulterate any concentrated commercial feeding stuff, with foreign mineral matters or other foreign substance, such as rice hulls, chaff, peanut shells, corn-cob meal, oat hulls, or other similar materials of less or of little or no feeding value, without plainly stating on the label hereinbefore described, the kind and amount of such mixture, or who shall adulterate with any substance injurious to health of domestic animals, shall be guilty of a violation of this act and fined not less than ten dollars nor more than one hundred dollars. [1719a-9]

**Proceedings in case of violations:** It shall be the duty of every prosecuting attorney, county attorney and city attorney to whom the director of said experiment station shall report any violation of this act, to cause proceedings to be commenced against the party so violating the act, and the same prosecuted in manner required by law. [1719a-12]

#### IV. Misbranded and Adulterated Food.

**Adulterated or misbranded food:** That it shall be unlawful for any person, persons, firm or corporation within this state to manufacture for sale, produce for sale, expose for sale, have in his or their possession for sale or to sell any article of food or drug which is adulterated or misbranded within the meaning of this act; and any person or persons, firm or corporation who shall manufacture for sale, expose for sale, have in his or their possession for sale or sell any article of food or drug which is adulterated or misbranded within the meaning of this act shall be fined not less than ten dollars nor more than one hundred dollars or be imprisoned not to exceed fifty days or both such fine and imprisonment. \* \* \* [1905a]

**Food, what is:** That the term food, as used in this act, shall include every article used for or entering into the composition of food or drink for man or domestic animals, including all liquors. [1905a-2]

**Misbranding, what is:** For the purpose of this act, an article of food shall be deemed misbranded:

First. If the package or label shall bear any statement purporting to name any ingredient or substance as not being contained in such article, which statement shall not be true in any part; or any statement purporting to name the substances of which such article is made, which statement shall not give fully the name or names of all substances, contained in any measurable quantity.

Second. If it is labeled or branded in imitation of or sold under the name of another article, or is an imitation either in package or label of another substance of a previously established name; or if it be labeled or branded so as to deceive or mislead the purchaser or consumer with respect to where the article was made or as to its true nature and substance, or as to any identifying term whatsoever whereby the purchaser or consumer might suppose the article to possess any property or degree of purity or quality which the article does not possess.

Third. If in the case of certified milk, it be sold as or labeled "certified milk," and it has not been so certified under rules and regulations by any county medical society, or if when so certified it is not up to that degree of purity and quality necessary for infant feeding.

Fourth. If it be misrepresented as to weight or measure or, if where the length of time the product has been ripened, aged or stored, or if where the length of time it has been kept in tin or other recep-

tacle, tends to render the article unwholesome, the facts of such excessive storage, ripening, aging or packing are not plainly made known to the purchaser and to the consumer.

Fifth. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular. *Provided*, That articles of liquor which do not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded within the provisions of this act, in the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale. *Provided*, That the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring and flavoring ingredients used for the purpose of coloring and flavoring only. [1905a-3]

**Adulteration, what is:** For the purpose of this act, an article of food shall be deemed to be adulterated:

First. If any substance or substances be mixed or packed with it so as to reduce, lower or injuriously affect its quality or strength.

Second. If any substance be substituted wholly or packed with it so as to reduce, lower, or injuriously [affect its quality or strength].

Third. If any valuable constituent of the article has been wholly or in part abstracted; or if the product is below that standard of quality represented to the purchaser or consumer.

Fourth. If it is mixed, colored, coated, polished, powdered, or stained whereby damage is concealed, or if it is made to appear better or of greater value than it is, or if it is colored or flavored in imitation of the genuine color or flavor of another substance of a previously established name.

Fifth. If it contains added poisonous ingredient which may render such article injurious to health, or if it contains any antiseptic or preservative which may render such article injurious to health, or any other antiseptic or preservative not evident or not plainly stated on the main label of the package.

Sixth. If it consists of or is manufactured from in whole or in part of a diseased, contaminated, filthy or decomposed substance, either animal or vegetable, unfit for food, or an animal or vegetable substance produced, stored, transported or kept in a condition that would render the article diseased, contaminated or unwholesome, or if it is any part the product of a diseased animal, or the product of an animal that has died otherwise than by slaughter, or that has been fed upon the offal from a slaughter-house, or if it is the milk from an animal fed upon a substance unfit for food for dairy animals, or from an animal kept and milked in a filthy or contaminated stable or

in surroundings that would render the milk contaminated. *Provided*, That any article of food which may be adulterated and not misbranded within the meaning of this act, and which does not contain any added poisonous or deleterious ingredient and which is not otherwise adulterated within the meaning of paragraphs four, five and six of section four of this act, or which does not contain any filler or ingredient which debases without adding food value, can be manufactured or sold, if the same be labeled, branded or tagged so as to show the exact character thereof. And all such labels and all labeling of packages provided for in any provisions of this act shall be on the main label of each package and in such position and character of type and terms as will be plainly seen, read and understood by the purchaser or consumer. *Provided, further*, That nothing in this act shall be construed as requiring or compelling the proprietors, manufacturers or sellers of proprietary foods which contain no unwholesome substances or ingredients to disclose their trade formulas except in so far as the provisions of this (act) require to secure freedom from adulteration, imitation or misbranding. But in the case of baking powders, every can or other package shall be labeled so as to show clearly the name of the acid salt which shall be plainly stated in the face of the label to show whether such salt is cream of tartar, phosphate or alum. *Provided, further*, That nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine, butterine, or kindred compounds in a separate and distinct form, and in such manner as will advise the consumer of the real character, free from coloration or ingredient that causes it to look like butter. [1905a-4]

**Director of experiment station to fix standards:** It shall be the duty of the director of the Kentucky agricultural experiment station, or under his direction, the head of the division of food inspection of the said station, to make, or cause to be made, examinations of samples of food and drugs manufactured or on sale in Kentucky at such time and place and to such extent as he may determine. He shall also make, or cause to be made, analysis of any sample of food or drug which the state board of health or the state board of pharmacy may suspect of being adulterated or misbranded, and of any sample of food or drug furnished by any commonwealth's, county or city attorney of this state. And the said director may appoint such agent or agents as he may deem necessary, who shall have free access at all reasonable hours for the purpose of examining into places wherein any food or drug product is being produced, manufactured, prepared, kept or offered for sale, for the purpose of determining as to whether or not any of the provisions of this act are being violated, and such agent or agents upon tendering the market price of any article may take from any person, firm or other corporation, a sample of any article desired for examination. [1905a-8]

**V. Miscellaneous.**

**Manufactured honey:** Any person who shall sell or cause to be sold any manufactured honey, unless such honey is so represented and designated as manufactured honey, shall, for the first offense, be fined in any sum not less than ten nor more than one hundred dollars, and for each repeated offense shall be fined not less than fifty nor more than two hundred and fifty dollars. Any person who shall sell, or cause to be sold, any such manufactured honey which contains any substance injurious to health, shall, for the first offense, be fined in any sum not less than ten nor more than one hundred dollars, and for each repeated offense shall be fined not less than fifty nor more than two hundred and fifty dollars; and such adulterated articles, by order of the court, shall be destroyed. [1281]

**Vinegar, selling without label:** All barrels, kegs or packages in which vinegar is placed and offered for sale in this Commonwealth shall be so labeled, branded or marked as to describe the process of manufacture of the contents, and shall, on the said label, brand or mark on the outside of said barrel, keg or package, state from what material the vinegar in said barrel, keg or package is made; whether from fruit by natural fermentation, or from malt, grain or acid. Any person selling or offering for sale, in this Commonwealth, any vinegar not so marked and described, or if the vinegar sold, or offered for sale, does not correspond, and is not as represented by the label, mark or brand on the barrel, keg or package, shall be fined not less than twenty-five nor more than one hundred dollars. [1282]

**Oleomargarine may be manufactured:** Nothing in this act shall be construed to prohibit the manufacture or sale of colored oleomargarine, butterine, or kindred compounds in a separate and distinct form, and in such manner as will advise the consumer or purchaser of the real character of the article, provided the coloring matter or ingredient used in coloring same is harmless, not poisonous and not deleterious to health. [Act of March 25, 1910.]

## CHAPTER 5.

### Deeds, Mortgages and Leases.

**Grants in aid of charity or religion:** All grants, conveyances, devises, gifts, appointments and assignments heretofore made, or which shall be hereafter made, in due form of law, of any lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money, stock, or choses in action, for the relief or benefit of aged or impotent and poor people, sick and maimed soldiers and mariners, schools of learning, seminaries, colleges, universities, navigation, bridges, ports, havens, causeways, public highways, churches, houses of correction, hospitals, asylums, idiots, lunatics, deaf and dumb persons, the blind, or in aid of young tradesmen, orphans, or for the redemption of prisoners or captives, setting out of soldiers, or for any other charitable or humane purpose, shall be valid, if the grant, conveyance, devise, gift, appointment, or assignment shall point out, with reasonable certainty, the purposes of the charity and the beneficiaries thereof, except as hereinafter restricted. [317]

**Seal unnecessary:** A seal or scroll shall in no case be necessary to give effect to a deed or other writing. All unsealed writings shall stand upon the same footing with sealed writings, having the same force and effect, and upon which the same actions may be founded. But this section shall not apply to, nor shall it alter, any law requiring the state or county seal, or the seal of a court, corporation, or notary, to any writing. [471]

**Estate owner may convey, when writing necessary:** The owner may convey any interest in lands not in the adverse possession of another; but no estate of inheritance or freehold, or for a term of more than one year, in lands, shall be conveyed, unless by deed or will. [490]

**Deed vests possession of grantor in grantee:** All deeds of bargain and sale, deeds to stand seized to use, deeds of release and deeds of trust shall be held to vest the possession of the grantor in the grantee to the extent of the estate intended to be conveyed. [491]

**Deeds of release:** Every deed of release shall be as effectual for the purposes therein expressed, without the execution of a lease, as if the same had been executed. [492]

**Warranty, general and special:** A covenant by a grantor in a deed, "that he will warrant the property hereby conveyed," or words of like import; or the words "with warranty," or "with general warranty," in any deed, shall have the same effect as if the grantor had covenanted that he, his heirs and personal representatives, would forever warrant and defend the said property unto the grantee, his heirs, personal representatives and assigns, against the claims and demands of all persons

whatever. A covenant by a grantor, "that he will warrant specially the property thereby conveyed," or words of like import, or the words "with special warranty," in any deed, shall have the same effect as if the grantor had covenanted that he, his heirs and personal representatives, would forever warrant and defend the said property unto the grantee, his heirs, personal representatives and assigns, against the claims and demands of the grantor and all persons claiming, or to claim by, through, or under him. [493]

**Conveyance for longer than five years or marriage agreement to be recorded:** No deed conveying any title to or interest in land, or lease of oil, gas, coal or mineral right and privilege, for a longer time than five years, nor any agreement in consideration of marriage, shall be good against a purchaser for a valuable consideration, not having had notice thereof, or any creditor, unless the same be acknowledged by the party who shall execute the same, or be proved and lodged for record in the proper office, as prescribed by law, and the provisions of this section shall apply with like protection to the creditor of, or innocent purchaser from, the heir or devisee of the grantor. [494]

**Instruments to be recorded in county where property situated:** All deeds and mortgages and other instruments of writing which are required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the clerk's office of the court of the county in which the property conveyed, or the greater part thereof, shall be. But it shall be unlawful for any county clerk or deputy county clerk to admit to record in such office any deed of conveyance of any interest in real estate equal to or greater than a life estate, unless such deed shall plainly specify and refer to the next immediate source from which the grantor or grantors therein derived title to the said real estate or the interest conveyed therein. \* \* \* Any grantor who shall lodge for record, and any county court clerk or deputy county court clerk, who shall receive and permit to be lodged for record, any deed contrary to the provisions of this section shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense. [495]

Mortgage on personalty should be recorded in county where the owner resides, regardless of county in which property is located. *Coppage v. Johnson*, 21 R., 1357; 107 Ky., 620; 55 S. W., 424; *Day v. Mack*, 24 R., 640; 69 S. W., 712.

**Deeds and mortgages, effect of failure to record:** No deed or deed of trust or mortgage conveying a legal or equitable title to real or personal estate shall be valid against a purchaser for a valuable consideration, without notice thereof, or against creditors, until such deeds shall be acknowledged or proved according to law, and lodged for record. [496]

Debt should be described in mortgage with sufficient accuracy to show, without the aid of extrinsic evidence, the nature of the lien and the amount intended to be secured. *Pearce v. Hall*, 12 Bush, 209.

Delivery of deed to grantee and its acceptance are essential to give it effect. *Ward v. Small*, 90 Ky., 198.

**Deeds and mortgages, order in which they take effect:** All *bona fide* deeds of trust or mortgage shall take effect in the order that the same shall be legally acknowledged or proved and lodged for record. [497]

**Contracts concerning land may be recorded:** Any contract for the sale of land, or any interest therein, when acknowledged or proven as deeds are required to be, may be recorded in the county in which such lands are situated, in the same offices and books in which deeds are recorded, and the record of all such contracts recorded shall, from the time of lodging the same for record, be notice of such contracts to all persons. [500]

**Married women may convey estate:** Married women may convey any real or personal estate which they own, or in which they have an interest, legal or equitable, in possession, reversion, or remainder. [505]

**Conveyance by married woman, how executed:** The conveyance may be by the joint deed of husband and wife, or by separate instrument; but in the latter case the husband must first convey, or have theretofore conveyed. The deed as to both husband and wife may be acknowledged or proven and recorded as heretofore, or by this act, provided. [Sec. 4, act of March 23, 1910.]

**Deed of married woman, how acknowledged:** Where the acknowledgment of a deed shall be taken by an officer of this state or by an officer residing out of this state, he may simply certify that it was acknowledged before him, and when it was done. [Sec. 5, act of March 23, 1910.]

**Tax to be paid before deed legally lodged for record:** No deed shall be held to be legally lodged for record until the tax be paid thereon. [520]

**Sale or concealment of mortgaged personalty:** If any person shall fraudulently sell, conceal or dispose of any personal property on which there is at the time a mortgage of record, with intent to prevent the enforcement of the lien thereon, or the foreclosure of the mortgage and sale of the property, he shall be fined not less than ten nor more than one thousand dollars, or imprisoned not less than fifteen nor more than ninety days, or both so fined and imprisoned. [1358]

**Conveyance of land subject to redemption:** Land sold under execution which is subject to redemption shall not be conveyed by the officer making the sale until the expiration of one year from the sale, nor shall he convey after that period, if the land has been redeemed, or the affidavit is made and the money deposited with the clerk, as in this article provided, unless in pursuance to an order of a court, or the written assent of the defendants in the execution. [1685]

**Gifts, conveyances and transfers without consideration:** Every gift, conveyance, assignment, transfer or charge made by a debtor,

or upon any of his estate, without valuable consideration therefor, shall be void as to all his then existing liabilities, but shall not, on that account alone, be void as to creditors whose debts or demands are thereafter contracted, nor as to purchasers with notice of the voluntary alienation or charge; and though it be adjudged to be void as to a prior creditor, it shall not therefore be deemed to be void as to such subsequent creditors or purchasers. [1907]

**Possession must accompany sales of personal property:** Every voluntary alienation of or charge upon personal property, unless the actual possession, in good faith, accompanies the same, shall be void as to a purchaser without notice, or any creditor, prior to the lodging for record of such transfer or charge in the office of the county court for the county where the alienor or person creating the charge resides. [1908]

**Sales, mortgages, etc., to prefer:** Every sale, mortgage or assignment made by debtors, and every judgment suffered by any defendant, or any act or device done or resorted to by a debtor, in contemplation of insolvency and with the design to prefer one or more creditors to the exclusion, in whole or in part, of others, shall operate as an assignment and transfer of all the property and effects of such debtor, and shall inure to the benefit of all his creditors (except as hereinafter provided) in proportion to the amount of their respective demands, including those which are future and contingent; but nothing in this article shall vitiate or affect any mortgage made in good faith to secure any debt or liability created simultaneously with such mortgage, if the same be lodged for record within thirty days after its execution. [1910]

**Real estate, disposition of by will or deed:** Any interest in or claim to real estate may be disposed of by deed or will in writing. Any estate may be made to commence in future by deed, in like manner as by will, and any estate which would be good as any executory devise or bequest, shall be good if created by deed. [2341]

**Mortgage — Option to purchase real estate.** Every kind of interest in real estate that is subject to sale and assignment may be mortgaged. A contract for an option to purchase real estate, at an agreed price within a specified time, is enforceable, and such option may be sold, assigned or mortgaged. *Bank of Louisville v. Baumester*, 87 Ky., 6.

**Fee-simple title passes unless otherwise expressed:** Unless a different purpose appear by express words or necessary inference, every estate in land created by deed or will, without words of inheritance, shall be deemed a fee-simple or such other estate as the grantor or testator had power to dispose of. [2342]

**Deed and warranty passes estate owned at time:** A deed and warranty of land purporting to pass or assure a greater right or estate than the person can lawfully pass or assure, shall operate to convey or warrant so much of the right and estate as such person can lawfully convey. [2351]

**Deeds pass buildings and appurtenances on land:** Every deed shall, unless an exception be made therein, be construed to include all buildings, privileges and appurtenances of every kind attached to the lands therein conveyed. [2357]

**Lien for purchase money:** When any real estate shall be conveyed, and the consideration, or any part thereof, remains unpaid, the grantor shall not have a lien for the same against *bona fide* creditors and purchasers, unless it is stated in the deed what part of the consideration remains unpaid. [2358]

**Deed by sheriff to purchaser:** All conveyances of land sold for taxes shall be made in the name of the Commonwealth to the person entitled thereto. When the right to redeem shall have expired, the sheriff or collector then in office (where the auditor of public accounts is not directed to make deeds of conveyance as provided in section 32 [154]), shall convey to the purchaser the property described in his certificate of purchase, for which deed shall be allowed a fee of one dollar and fifty cents, to be paid by the grantee in the deed. [4159-37]

(Act of March 23, 1910.)

**Option to sell land may be recorded:** That any option or offer to sell land, or other property, or any interest therein, when acknowledged or proven as deeds are required to be, may be recorded in the county in which such land or property is situated, in the same offices in which deeds are recorded, and in a separate book kept for that purpose, and the record of all such recorded options or offer to sell, shall, from the time of lodging the same for record, be notice of such contracts to all persons.

## CHAPTER 6.

### Descent and Distribution of Property.

(See Chapter on Husband and Wife.)

**Real estate of person dying intestate:** When a person having right or title to any real estate of inheritance shall die intestate as to such estate, it shall descend in parcenary to his kindred, male and female, in the following order, except as otherwise herein provided, viz.:

1. To his children and their descendants; if none, then—
2. To his father and mother, if both are living, one moiety each; but if the father be dead, then the mother, if living, shall take the whole estate; if the mother be dead, then the whole estate shall pass to the father; if no father nor mother, then—
3. To his brothers and sisters and their descendants; if none, then—
4. One moiety of the estate shall pass to the paternal and the other to the maternal kindred, in the following order:
  5. First, the grandfather and grandmother equally, if both be living; but if one be dead, then the entire moiety shall go to the survivor; if no grandfather or grandmother, then—
  6. To the uncles and aunts and their descendants; if none, then—
  7. To the greatgrandfathers and great-grandmothers, in the same manner prescribed for grandfather and grandmother in sub-section 5; if none, then—
  8. To the brothers and sisters of the grandfathers and grandmothers and their descendants; and so on in other cases without end, passing to the nearest lineal ancestors and their descendants as herein prescribed.

9. If there is no such kindred to one of the parents, the whole shall go to the kindred of the other. If there is neither paternal nor maternal kindred, the whole shall go to the husband or wife of the intestate; or, if the husband or wife is dead, to his or her kindred, as if he or she had survived the intestate and died entitled to the estate. [1393]

**Descendants of persons entitled to inherit take per stirpes:** When any or all of a class first entitled to inherit are dead, leaving descendants, such descendants shall take *per stirpes*, or by stocks—that is to say, by representation—the share of their respective deceased parents. [1394]

**Collaterals of the half blood take half as much as whole blood.** Collaterals of the half blood shall inherit only half as much as those of the whole blood, or as ascending kindred, when they take with either. [1395]

**Inheritance not barred, although derived through alien:** In making title by descent, it shall be no bar to a party that any ancestor,

through whom he derives his descent from the intestate, is or has been an alien. [1396]

**Bastards, inheritance by:** The estate of bastards shall descend and be distributed in the same manner as that of persons born in lawful wedlock; except that the inheritance shall go to the mother and her kindred; and bastards shall be capable of inheriting from their mother and their mother's kindred in the same manner. [1397]

**Child born before marriage:** If a man having had a child by a woman shall afterwards marry her, such child or its descendants, if recognized by him before or after marriage, shall be deemed legitimate. [1398]

**Posthumous child to inherit:** A child born of the widow, within ten months after the death of the intestate, shall inherit from him in the same manner as if he were in being at the time of such death. [1399]

**Slave marriages:** That in all cases where, during the time of slavery in Kentucky, any male and female colored persons lived together and cohabited with each other as husband and wife to each other, and any child or children was the result of such cohabitation, such child or children shall be held to be the lawful child or children and legal heirs of both the father and mother in all cases where the father or mother shall die or shall have died the owner or owners of any real or personal property, and legally entitled to inherit such property of both father and mother: *Provided*, That in cases where such father or mother subsequently intermarried by license with some other colored person, and a child or children resulted from such marriage by license, then and in all such cases the children resulting from the slave marriages shall only be entitled to inherit such proportions of the property of their father or mother as the number of children resulting from slave marriages bears to the number of children resulting from the subsequent marriage by license: *And provided, further*, That this act shall not apply in any case where the property of either father or mother has passed to innocent purchasers or heretofore divided out or sold, or distributed by the order or judgment of any court of competent jurisdiction. [1399a]

**Real estate, when to descend to parent giving it:** When a person dies intestate and without issue, having real estate of inheritance, the gift of either of his parents, such parent, if living, shall inherit the whole of such estate. [1400]

**Real estate of infant dying without issue:** If an infant dies without issue, having the title to real estate derived by gift, devise or descent from one of his parents, the whole shall descend to that parent and his or her kindred as hereinbefore directed, if there is any; and if none, then in like manner to the other parent and his or her kindred; but the kindred of one shall not be so excluded by the kindred of the

other parent, if the latter is more remote than the grandfather, grandmother, uncles and aunts of the intestate and their descendants. [1401]

**Parceners have equal rights in inheritance:** No parcener shall have any privilege over another in any election, division or matter to be done or made, concerning lands which shall have descended to them. [1402]

**Personal estate of intestate:** Where any person shall die intestate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration and debts, shall pass and be distributed among the same persons, and in the same proportions, to whom and in which real estate is directed to descend, except as follows:

1. The personal estate of an infant shall be distributed as if he had died after full age.

2. An alien may be a distributee as though he were a citizen.

3. See section 2132, Chapter on Husband and Wife, giving husband one-half of surplus.

4. See section 2132, Chapter on Husband and Wife, giving wife one-half of surplus.

5. This provision requires the appraisers of the estate of an intestate to set apart to the widow or infant child or children a list of articles, such as domestic animals and household goods, and exempts same from distribution and sale. [1403]

**Renunciation of will by widow:** When a widow claims her dowable and distributable share of her husband's estate, she shall be charged with the value of any devise or bequest to her by his will; or she may, though under full age, relinquish what is given her by the will, and thereupon receive her dower and distributable share as if no will had been made. \* \* \* Nothing herein shall preclude the widow from receiving her dowable and distributable share, in addition to any devise or bequest made to her by the will, if such is the intention of the testator, plainly expressed in the will, or necessarily inferable therefrom. [1404]

**Wife living in adultery forfeits personalty of husband:** Where the wife voluntarily leaves her husband and lives in adultery, she shall have no part of the personal estate of which he dies intestate, unless her husband, after she so left him, became reconciled to her and suffered her to live with him. [1405]

**Husband living in adultery forfeits personalty of wife:** Where the husband separates from the wife and lives apart from her in adultery, and she dies without a reconciliation and cohabitation, he shall have no part of her personal estate as a distributee. [1406]

**Advancements:** Any real or personal property or money, given or devised by a parent or grandparent to a descendant, shall be charged to the descendant of those claiming through him in the division and

distribution of the undevise~~d~~ estate of the parent or grandparent; and such party shall receive nothing further therefrom until the other descendants are made proportionately equal with him, according to his descendible and distributable share of the whole estate, real and personal, devised and undevise~~d~~. The advancement shall be estimated according to the value of the property when given. The maintaining or educating, or the giving of money to a child or grandchild, without any view to a portion or settlement in life, shall not be deemed an advancement. [1407]

**Advancements not to affect share of widow:** Advancements made to distributees shall not be taken as a part of the descendants' personal estate in estimating the distributable share of the widow therein. [1408]

## CHAPTER 7. Drainage and Watercourses.

- I. General laws.
- II. County reclaiming swamp land.
- III. Drainage of swamp land by corporations.

### I. General Laws.

The laws pertaining to drainage are too voluminous to reproduce in a book of this size, and for this reason only those of a general nature and of especial interest to farmers are given. Persons desiring to go into the subject more extensively will find the subject fully set out in sections 2380-2417a of the Kentucky Statutes.

**Ditch or drain may be constructed or altered:** That the county judge of any county shall have power at any regular session of the county court when the same shall be conducive to the public health, convenience, or welfare, or when the same will be of public benefit or utility to the people in whose vicinity any drain or ditch is located, to cause to be constructed or cleaned out, drained or widened, or deepened, or otherwise improved, or all, as hereinafter provided, any such ditch or drain, with or without arms, or branches, or forks, or tributaries within said county. [2380-1]

**Petition:** Before the county judge shall establish any such ditch, drain or water-course, there shall be filed with the county clerk of such county a petition, signed by one or more of the land owners whose lands will be liable to be affected by or assessed for the expenses of construction of the same, setting forth the necessity therefor, with a general description of the proposed starting point, route and terminus, and of any tributary thereto; and shall give a bond, with good and sufficient freehold sureties, payable to the state, to be approved by the clerk, conditional to pay all expenses in case the county judge shall fail to establish said proposed ditch, drain or water-course. \* \* \* [2380-2]

**Deduction for work done:** Whenever a public ditch, drain or watercourse is located wholly or in part in the bed of a private ditch already or partially constructed the viewers shall make an estimate of the number of cubic yards already excavated and cost of the same, on each tract of land and deduct the same from the assessment thereon. [2380-3]

**Assessments of lands benefited:** All land benefited by a public drain, ditch or water-course shall be assessed in proportion to the benefits for the construction thereof, whether it passes through said lands or not; and the viewers, in estimating the benefits to land not traversed by said ditch, shall not consider what benefits such land will receive after

some other public ditch or ditches shall be constructed, but only the benefits that will be received by reason of the construction of the public ditch, as it affords an outlet for the drainage of such lands. [2380-4]

**Location of ditch, drain or water-course:** In locating a public ditch, drain or water-course, the viewers may vary from the line described in the petition, as they deem best. \* \* \* [2380-5]

**Damages, assessment of:** In locating a public ditch, drain or water-course, the viewers shall estimate the damages, if any, that any person or persons will sustain by reason of the construction of such ditch, and assess such damages to the parties owning the lands benefited in proportion as each tract of land is assessed for benefit. [2380-6]

**Route and location:** The viewers if they find the route proposed is not such as best to effect the object sought, or that the proposed drainage can be effected as well in connection with a ditch necessary for the improvements of public highways already established, or such as may be thereafter required, shall proceed to establish the route. \* \* \* [2380-7]

**Notice to persons affected, to be given:** Upon the report of the viewers being filed, unless it shall be dismissed, the court shall issue process against the owners and tenants of the land through which said ditch, drain or water-course, arms, branches, forks or tributaries are to be located, and of the land to be assessed, as shown by said report, to show cause why said report shall not be confirmed, and shall make such orders as to non-residents and persons under disability as are required by the Civil Code of Practice in actions against them in the circuit court. \* \* \* [2380-9]

**Hearing of application by court:** Said county court, when all parties are before the court as provided in section 9, shall, if there be no remonstrance or exception, proceed to hear said petition; and if the viewers' report is made in accordance with the provisions of this act, and it be in favor of the proposed work, and the court finds the proposed drain to be of public utility or conducive to public health, or of public benefit or convenience, it shall establish the same as specified in the report. But if the viewers report against the proposed work, the court shall dismiss the petition and tax the cost as hereinafter provided. And when damages are awarded to any person or persons or corporations, as provided by this act, the court shall order the same to be assessed and paid by the party or parties benefited by the proposed work, to the person, persons or corporations entitled thereto, before the construction of said ditch. [2380-10]

**Exceptions, remonstrance, appointment of reviewers:** Any person or persons interested in the location of said proposed ditch may file exceptions, or a remonstrance against the ditch by setting forth his grievance therein, and any person deeming his assessment too high, or

the damage allowed him too low, may also except, or remonstrate for such reason against the action of the viewers, but before filing such remonstrance or exception, the person or persons so excepting or remonstrating shall file with the county clerk of said county a bond for the payment of the costs that may accrue upon said exceptions or remonstrances. \* \* \* [2380-11]

**Collection of assessments:** Whenever the court establishes the public ditch or drain he shall certify to the sheriff the estimate of the total cost of construction of the work and the amount set apart and apportioned to each parcel of land to each corporate road, or railroad, or county whose highways are benefited, together with the cost of said petition and all other necessary and proper expenses incurred in the establishing of said ditch, which report or certificate shall be a copy of the same filed by the viewers in said cause, and shall also be signed by the said viewers and approved by the county judge. When this shall come to the hands of the sheriff it shall become his duty to notify each party against whose land assessments are made that same are in his hands for collection and that unless same are paid within 120 days, that a penalty of six per centum of the sum assessed shall be added to said assessment; and such penalty shall become part of the ditch fund for the keeping and maintenance of said ditches after the costs of collecting same are paid. \* \* \* [2380-16]

**Appeal, time in which must be taken:** Any person or corporation aggrieved thereby may pray and shall be granted, in the order or judgment, an appeal from any final order or judgment of the court made in the proceedings and entered upon the record. \* \* \* [2380-17]

**Construction of work, letting contracts:** After the transcript of the proceedings had in the circuit court and all other papers in the case are returned to the county clerk's office the clerk shall cause such entry to be made on the records as may be necessary to give effect to the judgment of the circuit court, within fifteen days from the order of said circuit court, or if there be no appeal within twenty days from the establishment of said ditch or drain, the ditch commissioner shall let out contracts for the work in accordance with the report of the viewers to the lowest and best bidder, at such a price not to exceed the estimated cost as set out in the viewers' report. He shall have the power to allot all or any portion of said work to a contractor, but before doing same he shall take from said contractor a contractor's bond, with two freehold securities, payable to the Commonwealth of Kentucky, to be approved by the county judge, conditioned that he will perform his contract and pay all damages which may accrue to any person, or persons by reason of his failure to complete the job within the time required in the contract thereof. Before allotting said contract or contracts the commissioner shall cause to be published in some paper in the county, in which the said drain, ditch or water-course is proposed to be established, an

advertisement that he will, on some certain day, at the court house in said county, receive bids for the work upon said ditch, which notice shall be published for two successive weeks before letting of said contract, and shall also post a copy of said notice at the court house door, and in three public places in the vicinity of said ditch or drain. Any contract not completed within the time fixed in the contract and bond, shall be relet by the said commissioner to the lowest responsible bidder who shall give a like bond as the original bidder, and the person and his security, to whom the contract was first let shall be liable for the additional costs and expenses which may be incurred by his failure to complete the work as required by his contract. [2380-19]

**Completion and inspection of work, collection of assessment:** It shall be the duty of the county surveyor or engineer, on being notified by any land-owner that his allotment, or by any contractor that his job, is completed, to inspect the same; and if he finds that it is completed according to the specifications of the report on which the ditch was established, he shall accept it and give to the land-owner, or, in case the job has been sold, to the contractor, a certificate of acceptance stating that said allotment or job is completed according to such specifications. And if any share or allotment has been sold to a person, not the owner of the land assessed therefor, he shall, in addition, state the amount due the contractor for constructing the same from the owner of the land, which certificate shall be a lien on the land assessed for such share or allotment, and shall be due and payable immediately by the owner of the land. \* \* \* [2380-21]

**Commissioner of ditches:** The county judge of the county in which any such ditch shall be established, or judge of the county in which the greater length of any such ditch is established, in case it shall be established in two or more counties, shall appoint a commissioner thereof whose duty it shall be to keep the ditch at all times open and free from drift and obstruction of all kinds, and his compensation shall be fixed by the fiscal court of such county. And all lands originally assessed for the construction of said ditch shall contribute in proportion to their original assessment to provide a fund for the payment of the commissioner's salary, and the other necessary cost of keeping such ditch open and free from obstruction: *Provided, however,* That no assessment for such purpose shall exceed ten per centum of the original assessment, and shall be made by the fiscal court of such county in which such commissioner is appointed, and such assessment when made shall be placed in the hands of the sheriff and collected as other taxes are collected, and when so collected, shall be turned over to the ditch commissioner, and shall be paid out by him only upon the order of the county judge. The commissioner may employ such help as may be necessary, with the approval of the county judge, to keep the ditch open and free from

obstruction, and the help so employed shall be paid by the commissioner upon the order of the county judge. The commissioner shall report in writing to the county court every three months all receipts and expenditures had and made by him, and the condition of all the ditches in his county under his control and each report shall be certified by the county judge to the fiscal court at its next regular meeting. The commissioner shall execute a bond with good and sufficient freehold securities payable to the commonwealth of Kentucky, to be approved by the county judge, conditioned upon the faithful performance of his duties as said commissioner. [2380-22, 23, 24.]

**Ditch in two or more counties:** Where a ditch is petitioned for which will require a location in more than one county, application shall be made to the county court of each of said counties, and one viewer selected by each of said courts, and an engineer selected by the court of the county having the greatest length of said ditch, who shall make duplicate reports, filing one in each county; application for damages shall be made and objections to assessments shall be made in the county, and appeals from the findings shall be taken to the circuit court of the county in which the greatest length of such ditch is located. [2380-27]

**Public ditch, what is:** That hereafter whenever a public ditch, constructed as provided in the act of July 10, 1893, for the drainage of wet lands, chapter 76, article 8, of the Kentucky statutes, as amended by the act which became a law March 23, 1900, without the signature of the Governor, empties into a creek in the state of Kentucky, said creek, from the mouth of said ditch to the mouth of the creek, is hereby declared to be, to all intents and purposes, a public ditch, and subject to the law set forth in said act and amended act: *Provided*, That the provisions of this act shall not apply to any stream that has been declared by the General Assembly of the Commonwealth of Kentucky to be a navigable stream, to the extent of the part thereof that has been so declared navigable, nor shall it apply to any stream emptying into a navigable stream up to the highest point thereon reached by back water from such navigable stream, provided the back water in the stream, to be exempted from this act, reaches a point thereon five miles or more above its confluence. All acts or parts of acts in conflict with this act are hereby repealed. [2412a-1]

**Obstruction of creek forbidden:** That, hereafter, it shall be unlawful for any person to place any obstructions in said creeks or for the owners of the lands, through or adjacent to which they run, to throw any obstructions of any kind therein or to permit brush or trees of any kind or other growth to grow therein, or to permit same to be obstructed by drift or other things. [2412a-2]

**Owners of adjacent land to keep creek open:** The owners of the lands through or by which the creeks run, shall, in March and October of each year, remove from said creeks all growths and obstructions

of every kind and keep said creeks free from same. Where the lands on the sides of said creeks are owned by different persons, the owners on each side shall keep the said creeks free from growths, drifts and obstructions of every kind, from the top of the creek bank to the center thereof, where their land touches said creeks. [2412a-3]

## II. County Reclaiming Swamp Land.

**Counties authorized to reclaim swamp lands:** That the several counties in this commonwealth be, and they are hereby, authorized to remove any ponds, pools or swamp marshes, or reclaim swamp land that may cause sickness in any of said counties, by ditching, leveeing or cleaning out logs and brush that may cause any creek therein to scatter or form pools of stagnant water therein, to be paid for out of the county levy, or by taxation of the taxable property in said county subject to taxation for state purposes. [2413]

**Tax may be levied, submission of question:** Should the probable cost of such improvement be more than the income and revenues of such county for the year in which the same is to be constructed, the county court shall order an election to be held in such county to ascertain the will of the qualified voters thereof, to be held in all respects as now provided by law for holding such elections. The proposition to be submitted to the people of such county shall state the amount and object for which the same is to be expended: *Provided*, The same shall not exceed an amount equal to two per centum of the value of the taxable property for state purposes, to be ascertained by the assessment next before the last assessment for state purposes; *And provided, further*, That debt so voted for shall be so divided as not to require a tax rate of more than fifty cents on the hundred dollars' worth of property therein subject to taxation for state purposes. \* \* \* [2414]

**Fiscal court may contract for work:** The fiscal court of such county shall have power to contract with an individual, company or corporation to do and perform all work and to furnish all needed material in the execution and completion of any such improvement so voted for in any county desiring the same, and may contract to pay for the same in said bonds, or may sell said bonds and pay for said improvement out of the proceeds thereof. \* \* \* [2415]

**Taxing district may be laid off:** Should such pond, pool, swamp, marsh or swamp land be situate in a small part of the county, and the legal voters thereof desire to remove the same, to ditch and levee any swamp land to dry out the same to promote the health of such part of such county, and the cost of such improvement amounts to more than the revenue and income of such county for that year, the county court may lay off such part of such county into a taxing district for the purpose of taxing the legal voters and inhabitants thereof, subject to

taxation for state purposes, to construct the same, and submit the proposition to said taxing district in the same way herein provided for, submitting such proposition to the whole county. \* \* \* [2416]

### III. Drainage of Swamp Land by Corporations.

**Drainage by corporations:** That in those counties of this State in which corporations have heretofore existed, having for their object the purpose of improving the public health by draining, ditching and working up swamp land or lands which need drainage so as to make them more suitable for cultivation, such corporations shall be continued in force for said objects and purposes and shall have the benefit not only of the law governing them and the present laws touching the subject of drainage enacted by the General Assembly of Kentucky and embodied in the Kentucky Statutes, but also of the provisions hereinafter enumerated. [2417a-1]

## CHAPTER 8.

### Fences.

- I. Farm fences.
- II. Railroad fences.

#### I. Farm Fences.

**Lawful fence, what constitutes:** Every strong and sound fence of rails, or plank, or wire, or wire and plank, or iron, or of hedge, four and one-half feet high, and being so close that cattle can not creep through or made of stone or brick, four and one-half feet high, or a ditch three feet deep, and three feet broad, with a hedge two feet high, or a rail, plank, stone, smooth or barbed wire, or brick fence two and one-half feet high on the margin thereof, the hedge or fence being so close that cattle can not creep through, shall be deemed a lawful fence. [1780]

**Damages for entering premises over lawful fence:** If any cattle shall enter into any grounds over or through a lawful fence, the owner or manager of the cattle shall, for the first breach, be liable to the owner or occupant of such ground for such damages to his trees, grass, grain, crops, cattle or land as he may have sustained thereby; and for every subsequent breach by the cattle of the same owner, double damages. And after giving the owner or manager of such cattle at least five days' notice, in writing, of the fact of two previous breaches, into the same inclosure by the cattle of the same owner, the owner or occupant of such inclosure shall have a lien on the cattle to indemnify him on account of any damages sustained by the third or any subsequent trespasses of such cattle and may enforce his lien by action as in cases of a mortgage lien. [1781]

**Division fences:** Persons owning adjoining lands may agree in regard to the erection of division fences between them, and the keeping the same in repair; and if the agreement be reduced to writing, and signed by the parties thereto, and acknowledged or proven, as deeds are required to be, it may be entered of record in the office of the county court clerk of the county in which the land is situated, and shall have the same effect as a deed. [1782]

**Division fences, duty of each party:** When a division fence exists by agreement or acquiescence or as provided in section 1784, each party thereto shall be required to keep a lawful fence on his proportion of the line; and in case he neglects or fails to do so, the party so failing shall be liable for all the damages to trees, grass, grain, crops, cattle or land the other party may sustain from the trespassing of cattle or other stock over said division fence at a point at which he was bound to keep the same in repair; but shall not be liable for damages in case they break through or pass over the fence at any point the other is

bound to keep in repair, unless it be a lawful fence; and the person so damaged shall have a lien on the cattle, as set forth in section 1781 of this article. [1783]

**Division fences, when party required to build his portion:** When a division fence is desirable, or is made necessary by the division of improved or inclosed lands, or when no fence or no division fence exists between the improved or inclosed lands of adjoining owners, or the lands where the right of way is owned by one party, either party may, after he has built a lawful fence upon his proportion of the line, require the other to erect a lawful fence out of planks, rails, wire and plank, upon his proportion of the line; but no barbed wire shall be used, without the consent of both parties to the fence; and if he fail so to do, after three months' notice, in writing, may erect such fence, and the cost of erecting such fence shall constitute a lien, superior to all others, upon the land of the recusant in favor of the party erecting such fence, and shall be enforced as other liens. But the provisions of this section shall not apply where the party who erects the fence has received compensation for fencing his entire line, or where written agreements concerning the fencing have been entered into. But nothing herein shall be construed to conflict with an act requiring railroad corporations and other persons operating and controlling railroads and land owners to fence their right of way and railroad track, and to construct barriers and cattle guards at certain public road and highway crossings, and to maintain and keep the same in repair, and prescribing remedies and penalties for failing to do so, approved August fifth, one thousand eight hundred and ninety-two, that no barbed wire shall be used by any one in construction of a division fence, except by consent of both parties to the fence. [1784]

**Repair of division fences:** If one part owner of a division fence shall fail, after reasonable notice, in writing, to repair the same as far as is needful and proper, the other part owner may proceed to repair the same, and recover from the recusant the cost of the repairs. [1785]

**Division fences, owner of uninclosed lands:** No one shall be compelled to contribute to the erection of a partition fence unless he desires to have his lands inclosed; but whenever the owner of uninclosed lands desires to inclose them, he shall not be permitted to unite his outside boundary fences to the fences of anyone else, unless he pays to the owner of said fences the fair value of one-half of all fences that would thus become partition or division fences, and consent, in writing, to thereafter keep up and maintain one-half of same. Neither party shall remove same without the consent of the other, except between the first of December and the first of March of the ensuing year. [1786]

**Notice required before removal:** No such change as named in the last section shall be made unless three months' previous notice, in

writing, shall be given to the opposite party by the person desiring to make the same. [1787]

**Damages where cattle break over lawful fence:** If the owner or bailee of cattle shall have a lawful fence, and they shall break through or over his fence, and go upon the premises of another, he shall not be responsible for the first trespass, but shall be liable for the damages of all subsequent trespasses. [1788]

## II. Railroad Fences.

**Railroad company required to fence as other land-owners:** That when any corporation, or person owning or controlling a railroad in this commonwealth, owns right of way, and its railroad shall have been constructed and in operation for the period of five years, the same is hereby put on equal terms and obligations with other land-owners owning adjoining lands in this commonwealth. [1789]

**Fence to be constructed by railroad and land-owners:** That every such corporation or person owning or controlling and operating a railroad in this commonwealth, and owning right of way, shall construct and maintain a good and lawful fence on one-half of the distance of the division line between such rights of way and the adjoining lands except as is hereinafter provided; and that every owner of land or lands adjoining any rights of way of such corporation or person as aforesaid shall construct and maintain a good and lawful fence on one-half of the distance of the division line between such land or lands and such rights of way except as is hereinafter provided. [1790]

**When one party has built other may be required to build:** That when either party, either the corporation or person owning or controlling and operating such railroad, or the owner of lands adjoining the right of way thereof, has constructed or does construct a good and lawful fence on the division line between such right of way and the lands adjoining the same for one-half the distance of said line, and the other party has not constructed such fence on said line for half the distance thereof, nor has paid a sum sufficient to construct such fence, or any sum by agreement in lieu thereof, the party who has constructed such fence, as herein provided, shall, in writing, notify the party in default of the length of the division line between them, and that he (the party serving such notice) has constructed a good and lawful fence on said division line for one-half the distance thereof; and it shall be the duty of the party on whom such notice is served, and he is hereby required, to construct a good and lawful fence on the other half of the distance of said division line, within four months after date of receiving said notice. Where the corporation, or person owning or controlling and operating the railroad, is in default, such notice may be served on the nearest station agent thereof. If the party on whom such notice is

served fail to construct such fence as is herein provided, and within the time prescribed, such party so in default shall be fined one dollar for each and every day after the expiration of the said period of four months during which such fence shall not have been constructed. Said fines may be recovered by warrant in the name of the commonwealth of Kentucky before any court of competent jurisdiction. [1791]

**Exemption from provisions of this law:** That the provisions of this act shall not apply in any case wherein any corporation or person owning or controlling and operating such railroad has furnished the material to construct a fence, or condemned its right of way, and paid the owner or his vendor damages, in the estimation of which the cost of fencing was taken into consideration, nor be so construed as to require such corporation or person as aforesaid to build any fence along the line through any town or city, or across any public or private passway; nor shall such corporation or person be required to construct such fences as hereinbefore provided through unimproved and uncultivated lands until the owner of such lands shall have previously inclosed such lands on three sides with sufficient fences, or unless such land be so inclosed with fences and a river, creek, bluff, or such other natural barrier as will prevent the egress of stock. [1792]

**Cattle guards:** That all corporations and persons owning or controlling and operating railroads as aforesaid shall erect and maintain cattle guards at all terminal points of fences constructed along their lines, except at points where such lines are not required to be fenced on both sides, and at public crossings. But where there is a private passway across said railroad, the land-owner for whose benefit it is kept open shall bear one-half of the expense of cattle guards and gates, the former to erect the gates, the corporation or person operating the railroad to erect the cattle guards. [1793]

**Land-owner who has built entire fence may remove his part:** That any land owner, who has already built a lawful fence along the whole distance of the division line between his land and the right of way of any railroad, shall have the right (in the absence of any agreement to the contrary), after giving three months' notice to the corporation or person operating said railroad (to be served on the nearest station agent) of such intention to move one-half of said fence: *Provided, however,* He shall not, in removing such part of his fence, cause such corporation or person aforesaid to erect water-gaps, and to fence at points where the grade of the road-bed is of such character as may render fencing unnecessary. [1794]

**Farm fence law applies:** All laws and parts of laws governing the construction of farm fences are held hereby to apply to railroad fences in all cases where, by the provision of this act, railroad corporations are required to fence their right of way. [1795]

**Law not applicable to owner who has received compensation:** That this act shall not apply to any land where the owner or his vendor has received compensation for fencing the same. [1796]

**Company shall erect entire fence, when:** That when the owner of any land or lands, or any immediate or remote grantor or vendor of such owner, has given to the corporation or person owning or controlling and operating any railroad a right of way through such land or lands free of charge, then the entire fencing on the division lines between such lands and the right of way of such railroad shall be done by and at the cost of the corporation or person owning or controlling and operating such railroad, said fencing to be done as required by this act. [1797]

**Parties may agree concerning fences.** That nothing in this act shall be construed as preventing corporations, or persons owning or controlling and operating railroads, and owners of lands adjoining such rights of way, from entering into contracts for the construction of fences of the character contemplated by this act; and lawful fences constructed under such contracts shall be a sufficient compliance with the provisions hereof. [1798].

**Fences between parallel railroads or turnpikes:** That where two railroad companies adjoin lands or rights of way, or a railroad company and turnpike company adjoin land or rights of way, running parallel with no tillable or grazing lands between their rights of way, the railroad company shall not be required to build any fence along its side next to said pike or railroad, unless the turnpike or other railroad company has first built its half along said division line. [1799].

## CHAPTER 9.

### Fertilizers.

#### **Sample to be furnished director of experiment station before sale:**

In each year, before any person or company shall sell, offer or expose for sale in this state any commercial fertilizer, said person or company shall furnish to the director of the Agricultural Experiment Station of the Agricultural and Mechanical College of Kentucky—which station is hereby recognized as the "Kentucky Agricultural Experiment Station," a sealed quantity of such commercial fertilizer, not less than one pound, sufficient for analysis, accompanied by an affidavit that the sample so furnished is a fair and true sample of a commercial fertilizer which the said person or company desires to sell in this state, and said affidavit shall also state the name and address of the manufacturer, the name of the fertilizer, the number of net pounds in each package, and the minimum percentages of the essential ingredients guaranteed in each fertilizer, in such form and manner as may be prescribed by said director. [1882-1].

**Labels furnished by director:** The director of said experiment station, upon receipt of affidavit and sample as provided, for in section 1 and upon receipt of the fees hereinafter provided, shall issue to said person or company a sufficient number of labels, to tag not less than twenty (20) tons of said fertilizer, in which label shall be printed the name and address of the manufacturer, the name of the fertilizer, the number of net pound in each package, the date of said analysis, the estimate value per hundred of the fertilizer, and the minimum percentage composition in terms approved by the said director, as certified to in affidavit furnished by said person or company, together with a certificate from the director over his *fac simile* signature, authorizing the sale of such package according to the provisions of this act. [1882-2]

**Label to be attached to each package:** Every bag or other package or quantity of any commercial fertilizer, in any shape or form whatever, sold or offered for sale in this State, shall have attached to it in a conspicuous place a label as provided in section 2. [1882-3]

**Penalty for violation of law:** Any manufacturer or vendor of any commercial fertilizer, or any person or company who shall sell, offer or expose for sale any fertilizer without having previously complied with the provisions of this act, shall be fined not less than one hundred nor more than five hundred dollars for each violation or evasion of this act. [1882-4].

Sections 5, 6 and 7 of this act authorize the director to sell the labels, the use of the money received to meet the expenses of analysis, inspection, etc., and authority to enforce the law.

**Analysis to be made by director of station for purchasers:** Any person not a dealer in or agent for the sale of any fertilizer, who may purchase any commercial fertilizer in this State for his own use and not for sale, may take a sample of the same for analysis, which analysis shall be made by the said experiment station free of charge. Such samples for free analysis shall be taken by the purchaser in the presence of the person, company or agent selling the fertilizer from at least ten (10) per cent of the sacks or other packages comprising the whole lot purchased, and shall be thoroughly mixed, and at least one pound of the material after mixing must be put into a jar or can, securely sealed and marked in such a way as to surely identify the sample and show by whom it was sent, without giving the name of the fertilizer or the person from whom it was purchased, and must be forwarded to the director of the Kentucky Agricultural Experiment Station, Lexington, Kentucky. The purchaser shall also send with the sample a certificate signed by himself and witness, or by two witnesses, stating the sender has purchased the fertilizer for his own use and not for sale, and that the sample was taken in the manner prescribed in this section: *Provided, however,* That the person, company or agent shall refuse to witness the taking of the sample, then the sample may be taken at the time of the purchase in the manner already described in the presence of two witnesses, who shall certify to the manner of taking the sample. The purchaser shall preserve the official label from one of the bags or other packages sampled, to be sent to the director after having received the report of the analysis of the sample, and at the same time he shall furnish to the director the name and address of the firm of whom the fertilizer was purchased, and the amount purchased, and any person having sent a sample for free analysis, under the provisions of this section, who shall, after having received the report of analysis of the same, refuse to furnish the required information, shall thereafter forfeit the privilege of free analysis of fertilizers under this section. But if any sample shall have been submitted for free analysis without all the requirements of this section having been complied with, the director shall inquire into the case, and may accept the sample for free analysis if he believes it is a fair sample of the fertilizer as it was delivered to the purchaser. [1882-8].

**Label guarantee of quality of package:** The label attached, according to section 2, to any bag or other package of commercial fertilizer, sold, offered or exposed for sale in this State shall be accepted as the guarantee of the manufacturer, dealer or agent, that the fertilizer contains the kinds and amount of essential ingredients printed on the tag; and any person fraudulently attaching or permitting to be attached to any package of fertilizer a fraudulent or counterfeit label; a genuine label used a second time, or a label representing it to contain a larger percentage of any one or more of the essential ingredients than is actually found by analysis to be contained in the said fertilizer, may be

fined as provided in section 4 of this act and shall also be liable for reasonable damages sustained by the purchaser of such fertilizer: *Provided, however,* That a deficiency of one-fourth of one per cent in any of the essential ingredients shall not be considered evidence of fraudulent intent. [1882-9].

**Publication of analysis:** The director of said experiment station shall annually analyze or caused to be analyzed at least one sample of every fertilizer sold or offered for sale under the provisions of this act; and he shall publish in one or more bulletins the analyses made during the year, together with the relative commercial value of each fertilizer computed from its analysis as he may determine, and the analysis guaranteed by the manufacturer. [1882-10]

## CHAPTER 10.

### Fruit Trees and Nurseries.

- I. Diseased fruit trees.
- II. Nurseries and nursery inspection.

#### I. Diseased Fruit Trees.

**Unlawful to keep diseased tree:** It shall be unlawful for any person knowingly or wilfully to keep any plum, cherry or other trees infected with the contagious disease or fungus known as the "black knot"; that every tree so infected is hereby declared to be a public nuisance, and no damages shall be awarded in any court in this state for entering upon premises and cutting away or severing the diseased part or parts of any tree so infected, and destroying the same, or cutting down or removing such infected tree altogether, and destroying the same, if done in accordance with the provisions of this act. [1918]

**Commissioners may be appointed by county judge:** In any county in this state in which such contagious disease exists, or where there is good reason to believe it exists, or danger may be justly apprehended of its introduction, it shall be the duty of the county judge of any county, upon the application made in writing and signed by at least three freeholders, who are residents of said county, to appoint forthwith three competent freeholders, who are residents of said county, who shall be fruit-growers of said county, as commissioners, who shall hold office during the pleasure of said county judge, and such order of appointment and of revocation shall be entered at large on the county record. [1919]

**Record of proceedings to be kept:** It shall be the duty of said commissioners, within ten days after appointment as aforesaid, to file their acceptances of the same with the clerk of the county court of said county, and said clerk shall be *ex-officio* clerk of said board of commissioners, and he shall keep a correct record of the proceedings of said board, in a book to be provided for the purpose, and shall file and preserve all papers pertaining to the duties and actions of said commissioners, or either of them, which shall be a part of the records of said county. [1920]

**Duties and powers of commissioners:** It shall be the duty of the commissioners or any one of them, upon or without complaint, whenever it comes to their notice that the disease known as the "black knot" exists, or is supposed to exist, within the limits of their county, to proceed without delay to examine the trees supposed to be infected, and if the disease is found to exist, a distinguishing mark or marks shall be placed upon that part or those parts of every tree so infected, which,

in the judgment of the commissioner or commissioners, should be removed and destroyed, or if in the judgement of such commissioner or commissioners, any tree so infected should be entirely removed and destroyed, then the trunk of such tree shall be thoroughly girdled, and a written notice given to the owner personally, or by leaving the same at his usual place of residence, or if the owner be a non-resident, by leaving such notice with a person in charge of such trees. The notice shall contain a simple statement of the facts as found to exist, with an order to effectually remove and destroy by fire the part or parts of every tree so marked and designed, or every such tree entire which shall be so girdled, as the case may be, within ten days from the date of the notice above required. Such notice and order to be signed by the three commissioners, or any two of them. [1921]

Sections 1922, 1923 and 1924 provide in case of refusal to comply with the order that the commissioners may destroy the trees infected at the expense of the county; that the failure to comply shall be a misdemeanor on the part of the owner or person in charge of the trees, punishable by a fine not exceeding twenty-five dollars or by imprisonment in the county jail not exceeding ten days, or both; that all fees, charges and disbursements of the commissioners, paid by the county, may be recovered by the county from the owner.

## II. Nurseries and Nursery Inspection.

**Nurseries to be inspected:** That all nurseries in Kentucky, where trees, vines, plants or other nursery stock are grown and offered for sale, shall be inspected by the entomologist and botanist of the state agricultural experiment station once each year at such time as he may elect, and he shall notify, in writing, the owners of such nurseries, the commissioner of agriculture and statistics, the director of the state agricultural experiment station, and the president of the state horticultural society of the presence of any San Jose scale or other destructively injurious insects or fungi on the trees, vines, plants or other stock of such nurseries, and shall also notify, in writing, the owner of any affected stock that he is required, on or before a certain day, to take such measures for the destruction of such insect or fungus enemies of nursery stock as have been shown to be effectual for this purpose. Said entomologist and botanist shall, for the purpose of this act, be, and he is hereby, declared to be the state entomologist, and shall serve without pay other than that he may receive as an officer of the state agricultural experiment station, but his expenses shall be paid as hereinafter provided. [1925a-1].

**Nursery owner to exterminate San Jose scale:** The owner of this affected nursery stock shall, within the time specified, take such steps for the destruction of San Jose scale or other destructively injurious insect or fungus enemies present as will exterminate the same, and it

shall be a misdemeanor to ship or deliver any of such stock, punishable by a fine of fifty dollars for every such offense, the fine recoverable before a justice of the peace or by indictment by a grand jury of the county in which the nursery is situated, or of that to which such stock may have been shipped. [1925a-2]

**Nurseryman to attach certificate to trees sold:** Whenever a nurseryman or seller of trees, vines, plants or other nursery stock, who is a resident of this commonwealth, shall ship or deliver any such goods, he shall send on each package so shipped and delivered a written certificate, signed by him, stating that the whole and every part of such stock has been examined by a State or government entomologist and found free from San Jose scale or other destructively injurious insect or fungus enemies. Failure to furnish such certificate, or furnishing a false certificate, shall render him liable to the penalty of a fine of fifty dollars for each and every such shipment or delivery without such certificate. [1925a-3]

**State entomologist to furnish certificate that trees are free from San Jose scale:** When the state entomologist examines any trees, vines, plants or other nursery stock in this state under the provisions of this act, and finds such nursery stock free from San Jose scale and other destructively injurious insect and fungus enemies, he is hereby authorized and directed to make out and deliver, in writing, to the owner of such stock a certificate stating that he has inspected such stock and found the same free from San Jose scale and other destructively injurious insect and fungus enemies, and he shall file similar certificates with the commissioner of agriculture and statistics and with the president of the state agricultural and mechanical college, which certificates shall at all times be subject to public inspection. [1925a-4]

**Nurserymen may have trees inspected:** Whenever a nurseryman, fruit grower or agriculturist in this commonwealth shall know or have good reason to believe that his trees, vines or plants are affected with San Jose scale, yellows, rosette or other destructive insect or fungus enemies, he shall have the privilege and it shall be his duty to notify the State entomologist, who shall proceed to the premises designated and examine the same and suggest and recommend the proper remedies for the destruction of such insect or fungus enemies as may be present. [1925a-5]

**Trees shipped here from other states to have certificate attached:** Every package of trees, vines, plants or other nursery stock shipped into this state from another state shall be plainly labeled on the outside with the name of the consignor, the name of the consignee, the contents, and a certificate, signed by a State or Government inspector, showing that the contents have been examined by him, and that such stock is free from San Jose scale, or other destructive insect or fungus enemies. Whenever any trees, vines, plants or other nursery stock are

shipped into this state without such a certificate plainly fixed on the outside of each package, the fact may be reported to any justice of the peace of this Commonwealth, and said justice shall issue a summons for the consignee of such package, and the agent of the consignor, if he be known, to appear before him on a certain day, to be therein named, to show cause why such trees, vines, plants or other nursery stock should not be seized, as being in violation of the provisions of this act, and on trial thereof, if said justice be satisfied that the provisions of this act have been violated, he shall order said agent or consignee to return such package of trees, vines, plants or other stock immediately to the shipper or consignor, unless said consignee or agent shall forthwith, and at his own expense, have such trees, vines, plants or other nursery stock examined by the state entomologist, or such person as he may appoint to make the examination, and he certifies to the justice of the peace that such nursery stock is free from San Jose scale or other destructive insect or fungus enemies. If such consignee or agent fail to have such inspection made, or fail to return such packages to the shipper or consignor thereof, then the justice of the peace shall order and direct the constable or sheriff to burn and destroy, at the expense of the agent or consignee, all such trees, vines, plants or other stock as have been shipped into this Commonwealth in violation of law. [1925a-6]

## CHAPTER II.

### Game Laws.

- I. General laws.
- II. Fish.
- III. Game and birds.
- IV. Fish and game wardens.

#### I. General Laws.

**Breaking and entering park or inclosure for game:** If any person shall wrongfully break or enter a park or other inclosed grounds used for keeping deer, elk or buffalo, or hunt, drive or chase, take out, maim or kill any deer, elk or buffalo therein, he shall be fined not exceeding twenty dollars, and shall also pay to the person aggrieved treble the amount of damages sustained. [1250]

**Killing or wounding tame deer:** Any person who shall kill or wound a tame or pet deer, not his own, having a bell or collar on, shall be fined five dollars, and pay the owner three times the value of such deer. [1251]

**Hunting or fishing on another's land:** Any person who shall enter upon the inclosed lands of another for the purpose of shooting, hunting, or fishing, without the consent of the owner or occupant of said lands, shall be fined not less than five nor more than twenty-five dollars. [1259]

*(Act of March 16, 1910.)*

#### II. Fish.

**Injuring fish pond, fishing in private pond without leave:** If any person shall break or cut down, cut out or destroy any head or dam of any pool, pond, moat, stew, stagnet or pit, wherein fish are or shall be put or stored by the owner or person in possession thereof, or shall wrongfully and without leave fish in any of the places above enumerated, he shall be fined not exceeding fifty dollars, or imprisoned not exceeding three months, or both, and pay the party aggrieved treble the damages sustained. [1252]

**Poisoning or dynamiting fish stream, pond or pool:** If any person put, or cause to be put, in any stream, dam, pool or pond any liquid, berries, powders, medicine or other thing, or explode, or cause to be exploded, dynamite or any other substance, whereby fish, great or small, are or may be sickened, intoxicated or killed, or the water rendered unfit for use, or stench be produced, he shall be fined not less than ten nor more than one hundred dollars, and imprisoned in the county jail not less than thirty days nor more than six months, in the discretion of the jury, for each offense. [1253]

**Fish ladders:** All persons owning dams constructed across any stream in this commonwealth, where the annual tides in said streams are not sufficiently high to admit the passage of fish over said dams, shall be required to erect and maintain over said dams, during the months of April, May and June of each year fish ladders or roads, constructed in such manner as to allow the passage of fish over said dams. [1392a]

This act does not apply to locks and dams constructed across large rivers. Persons convicted of violation shall be fined not less than twenty-five nor more than one hundred dollars. [1392a-2, 3]

**Nets or contrivances preventing fish passing:** That it shall be unlawful for any person or persons to have located in any of the running waters of this state any wing-net, set-net, gill or trammel-net, or any other contrivance, for the purpose of catching fish, or that will materially hinder the passage of fish in such waters. Such person or persons so obstructing the waters for any of the above-named purposes by any of the above-named methods shall be guilty of a misdemeanor, and, on conviction thereof before any court of competent jurisdiction, shall be fined not less than ten dollars nor more than twenty-five dollars for each offense. [1894]

**Poisonous drugs or bait:** That any person or persons who shall place or caused to be placed in any of the waters of this State any drug, poisonous substance or medicated bait, with intent thereby to injure, poison or catch fish, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than twenty dollars nor more than fifty dollars for each offense. [1895]

**Dynamiting and shooting fish:** That any person or persons who shall place or cause to be placed in any of the waters of this state or shall aid or assist in so doing, any dynamite or explosive agent, or who shall shoot into any of the waters of this state with a gun or pistol loaded with steel balls, copper jacket, or other hard substance other than an ordinary leaden ball, with intent thereby to kill, injure, or catch fish, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than fifty dollars nor more than one hundred dollars for each offense; and, on failure to pay a fine as fixed by either section 1894, 1895 or 1896, shall be confined in the county jail, workhouse or placed at labor upon any of the public works of said county for a length of time not exceeding one day of every two dollars of said fine. [1896, as amended March 22, 1910.]

**Seining, netting or trapping prohibited:** That it shall be unlawful for any person or persons to catch or destroy fish in any of the running waters, lakes or ponds, other than private ponds of this state, by means of a seine, net other than a dip-net, drag or trap, except streams forming the boundary line between this and other states [and

the lakes and ponds adjacent thereto.] Any one thus offending shall, on conviction, be fined in a sum not less than twenty-five dollars nor more than fifty dollars for each offense, and cost of prosecution. [1899]

**Drugs or explosives in water prohibited:** That any person or persons who shall place, or cause to be placed, in any of the running waters designated in section 1899, any drug, injurious substance, medicated bait, or any dynamite or other explosive agent, with intent to injure, poison or catch fish, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than fifty dollars nor more than one hundred dollars for each offense, and cost of prosecution. [1900]

**Penalty, who entitled to:** That sixty per centum of all the fines collected for violations of the provisions of this act shall be paid into the treasury of the county in which such fines are imposed, the remaining forty per centum to be paid to the civil officer securing the apprehension and conviction. [1901]

**Minnows may be caught:** That this act shall not be construed to prevent any person from using minnow seines less than ten feet in length and four in depth to catch minnows for bait or trot-lines or pole and line to catch fish. [1904]

### III. Game and Birds.

**Buck, doe or fawn:** It shall be unlawful for any person within this state to catch, kill, or pursue with such intent, any buck, doe or fawn, or have the same in possession after it has been caught or killed, between the first day of March and the first day of September in each year. [1939]

**Squirrel:** No person shall catch, kill, or pursue with such intent, or have the same in possession after it has been caught or killed, any black [grey] or fox squirrel, between the first day of February and the fifteenth day of June in each year: *Provided*, Grey squirrels may be killed for protection of crops. [1940]

**Wild goose, teal or wild duck:** No person shall catch or kill, or pursue with such intent, or have the same in possession after it has been caught or killed, any wild goose, wood-duck, teal or other wild duck, between the first day of April and the fifteenth day of August in each year. [1941]

**Wild turkey:** No person shall catch, kill, or pursue with such intent, or have the same in possession after it has been caught or killed, any wild turkey, between the first day of February and the first day of September in each year. [1942]

**Woodcock:** No person shall catch, kill, or pursue with such intent, or have the same in their possession after it has been caught or killed, any woodcock, between the first day of February and the twentieth day of June in each year. [1943]

**Quail, partridge or pheasant:** No person shall catch, kill, or pursue with such intent, or have the same in possession after it has been caught or killed, any quail, partridge or pheasant, between the first day of January and the fifteenth day of November in each year. [1944]

**Rabbits and squirrels:** No person shall kill or pursue with such intent, or have in his possession when so killed any rabbit, or squirrel between the fifteenth day of September and the fifteenth day of November in each year. *Provided*, any one may catch rabbits with dogs, or in snares. [1944a]

**Wild turkey, pheasant, grouse, quail:** That it shall be unlawful in the State of Kentucky, at any time, to buy, sell, expose for sale, offer for sale, or have in possession for the purpose of bartering or selling any wild turkeys, pheasants, grouse, partridge or quail, which have been killed within this state. [1944b-1]

**Transportation or possession unlawful:** That it shall be unlawful for any person, corporation or common carrier, to receive for transportation, or to transport, or cause to be transported, or to have in possession with the intent to transport, or to secure the transportation of, within or without this state, any of the birds or fowls mentioned in section one of this act, which have been killed within this state. *Provided, however*, That it shall not be unlawful for such person, corporation or common carrier to transport a hunter with his game lawfully killed by him within this state. [1944b-2]

**Each violation separate offense:** Each bird or fowl so bought, sold, offered for sale, had in possession for sale or transportation, received for transportation, or transported, contrary to the provisions of this act, shall constitute a separate offense. [1944b-3]

**Penalty for violation:** Whoever violates any provisions of this act shall be fined not less than ten dollars, nor more than twenty-five dollars for a first offense, and not less than twenty-five dollars nor more than fifty dollars for any subsequent offense. [1944b-4]

**Pheasants:** That it shall be unlawful, by any means, whatever, to catch, kill or pursue with intent to kill, or have same in possession after they have been so caught or killed, any English ring-neck, Mongolian or Chinese pheasant: *Provided*, Nothing herein shall be construed to prevent the importation of such birds into this Commonwealth and the keeping of same in confinement for the purpose of raising, propagating and distributing them in this commonwealth. Any person violating any of the provisions of this act shall, upon conviction, be punished by a fine of not less than \$25.00 nor more than \$100.00, and each of said birds so pursued, caught, killed or had in possession shall constitute a separate offense. [1944c]

**Dove:** No person shall catch, kill, or pursue with such intent,

or have in possession after it has been caught or killed, any dove, between the first day of February and the first day of August in each year. [1945]

**Song or insectivorous birds:** No person shall at any time catch, kill, or pursue with such intent, or have in possession after the same has been caught or killed, any thrush, meadow-lark, finch, martin, swallow, woodpecker, flicker, oriole, red-bird, tanager, catbird, blue-bird or other song or insectivorous bird, except where the same shall be destructive to the fruit or grain crops. [1946]

**Quail, partridge or pheasant:** No person shall at any time catch, kill, or take by means of net, trap, box or snare, or have in possession after having been so caught, killed or taken, any quail, partridge or pheasant. [1947]

**Nests or eggs of wild birds:** No person shall rob or destroy the nests or eggs of any wild bird whatsoever, save only those of a predatory nature, and destructive of other birds or fowls. [1948]

**Penalty for violation of nine preceding sections:** Any person guilty of violating any of the provisions of either of the preceding sections shall be fined for each offense not less than five nor more than twenty-five dollars. [1949]

**Possession within prohibited time:** The possession of any of the animals or birds intended to be protected by this law within the periods for which their killing or pursuit is hereby prohibited shall be *prima facie* evidence that the said animal or bird was unlawfully caught or killed, and the possession thereof unlawful. [1950]

**Selling within prohibited time:** Any person exposing for sale any of the animals or birds intended to be protected by this law within the periods for which the taking or killing thereof is hereby prohibited shall, for each animal or bird so exposed for sale, be subject to the same penalty as herein provided for the unlawful killing or taking of such animal or bird. [1951]

**Each offense separate and punishable — joinder of offenses:** The unlawful killing, catching or possession of each and every one of the animals or birds intended to be protected by this law shall constitute a separate and distinct offense, and shall be punished accordingly, and two or more offenses may be joined in the same warrant or indictment therefor; and the person so offending, if convicted, shall be fined for each offense, and fifty per centum of said fine shall be paid to the informer. [1952]

**Magistrates and judges, duty and powers of:** Any county judge, justice of the peace, or police or other magistrate, upon receiving sufficient proof by affidavits that any of the provisions of this chapter have been violated by any person being temporarily within his jurisdiction, but not

residing therein permanently, or by any persons whose name or residence is unknown, is hereby authorized and required to issue his warrant for the arrest of such person, and cause him to be held to bail to answer the charges against him; and any such justice or magistrate, upon receiving proof or having reasonable grounds to believe that any game mentioned in this chapter is concealed during any of the periods for which the possession thereof is prohibited, shall issue his search-warrant, and cause search to be made in any house, market, boat, box, package, car or other place, and shall cause the arrest and trial of any person in whose possession such game is found. [1953]

**Unlawful to kill, purchase or have possession of birds, or plumage of, except game birds:** That no person shall within the State of Kentucky kill, catch or have in his or her possession, living or dead, any wild bird other than a game bird, or purchase, offer or expose for sale, transport or ship within or without the State, any such wild bird after it has been killed or caught except as permitted by this act. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale. For the purposes of this act the following only shall be considered game birds: The Anatidæ, commonly known as swans, geese, brant, and river and sea ducks; the Rallidæ, commonly known as rails, coots, mud-hens and gallinules; the Limicolæ, commonly known as shore birds, plovers, surf birds, snipe, woodcock, sandpipers, tattlers and curlews; the Gallinæ, commonly known as wild turkeys, grouse, prairie chickens, pheasants, partridges and quails; and the species of Columbidae, commonly known as mourning doves. [1954a-1]

**Nests or eggs of birds not game:** No person shall, within the State of Kentucky, take or needlessly destroy the nest or the eggs of any wild bird other than a game bird, or have such nest or eggs in his or her possession, except as permitted by this act. [1954a-2]

**Penalty for violating this act:** Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be fined five dollars for each bird living or dead, or part of bird, or nest or set of eggs or part thereof, possessed in violation of this act; or shall be imprisoned not less than five nor more than thirty days for each offense; or shall be subject to both such fine and imprisonment at the discretion of the court. [1954a-3]

Sections 4 and 5 exempt from the provisions of sections 1, 2 and 3 persons holding certificates, granted by any incorporated society of natural history in the state, authorizing them to take birds, their nests or eggs for scientific purposes, and section 6 makes such certificates non-transferable.

**Birds not protected:** The English or European house sparrow great horned owl, sharp-shinned hawks, Cooper's hawk, crow and crow black-bird are not included among the birds protected by this act. [1954a-7]

**Birds injuring fruit or crops:** Nothing in this act shall prevent

any citizen of the state of Kentucky from destroying birds found injuring fruit or crops on his premises; *Provided*, that such birds when killed shall not be sold or shipped out of the state. [1954a-8]

**Non-resident hunters to have license:** It shall be unlawful for any person who is a non-resident of the state of Kentucky to hunt anywhere within the state of Kentucky any of the wild animals, fowls, or birds that are protected during any part of the year without procuring a license to do so, and then only during the respective periods of the year when it shall be lawful to do so. [1954b-1]

Section 2 of this act requires the applicant for license to apply to the clerk of any county court for same under oath, giving name, age, occupation and residence, and requires the clerk to issue same.

Section 3 provides that the license shall be good for one year, not transferable, and prescribes, substantially, the form of the license.

Section 4 requires the applicant to pay to the clerk for said license the same sum a resident of Kentucky is subject to in the state of the applicant.

**Hunter to keep license in his possession:** No person to whom a license is issued under the provisions of the preceding section shall be entitled to hunt, pursue or kill game in this state without at the time of such hunting, pursuing, or killing of game, he has in his possession his license ready to exhibit same to any one demanding same. [1954b-5]

**Penalty for violation of this act:** Any person found guilty of violating any of the provisions of this act shall be fined not less than fifty dollars and not more than two hundred dollars, to which may be added imprisonment in the county jail for any period not to exceed thirty days. [1954b-6]

(*Act of March 16, 1910, Amending Section 1944a.*)

**Consent of owner for use of steel trap, etc.:** Sec. 1. That it shall be unlawful for any one to set a steel trap, dead fall or snare or to loose or hunt with a ferret upon the premises or property of another, without first securing the written consent of the owner of the premises or property, and any one thus offending shall be guilty of a misdemeanor and upon conviction shall be fined not less than five dollars nor more than twenty-five dollars.

Sec. 2. Having in possession game caught, as set out in Section 1, shall be *prima facie* evidence of guilt as herein provided.

#### IV. Fish and Game Wardens.

**Game wardens:** The offices of fish and game wardens are hereby created. [1954c-1]

**County judge to appoint:** The county judge of each county shall appoint one or more fish and game wardens for each county in the state,

who shall hold office and be subject to removal therefrom at the pleasure of the county judge. Each game warden, before entering on the duty of his office shall execute his bond to the commonwealth, with good surety, to be approved by the county judge. [1954c-2]

**Duty and powers of wardens:** It shall be the duty of fish and game wardens to enforce within this state all laws relating to the protection, preservation and propagation of fish, birds and game. Each fish and game warden shall have full power to execute and serve all warrants and process of law issued for, in connection with or growing out of, the enforcement of any law relating to the protection, preservation or propagation of fish, birds and game in the same manner and to a like extent that any sheriff or constable may serve and execute such process, and shall be entitled to the same fees for said services as are now allowed by law to sheriffs for similar services in criminal cases. They may arrest on sight and without warrant any person detected by them in the act of violating any such law; they shall have the same right as sheriffs to require aid in executing any process or in arresting without process any person found by them in the act of violating any of said laws; and they shall have authority to seize, without process, any birds, fish or game then found in the possession of any such person, together with the guns, nets, seines, traps, or other devices with which the same were taken or killed, and destroy or confiscate such guns, nets, seines, traps or other devices, and forthwith convey such offenders before a court or magistrate, having jurisdiction of the offense, and such court or magistrate shall, upon the filing by the warden of a proper complaint, proceed speedily to try and determine the truth of the charge. [1954c-3]

**Fines, disposition of:** After payment of the percentage of fines allowed by law to the other public officers the remainder shall go to the fish and game warden instituting the prosecution, and upon filing a verified claim with the auditor, he shall draw his warrant upon the treasurer in favor of such fish and game warden. [1954c-4]

## CHAPTER 12.

### Health and Humane Laws.

- I. Health laws.
- II. Humane laws.
- III. State and county boards of health.

#### I. Health Laws.

**Selling unwholesome provisions:** If a butcher or other person shall knowingly sell the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or shall sell the flesh as of one animal knowing it to be that of another species; or if a baker, brewer, distiller, or other person, knowingly sell unwholesome bread or drink, he shall be fined not less than one nor more than fifty dollars. [1272]

**Adulterating food, drink or medicine:** If any person adulterate, for the purpose of sale, anything intened for food or drink, or any drug or medicine, with any substance injurious to health, he shall be confined in jail not more than one year, or fined not exceeding five hundred dollars, or both; and the adulterated articles, by order of the court, shall be destroyed. [1273]

**Polluting water-course, spring or pond:** If any person shall cast or place the carcass of any cattle, or that of any other dead beast, in any water-course, or within twenty-five yards thereof, or shall cast the same into any spring, or into any pond, such person, for every such offense, shall be fined for the first offense not less than five nor more than twenty dollars, and every subsequent offense not less than twenty nor more than one hundred dollars. [1278]

**Importing small-pox into state:** If any person shall willfully or designedly import or bring the small-pox or any variolous or infectious matter of the said disease into this Commonwealth from any other country or place whatsoever, or shall cause the same to be done, he shall forfeit and pay the sum of one thousand dollars. [4607]

**Adults to be vaccinated:** All persons of the age of twenty-one years and over, who have not been vaccinated, or, if vaccinated, not successfully, shall, within three months after this revision take effect, procure their own vaccination or re-vaccination, as the case may be. [4608]

**Minors and infants, vaccination:** All parents, guardians and other persons having the care, custody or control of any child or children, or who may have in their employ any minor or minors, shall have the same vaccinated; and every parent, guardian and person that may have the care, custody or control of any child born hereafter, shall have said child vaccinated within twelve months after its birth or after it comes under his or her care, custody or control. [4609]

**Willfully spreading small-pox:** If any person shall willfully endeavor to spread or propogate the small-pox, he shall be subject to be indicted and fined the sum of five hundred dollars, or to be imprisoned for six months. [4617]

## II. Humane Laws.

**Contributing to delinquency of child:** Any parent or parents, or legal guardian, or person having the custody of any dependent, neglected or delinquent child, as defined by the statutes of this state, or any other person who shall knowingly or wilfully encourage, aid, cause, abet or connive at such state of dependency, neglect or delinquency, or shall knowingly or willfully do any act or acts that directly produce, promote or contribute to the conditions which render such child a dependent, neglected or delinquent child, as so defined, or who, having the custody of such child, shall, when able to do so, willfully neglect to do that which will directly tend to prevent such state of dependency, neglect or delinquency, or to remove the conditions which render such child either a neglected, dependent or delinquent child, as aforesaid, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not more than one hundred (\$100.00) dollars, or by imprisonment in the county jail or workhouse for not more than fifty days, or both by such fine and imprisonment: Provided, that, instead of imposing the punishment hereinbefore provided, the court shall have the power to enter an order suspending sentence and releasing the defendant from custody on probation, for the space of one year, upon his or her entering into a recognizance, with or without sureties, in such sums as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within a year, and shall provide and care for such dependent, neglected or delinquent child in such manner as to prevent a continuance or repetition of such state of dependency, neglect or delinquency or as otherwise may be directed by the court, and shall further comply with the terms of such order, then the recognizance shall be void, otherwise it shall remain in full force and effect. If the court be satisfied by information or due proof, under oath, that at any time during the year the defendant has violated the terms of such order, it may forthwith revoke such order and sentence him or her under the original conviction. Unless so sentenced, the defendant shall, at the end of such year, be discharged and such conviction shall become void. [Act of March 23, 1910.]

**Exposure, or willful or unmerciful injury of child:** Any person who shall willfully and unnecessarily expose to the inclemency of the weather, or shall in any other manner willfully and unmercifully injure in health or limb any child actually or apparently under the age of sixteen years, shall be fined not exceeding five hundred dollars, or imprisoned in the county jail or work-house, in counties having a work-

house, not more than one year, or both so fined and imprisoned in the discretion of the jury. [327]

**Failure of parent to support minor child:** Whoever willfully and unreasonably neglects to provide for the support of his or her minor child who is actually or apparently under the age of fourteen years, shall be punished by fine not exceeding twenty dollars, or by imprisonment in the county jail or work-house, in counties having a work-house, not exceeding six months. [328]

**Willful and cruel desertion of child:** A parent or other person having the care or custody, for nurture or education, of a child under six years of age, who willfully deserts the child in a manner showing a reckless disregard to life or health, and with the intention wholly to abandon it, is punishable by imprisonment in the penitentiary for not more than three years. [329]

### III. State and County Boards of Health.

**State board of health:** A board to be known as the State Board of Health is hereby established. It shall consist of eight members, all of whom shall be legally qualified practitioners under this act, seven of whom shall be appointed by the Governor, by and with the advice and consent of the Senate, and the eighth member, who shall be the secretary and executive officer, shall be elected by the board and by virtue of his office of secretary shall be a member of the board. [2047]

**Powers and duties:** The board shall have general supervision of the health of the citizens of this State, and endeavor to make intelligent and profitable use of the collected records of the causes of sickness and death among the people. \* \* \* They are empowered and directed to establish and strictly maintain quarantine at such places as they deem proper; and are further empowered to make and enforce rules and regulations to obstruct and prevent the introduction or spread of infectious or contagious diseases to or within the state. [2049]

**County board of health appointment:** It shall be the duty of the state board of health to appoint three intelligent and discreet licensed and practicing physicians residing in each county of this state who, together with the county judge and one person elected by the fiscal court of each county, shall constitute a local board of health for the respective counties in which they reside \* \* \* The local board shall appoint a competent practicing physician who shall be the health officer of the county and secretary of the board, whose duties shall be to see that the rules and regulations provided for in this act, and the rules and regulations of the state board of health are enforced. [2055]

## CHAPTER 13.

### Holidays and Time.

**What days are holidays:** The 1st day of January, the 22nd day of February, the 30th day of May, the 4th day of July, the 25th day of December of each year, and all days appointed by the president of the United States or by the governor of this commonwealth as days of fasting or thanksgiving, are declared holidays, on which all the public offices of this commonwealth may be closed; and shall be treated and considered as Sunday or the Christian Sabbath for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of those days named as holidays shall occur on Sunday, the next day thereafter shall be observed as a holiday; but bills of exchange or other paper may be presented for payment or acceptance on the Saturday preceding such holiday, and proceeded on accordingly. [2089a]

**Labor Day:** The first Monday in September known as Labor Day shall be a legal holiday, and no person shall be compelled to labor on said day by any person or corporation. [2089b]

**Columbus Day:** That the twelfth day of October of the year 1910, and the twelfth day of October of each year thereafter is hereby declared a legal holiday, to be known as "Columbus Day" and the same shall be recognized, classed and treated as other legal holidays under the laws of this state. [Act of March 14, 1910.]

**Time, how computed:** If a statute requires a notice to be given, or any other act to be done a certain time before any motion or proceeding, there must be that time, exclusive of the day for such motion or proceeding; but the day on which such notice is given, or such act is done, may be counted as one day and part of the time. [453]

**Act directed to be done on a day, if Sunday, next day to be taken:** If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month, if that day happen to be Sunday, the proceeding shall take place, or the act shall be done, on the next day. [454]

## CHAPTER 14. Husband and Wife.

*See Chapter on Deeds, Mortgages and Leases.*

**Sales to defraud wife or children void:** Sales and conveyances made to a purchaser with notice, or for the benefit of any religious society, in fraud or hindrance of the right of wife or child to maintenance shall be void as against them. [2126]

**Husband no estate or interest in wife's property; liability of wife's estate for her debts:** Marriage shall give to the husband, during the life of the wife, no estate or interest in the wife's property, real or personal, owned at the time or acquired after the marriage. During the existence of the marriage relation the wife shall hold and own all her estate to her separate and exclusive use, and free from the debts, liabilities or control of her husband. No part of a married woman's estate shall be subjected to the payment or satisfaction of any liability, upon a contract made after marriage, to answer for the debt, default or misdoing of another, including her husband, unless such estate shall have been set apart for that purpose by deed of mortgage or other conveyance: but her estate shall be liable for her debts and responsibilities contracted or incurred before marriage, and for such contracted after marriage, except as in this act provided. [2127]

**Right of wife to acquire and dispose of property, etc.:** A married woman may take, acquire and hold property, real and personal, by gift, devise or descent, or by purchase, and she may, in her own name, as if she were unmarried, sell and dispose of her personal property. She may make contracts and sue and be sued, as a single woman, except that she may not make any executory contract to sell or convey or mortgage her real estate, unless her husband join in such contract; but she shall have the power and right to rent out her real estate, and collect, receive and recover in her own name the rents thereof, and make contracts for the improvement thereof. A gift, transfer or assignment of personal property between husband and wife shall not be valid as to third persons, unless the same be in writing, and acknowledged and recorded as chattel mortgages are required by law to be acknowledged and recorded; but the recording of any such writing shall not make valid any such gift, transfer or assignment which is fraudulent or voidable as to creditors or purchasers. [2128]

**Conveyance by wife and husband:** Husband and wife may sell and convey her lands and chattels real, but the conveyance must be acknowledged and recorded in the manner required by the chapter on conveyances. [2129]

**Liabilities of wife:** The husband shall not be liable for any debts or responsibility of the wife contracted or incurred before or after marriage, except to the amount or value of the property he may receive from or by her by virtue of the marriage, but shall be liable for necessities furnished to her after marriage. [2130]

**Surviving husband's or wife's interest in real and personal property:** After the death of either the husband or wife, the survivor shall have an estate for his or her life in one-third of all the real estate of which he or she, or any one for his or her use, was seized of an estate in fee simple during the coverture, unless the right to such dower or interest shall have been barred, forfeited or relinquished; and the survivor shall have an absolute estate in one-half of the surplus personalty left by such decedent. [2132]

**Adultery of wife or husband forfeits interest in estate:** If the wife voluntarily leave her husband and live in adultery, or if the husband voluntarily leave his wife and live in adultery, the party so offending shall forfeit all right and interest in and to the property and estate of the other, unless they afterward become reconciled and live together as husband and wife. [2133]

**Wife's dower, though husband had no actual possession:** If the husband, during the coverture, was seized in law of the fee simple of any real estate, then the wife, if she survive him, may have dower therein, although the husband may not have had actual possession thereof. [2134]

**Lands of which wife shall not be endowed:** The wife shall not be endowed of land sold, but not conveyed by the husband before marriage, nor of land sold, in good faith, after marriage, to satisfy a lien or incumbrance created before marriage, or created by deed in which she joined, or to satisfy a lien for the purchase money; but if there is a surplus of the land or proceeds of sale after satisfying the lien, she may have dower out of such surplus of the land or compensation out of such surplus of the proceeds, unless they were received or disposed of by the husband in his lifetime. [2135]

**Jointure, when a bar to dower — relinquishment:** A conveyance or devise of real or personal estate, by way of jointure, may bar the wife's interest in the property and estate of the husband; but if made before marriage, without her consent, or during her infancy or after marriage, she may, within twelve months after her husband's death, waive the jointure by written relinquishment, acknowledged or proved before and left with the clerk of the county court, and have her dower or share of his estate as herein provided. When she so demands and receives her dower, or such share of his estate, the estate conveyed or devised in lieu thereof shall determine and revert to the heirs or representatives of the grantor or devisor. [2136]

**Loss of jointure:** Where the wife is lawfully deprived of her

jointure, or any part thereof, and not by any act of her own, she shall have indemnity therefor out of her husband's estate. [2137]

**Rents, profits, etc., until dower assigned:** The wife shall be entitled to one-third of the rents and profits of her husband's dowable real estate from his death until dower is assigned, and she shall hold the mansion-house, yard, garden, the stable and lot in which it stands, and an orchard, if there is one adjoining any of the premises aforesaid, without charge therefor, until dower is assigned her. [2138]

**Divorce bars claim of husband or wife:** Divorce from the bond of matrimony shall bar all claim of either husband or wife to the property, real and personal, of the other after his or her decease. [2144]

**Wife may dispose of her estate by will:** A married woman, if she be of sound mind and twenty-one years of age, may dispose of her estate, by last will and testament, subject to the provisions of this act. [2147]

**Husband's interest in wife's land:** The provisions of this act relating to the wife's dower, or interest in the husband's real estate, shall apply in all cases, so far as may be, to the husband's interest in the wife's real estate. [2148]

## **CHAPTER 15.**

### **Landlord and Tenant.**

- I. Powers and rights under leases.
- II. Rents, how recovered.
- III. Contract for portion of crops, etc.
- IV. Tenancy at will, etc.
- V. Waste.

#### **I. Powers and Rights Under Leases.**

**Assignment by tenant without consent:** Unless the landlord consents thereto in writing, every assignment, or transfer of his term or interests in the premises, or any portion thereof, by one who is a tenant at will or by sufferance, or who has a term less than two years, shall operate a forfeiture to the landlord, who, after having given the occupant ten days' written notice to quit, may re-enter and take possession, or may, by writ of forcible entry or detainer, or the proper procedure, recover possession of the premises from any occupant thereof, whoever he or she may be. [2292]

**Refusal to give possession after notice or expiration of term:** A tenant who, after having given notice of his intention to quit possession of the premises, fails to do so at the time specified, or a tenant whose term expires at a time certain who shall refuse to deliver possession, or a tenant who, having entered under an agreement to dispense with notice, refuses to deliver possession when the same is demanded, shall pay to the landlord double the rent he would have otherwise been bound to pay, to be computed from the time he should have surrendered possession, recoverable in same manner as original rent. If, by the contract, the term is to expire at a time certain or notice to quit is dispensed with, none need be given. [2293]

**Tenant for year holding over:** If, by contract, a term or tenancy for a year or more is to expire on a certain day, the tenant shall abandon the premises on that day, unless by express contract he secures the right to remain longer. If, without such contract the tenant shall hold over, he shall not thereby acquire any right to hold or remain on the premises for ninety days after said day, and the possession may be recovered without demand or notice, if proceedings are instituted within that time. But if proceedings are not instituted within said time, then none shall be allowed until the expiration of one year from the day the term or tenancy expired; and at the end of said year the tenant shall abandon the premises without demand or notice, or stand in the same relation to his landlord that he did at the expiration of the term or tenancy aforesaid; and so from year to year, until he abandons the premises, is turned out of possession, or makes a new contract. [2295]

**Tenant for less than a year holding over:** If by contract a tenancy for less than a year is to expire on a certain day, the tenant shall abandon the premises on that day unless by express contract he secures the right to remain longer. If without such contract the tenant shall hold over he shall not thereby acquire any right to hold or remain on the premises for thirty days after said day, and the possession may be recovered without demand or notice if proceedings are instituted within that time. But if proceedings are not instituted within said time, then none shall be allowed until the expiration of sixty days from the day the tenancy expired, and at the end of said sixty days the tenant shall abandon the premises without demand or notice, or stand in the same relation to his landlord that he did at the expiration of the tenancy aforesaid, and so on from time to time until he abandons the premises, is turned out of possession, or makes a new contract. [2296]

**Destruction of buildings, etc.:** Unless the contrary be expressly provided for in the writing, no agreement of a lessee that he will repair, or leave the premises in repair, shall have the effect of binding him to erect similar buildings, if without his fault or neglect the same may be destroyed by fire or other casualty; nor shall a tenant, unless he otherwise contracts, be liable for the rent for the remainder of his term of any building leased by him, and destroyed during the term by fire or other casualty without his fault or neglect. [2297]

## II. Rents, How Recovered.

**Distress, attachment or action:** Rent may be recovered by distress, attachment or action, and shall bear six per cent interest per annum from the time it is due. [2299]

**Compensation for use and occupation:** Unless the contract be in writing, a landlord may, by action, recover reasonable satisfaction for the use and occupation of his land. If, on the trial, a verbal contract be proven, whereby a rent certain in amount was reserved, the plaintiff may, nevertheless, recover, the verbal contract being regarded as evidence of the amount recoverable. [2300]

**Alienation by owner:** If the owner or holder alien or assign his estate or term, or the rent thereafter to fall due thereon, his alienee or assignee may recover such rent. [2304]

**Liability of assignee or under-tenant:** Rent may be recovered from the lessee or other persons owing it, or his assignee or under-tenant, or the representative of either, by the same remedies given in the preceding sections. But the liabilities of the assignee or sub-tenant shall only be for the rent accrued after his interest began. [2305]

**Distress may issue for rent due, though lease not ended:** A distress warrant may issue, although the lease be not ended, but only for rent then due, and not after the lapse of six months from the time it was due. [2306]

**Distress and attachment binds property of tenant and under-tenant:** A distress warrant or attachment for rent shall bind, and may be levied upon any personal property of the original tenant found in the county; and upon the personal property of the assignee or under-tenant found on the leased premises, and if the tenant has removed his property to another county, the distress or attachment may be directed to such county. [2307]

**Lien of landlord:** A landlord shall have a superior lien on the produce of the farm or premises rented, on the fixtures, on the household furniture, and other personal property of the tenant, or under-tenant, owned by him, after possession is taken under the lease; but such lien shall not be for more than one year's rent due or to become due, nor for any rent which has been due for more than eleven months. And if any such property be removed openly from the leased premises, and without fraudulent intent, and not returned, the landlord shall have a superior lien on the property so removed for fifteen days from the date of its removal, and may enforce his lien against the property wherever found. [2317, *as amended March 23, 1910.*]

**Lien for money furnished to raise crop and for subsistence:** A landlord shall have a superior lien, against which the tenant shall not be entitled to any exemption, upon the whole crop of the tenant raised upon the leased or rented premises to reimburse him for money or property furnished to the tenant to enable him to raise the crop, or to subsist whilst carrying out his contract of tenancy. But the lien of the landlord shall not continue for more than one hundred and twenty days after the expiration of the term, and, if the property upon which there is a lien be removed openly from the leased premises, and without fraudulent intent and not returned, the landlord shall have a superior lien upon the property so removed for fifteen days from the date of its removal, and may enforce his lien against the property wherever found. [2323]

### III. Contract for Portion of Crop.

**Landlord's title to part of crop:** Contracts by which a landlord is to receive a portion of the crop planted, or to be planted, as compensation for the use or rent of the land, shall vest in him the right to such a portion of the crop when planted as he has contracted for, though the crop may be planted or raised by a person other than the one contracted with; and so if the land be planted in a different kind of crop than the one contracted for, and for the taking of or injury to any of the crops aforesaid, the landlord may recover damages against the wrong-doer. The landlord may also have an injunction against any person to prevent the taking or injury of his portion of the crops aforesaid; but nothing contained in this section shall barr the landlord of his right to such damages against the person contracted with as he may sustain by reason of

the land being planted, without his assent, in a crop other than that contracted for, or not planted at all, nor for failure to cultivate the crop in a proper manner. This section shall include a purchaser, without notice, of a growing crop or crops remaining on the premises, though severed from the land; but it shall not apply to a purchaser, in good faith, without notice, of a crop, after it has been removed for the space of twenty days from the rented premises on which it was planted. [2325]

#### IV. Tenancy at Will, Etc.

**Termination of tenancy—one month's notice:** A tenancy at will or by sufferance may be terminated by the landlord giving one month's notice, in writing, to the tenant requiring him to remove. [2326]

**Tenancy under contract to labor—breach forfeits—notice not necessary:** When a tenant enters or holds premises by virtue of a contract, in which it is stipulated that he is to labor for his landlord and he fails to begin such labor, or if, having begun, without good cause fails to comply with his contract, his right to the premises shall at once cease, and he shall abandon them without demand or notice. [2327]

#### V. Waste.

**Waste by tenant for life or years—forfeiture—damages:** If any tenant for life or years shall commit waste during his estate or term, of anything belonging to the tenement so held, without special license, in writing, so to do, he shall be subject to an action of waste, shall lose the thing wasted, and pay treble the amount at which the waste shall be assessed. [2328]

## CHAPTER 16.

### Liens.

**Lien for labor and supplies:** A person who performs labor or furnishes material in the erection, altering or repairing a house, building or other structure, or for any fixture or machinery therein, or for the excavation of cellars, cisterns, vaults, wells, or for the improvement, in any manner, of said real estate by contract with, or by the written consent of the owner, contractor, sub-contractor, architect, or authorized agent, shall have a lien thereon, and upon the land upon which the said improvements shall have been made, or any interest such owner has in the same, to secure the amount thereof, with cost; and said lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor, or the furnishing of the material; and said lien, if asserted, as herein provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials; provided, that no person shall acquire a lien under this section unless he shall notify in writing, the owner of the property to be held liable or his authorized agent, immediately after the last item of said material or labor is furnished, of his intention to hold the said property liable, and the amount for which he will claim a lien; and provided, that such lien shall not take precedence of a mortgage or other contract, lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming such prior lien shall before the recording of such mortgage or other contract, lien or conveyance, have filed in the clerk's office of the county court of the county wherein he shall have performed labor or furnished materials, or shall expect to perform labor or furnish materials, as aforesaid, a statement showing that he has performed or furnished, or that he expects to furnish such labor or materials, and the amount in full thereof, and his lien shall not as against the holder of said mortgage, or other contract, lien, or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in such statement. The statement aforesaid shall in other respects be in the form of the tenor prescribed by section 2468. The liens provided for herein shall in no case be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of liens exceed the price agreed upon between the original contractor and the owner, then there shall be a pro rata distribution of the original contract price among said lien holders.

**Proof of notice:** SEC. 2. It shall be sufficient proof of the notice required herein that such notice was mailed to the last known

address of the owner of the property upon which a lien is claimed, or to his duly authorized agent within the county within which the property to be held liable is located. [2463 as amended March 22, 1910.]

**Lien on property if contract for sale of rescinded:** If the owner claims by executory contract, and if, for any cause, such contract shall be rescinded or set aside, the lien aforesaid shall follow the property into the hands of the person to whom the same may come, or with whom it may remain by reason of such rescission, to the extent only that the actual value of the property may be enhanced by the improvements so placed upon it. [2464]

**Eviction of owner, lien attaches to extent of improvements:** If the owner or claimant of the property, shall be evicted from the possession thereof by the judgment of a court, and shall be entitled to compensation for improvements, the person who is entitled to a lien, as provided in section 2463, shall, to the extent of such lien, debt and costs, be substituted to the rights of the person so evicted, and shall have satisfaction of his debt and costs, if enough, out of the sum adjudged for improvements. [2465]

**Lien-holder may remove property from leased premises, when:** If the labor be performed or the materials furnished by contract with the lessee of real estate for a term of years, and if, before the expiration of the term by lapse of time the lessee's interest therein shall, from any cause, become forfeited to the lessor, or shall be surrendered to him, and if the lessor shall refuse to pay for the same, the person performing the work or furnishing the materials shall have the right to remove the same from the leased premises, if it can be done without material injury to any previous improvement on said leased premises. [2466]

**Mortgage to secure loan, penalty for misapplication of proceeds:** That whenever a mortgage is taken to secure a loan which is made for the purpose of erecting a building or improving or adding to any building, then said mortgage shall so state. And if any person shall receive the proceeds of such a mortgage and shall willfully misappropriate or misapply the same, he shall, upon indictment and conviction therefor, be confined in the penitentiary for a period of not less than one year and not more than five years. [2467]

**Statement must be filed in six months or lien lost:** The liens mentioned in the preceding sections shall be dissolved unless the claimant, within [six months] after he ceases to labor or furnish materials as aforesaid, files in the office of the clerk of the county court of the county in which such building or improvement is situated, a statement of the amount due him, with all just credits and set-offs known to him, together with a description of the property intended to be covered by the lien, sufficiently accurate to identify it, and the name of the owner, if known, and whether the materials were furnished, or the labor per-

formed, by contract with the owner, or with a contractor or sub-contractor, which shall be subscribed and sworn to by the person claiming the lien, or by some one in his behalf. [2468]

**Action to enforce, time in which must be brought:** The liens declared in this chapter shall be deemed as having been dissolved, unless an action shall have been brought to enforce the same within twelve months from the day of filing the account in the clerk's office, as required by section 2468 of this chapter. But if the debtor against whose property the lien is claimed depart this life before the expiration of the time prescribed for bringing the action, a further period of six months next after the qualification of his personal representative is allowed within which the action may be brought. [2470]

**Water-craft, lien of employes and others on:** Except the captain, all the officers and hands employed on board a steamboat or other brig, schooner, or sloop or model barge, shall have a lien on the boat or vessel, or engine, tackle, furnishing and apparel, for their wages, whether contracted for or earned in or out of the state, with priority therefor over any other debt due from the owner of the boat or vessel, and over all other liens thereon. Mechanics, tradesmen and others shall also have a like lien for work, supplies, materials, stores and provisions done or furnished on or toward the building, repairing, fitting, furnishing or equipping the boat or vessel in this state, with priority therefor over any other debt or debts of the owner, except to the officers and hands, and over all other liens thereafter created. When so done or furnished out of this state, there shall be a like lien therefor, which shall have precedence next after that given when done or furnished in this state; but if done or furnished out of the state, subsequent to that done or furnished in this state, the liens shall be joint and equal. [2480]

**Owner and steamboat liable for damages:** A steamboat or other vessel in the last section named, and owner, shall also be liable to indemnify the party injured for any damage unlawfully done by her to any other boat, vessel or river craft, or to any other property, through the willful or negligent conduct of her officers or crew, and for any other damage willfully or negligently committed by her officers or crew while acting for her as such. [2481]

**Water-craft lien and liability, how enforced:** The lien given in section 2480, and the liability mentioned in section 2481 of this article, may be enforced by attachment from the court having jurisdiction. [2482]

**Railroads, etc., liens of employes and others on:** When the property or effects of any [mine], railroad, turnpike, canal or other public improvement company, or of any owner or operator of any rolling mill, foundry or other manufacturing establishment, whether incorporated or not, shall be assigned for the benefit of creditors, shall come into the hands of any executor, administrator, commissioner, receiver of a court,

trustee or assignee for the benefit of creditors, or shall in any wise come to be distributed among creditors, whether by operation of law or by the act of such company, owner or operator, the employes of such company, owner or operator in such business, and the persons who shall have furnished materials or supplies for the carrying on of such business shall have a lien upon so much of such property and effects as may have been involved in such business, and all the accessories connected therewith, including the interest of such company, owner or operator in the real estate used in carrying on such business. [2487]

**Lien superior to other incumbrance, who deemed employes:** The said lien shall be superior to the lien of any mortgage or other incumbrance thereafter created, and shall be for the whole amount due such employes, as such, or due for such materials or supplies; that for wages coming due to employes within six months before the property or effects shall in anywise come to be distributed among creditors, as provided in section 2487, the lien of such employes shall be superior to the lien of any mortgage or other incumbrance theretofore or thereafter created; but no president or other chief officer, nor any director or stockholder of any such company, shall be deemed an employe within the meaning of this article. [2488]

## CHAPTER 17.

### Mills and Warehouses.

- I. Mills.
- II. Warehouses and warehousemen.
- III. Inspection warehouses.
- IV. Grain warehouses.
- V. Tobacco warehouses.

#### I. Mills.

**Condemnation of land for:** A person owning land on a water-course, the bed whereof belongs to him or the commonwealth, and desiring to build on such land a grist mill or other mill or manufactory useful to the public, and needing a dam in or across the water-course, or the raising of an established dam, or the cutting or enlarging of a canal, above or below, may, in the manner provided for the condemnation of land for railroads by proceeding had in the county in which the principal part of the land asked to be condemned is situated, make the necessary condemnation, which shall embrace all the land demanded, whether lying in the same county or not. [2712]

**Toll that may be exacted:** Every miller shall well and sufficiently grind or manufacture the grain brought to his or their mill for the consumption of the person bringing or sending, in due time, and in the order that the same shall be brought, giving the preference only to what may be necessary for his own family use. He or they may take for toll one-eighth, and no more, directly or indirectly of all grain ground or manufactured on or exchanged in water mill; and one-seventh part, and no more, directly or indirectly, of all grain ground or manufactured on or exchanged in a steam, gasoline or any other power mill other than a water mill. For any violation of these rules as to time, order or quality of grinding or manufacturing, or as to the amount of toll taken or demanded, the owners or occupiers of the mill shall forfeit ten dollars to the party injured, recoverable, with costs, before a justice of the peace. [2721]

#### II. Warehouses and Warehousemen.

**Warehousemen, who deemed:** Any person or corporation who shall receive cotton, tobacco, pork, grain, corn, wheat, rye, oats, hemp, whisky, coal, or any kind of produce, wares, merchandise, commodity or any other kind or description of personal property or thing whatever in store, or undertake to receive or take care of the same, with or without compensation or reward therefor, shall be deemed and held to be warehousemen. [4768]

**Warehouse company to guarantee receipts:** That any number of persons, not less than three, may associate themselves to establish a ware-

house company, with power to guarantee receipts issued by said company or by other warehouse companies. [4768a]

**Receipt to be given for articles:** Every warehouseman receiving anything enumerated in the preceding section shall, on demand of the owner thereof or the person from whom he receives the same, give a receipt therefor, setting forth the quality, quantity, kind and description thereof, if known, and which shall be designated by some mark, and which receipt shall be evidence in any action against said warehouseman. [4769]

**Receipts negotiable and transferable:** All receipts issued by any warehousemen as provide by this chapter shall be negotiable and transferable by endorsement in blank, or by special endorsement, and with like liability as bills of exchange now are, and with like remedy thereon. [4770]

**Property receipted for not to be sold or encumbered without consent:** No warehouseman or other person shall sell or encumber, ship, transfer, or in any manner remove beyond his immediate control, any goods, wares, merchandise, produce, commodity, property or chattel for which a receipt or voucher shall have been given, without the written consent of the person or persons holding such receipt, and the production of the receipt. [4774]

**Sale of property to pay storage:** Any property in a warehouse upon which the charges have not been paid for twelve months after the same have become due, unless otherwise provided by contract, the warehouseman may sell such property, or enough thereof to pay the charge, at public auction, at the warehouse or at the court-house door of the county in which the warehouse is situated \* \* \* And the warehouseman, at least ten days before day of sale, shall mail to the owner a notice of the time and place of sale, with a description of the article to be sold and amount of charges. [4778]

### III. Inspection Warehouses.

**County court may establish:** An inspection warehouse outside of a city may be established by the county court of the county wherein it is located, upon the application of any person entitled as owner or lessee, but the same shall not be established unless the warehouse be built of such material and in such manner as to prevent injury to articles stored therein. [2186]

**Scales and balances to be provided:** Scales, steelyards, or patent balance, with suitable weights sufficient to weigh at least one ton, shall be provided as appurtenant to the warehouse. [2187]

**Inspectors, appointment of:** If the warehouse be within a city, the same may be established as an inspection warehouse, and inspectors appointed by the city council, otherwise by the county court. They shall

be three in number, and remain in office until removed by the court for misconduct, negligence or incompetency. [2188]

**Inspectors, duties of:** When required by the owner or lessee of the warehouse, the inspectors, or some two of them, shall attend at the warehouse, and, upon request of the owner of the commodity, and not otherwise, shall inspect any tobacco, flour, salted beef or pork, lard, spirituous liquors, imported salt, or hydro-carbon oils, or oils made from coal, petroleum, or well oil, for illuminating purposes, or such of them as by their appointment they are authorized to inspect; and to this end it shall be lawful for the court to appoint inspectors for the different articles above named, and to designate in the order of appointment those articles of which the person is to be inspector. [2189]

**Articles may be sold without inspection:** Except the article of oil for illuminating purposes, no penalty shall be incurred for the sale or exportation thereof without inspection. [2190]

**Quality and grade to be noted:** Upon all articles inspected, except tobacco and salt, there shall be noted by the inspectors the quality and grade, or that it is condemned. [2191]

**Fees of inspectors:** The fees of inspectors shall be as follows: For every hogshead of tobacco, thirty-seven and one-half cents; for each barrel of flour, three cents; half barrel, two cents; for each barrel of salt, three cents; for a sack of salt, two cents; for inspecting and packing each barrel of beef or pork, twenty cents; for each half barrel, twelve cents; and for each keg or firkin of lard, two cents; for a single barrel or cask of liquor, twelve and a half cents; for more than one and less than five, seven cents each; and for five or more, five cents each; for inspecting a single cask or package of oil the inspector shall be allowed fifteen cents; for more than one and less than five, ten cents; and for five or more, five cents each. [2192]

**False brand, alteration of brand:** If any person shall willfully use or imitate the brand or mark of another on the barrel or cask of any such article, or shall pack or put such article in a barrel, cask, box, keg or firkin previously branded with the name or mark of another, or shall alter, erase, or obliterate the brand or mark made by an inspector on an inspected hogshead, barrel, cask, keg or firkin, or shall shift or change the contents of the same after inspection, or shall mark or brand with the mark or brand of an inspector, or with any imitation thereof, any article subject to inspection which has not been inspected, and shall sell or offer to sell the same, he shall, for every such offense or false marking, using, packing, changing or shifting, be fined twenty dollars; and for every such fraudulent erasure, alteration or counterfeiting of the brand or mark of an inspector, shall incur the penalties prescribed against forgery. [2195]

**Selling articles under weight:** Whoever shall sell or offer to sell any barrel or other package of such article, knowing the article

not to be of the weight or quantity, after allowing for ordinary waste or loss of weight, that is required by law, or that is marked or branded thereon, shall be fined ten dollars for every barrel or package so sold or offered for sale. [2196]

**Falsely packed hogsheads, casks or barrels:** Whoever shall knowingly sell, or attempt to sell, any hogshead, barrel or other package of tobacco, liquor, salt, beef, pork or lard, which is falsely packed or filled, or the staves or heading of which are falsely made, with a view to cheat a purchaser as to weight or quantity, or shall so pack, fill or prepare a hogshead, barrel or other package, with such intent, shall be fined ten dollars for every such hogshead, barrel or other package. [2198]

#### IV. Grain Warehouses.

**Public granaries, elevators, warehouses defined.** Public grain elevators, warehouses and granaries in this commonwealth shall embrace those in which grain is stored, inspected, classified and sold. [4781]

**License procured from county clerk:** The proprietor, lessee or manager of any public grain warehouse shall, before transacting any business therein, procure from the clerk of the county court a license permitting him to transact business of such a warehouse, \* \* \* [4782]

**Grain, duty of warehousemen concerning:** It shall be the duty of every warehouseman to receive for storage any grain that may be tendered to him, without making any discrimination between persons, such grain in all cases to be inspected and graded by a duly authorized inspector, and to be stored with grain of a similar grade received at the same time, as near as may be. In no case shall grain of different grades be mixed together while in store; but if the owner or consignee so requests, his grain may be kept by itself in a separate bin. If a warehouse receipt be issued for grain so kept separate, it shall state on its face that it is in a separate bin. Nothing in this section shall be so construed as to require the receipt of grain into any warehouse in which there is not sufficient room to accommodate or store it properly, or in cases where the warehouse is necessarily closed. [4785]

**Receipt not to affect legal liability:** No grain warehouseman can, by any proviso in the receipt or in any otherwise, restrict the liability put upon him by law. [4788]

**Grain to be delivered upon presentation of receipt:** Upon presentation of the receipt, properly endorsed, and tender of charges, the quality of grain therein named shall be at once delivered to the owner, and no storage can be charged after demand made; and for any delay in delivery beyond the time required with due diligence, care and prudence, the warehouseman shall be liable for damages which, at the option of the party injured, may be assessed at one cent per bushel for every day of neglect or refusal to deliver. [4789]

**Rates and charges to be posted:** Every such warehouseman

shall, before receiving any grain on store and thereafter within the first week of every January and July, publish his rates of storage and charges for receipts and deliveries, by posting them in his office and in the rooms of the board of trade, if there be any in a city situated in the same county as the warehouse, and shall not increase them during the intervening time, nor shall any subsequent change of rates apply to grain previously received in the warehouse. [4792]

**Grain of different qualities not to be mixed:** It shall not be lawful for any public warehouseman to mix any grain of different grades together, or to select different qualities of the same grade for the purpose of storing or delivering the same, nor shall he attempt to deliver grain of one grade for another, or in any way tamper with grain while in his possession or custody with a view of securing any profit to himself or any other person; and in no case, even of grain stored in a separate bin, shall he be permitted to mix grain of different grades together while in store. He may, however, on request of the owner of any grain stored in a private bin, be permitted to dry, clean or otherwise improve the condition or value of any such lot of grain; but in such case it shall only be delivered as such separate lot, or as the grade it was originally when received by him, without reference to the grade it may be as improved by such process of drying or cleaning. Nothing in this section, however, shall prevent any warehouseman from moving grain while within his warehouse for preservation or safe-keeping. [4795]

#### V. Tobacco Warehouses.

**Combination to control or interfere with bidding unlawful:** That it shall be unlawful for any tobacco warehouseman, corporation or individuals to combine together, by any rule, by-law or otherwise, for the purpose of controlling, or in any way interfering with, the free and unrestricted right to bid on or to purchase leaf tobacco offered for sale at public auction at any warehouse or place of sale where tobacco is sold by such warehousemen for others in this commonwealth. [4810]

**Preventing persons from bidding:** That it shall be unlawful for any organization or corporation under the laws of this state to prohibit any of its members or others from bidding on or purchasing leaf tobacco at any warehouse that now exists or may hereafter be organized or established in this commonwealth. [4811]

**Sales to be free and open.** That all sales of leaf tobacco at public auction in this state shall be free and open to all responsible bidders. [4812]

**Discrimination between purchasers forbidden:** That all tobacco warehousemen selling leaf tobacco in this state shall make no distinction or difference between purchasers as to charges, samples, warranty or otherwise, whether said purchasers be members of the tobacco exchange or not. [4813]

**Penalties for violation of four preceding sections:** Any warehouseman, agent, manager, corporation or organization who shall violate any of the provisions of the four preceding sections shall be guilty of a misdemeanor, and shall, upon trial and conviction in any court of competent jurisdiction, be fined for each offense in any sum not less than twenty-five dollars nor more than one hundred dollars, in the discretion of the court or jury trying the case, and in addition, shall forfeit all their corporate rights and privileges under the laws of this state. [4814]

**Tobacco warehousemen to grade and weigh, and issue receipts:** That any corporation, company, partnership or individual engaged in the business of warehousemen for the purpose of receiving, grading, handling, prizing and storing tobacco, shall, upon the receipt of such tobacco, grade it into distinct and proper grades, and weigh same; and shall give warehouse receipt therefor to the owner or consignor thereof, setting forth each grade and the number of pounds thereof; and after so doing said corporation, company, partnership or individual shall have the right to commingle all tobacco, so received into like grades and types. [4814a-1]

**Receipts, what to state:** All warehouse receipts so issued shall be consecutively numbered, shall have the name of the owner or consignor written therein, shall bear date upon the same date such tobacco is so received by such warehousemen, shall have written therein the character and amount of lien, or mortgage, if any, upon tobacco so received, and the name of the person holding said lien or mortgage; and such receipt shall be signed by the proper officer of the corporation, company, partnership or individual. If such receipt be lost or destroyed, it shall be the duty of the warehousemen to issue the owner another receipt, and mark across or upon the face thereof the word "duplicate." [4814a-2]

**Receipts negotiable:** All warehouse receipts so issued by any corporation, company, partnership or individual, engaged in the business as above set forth, shall be negotiable and transferable by endorsement in blank or by special endorsement, and with like liability as bills of exchange now are, and with like remedy thereon. And it is provided that any of such warehousemen may in such receipts agree and bind themselves to pay the person rightfully holding the same and entitled thereto the value of the property described therein, in the event of loss or damage from any cause while in the possession of such warehousemen. [4814a-3, as amended March 4, 1910.]

**Competent men to grade and weigh:** It shall be the duty of such warehousemen to have some person or persons competent to grade such tobacco into proper grades and to weigh same in proper manner. [4814a-4]

**Other warehouse acts not affected by this:** Nothing herein shall be deemed to be in conflict with the laws of this commonwealth, governing grain and tobacco warehousemen, where tobacco is received and stored for sale. [4814a-5]

## CHAPTER 18.

### **Offenses and Trespass Pertaining to Farm Property, Etc.**

**Traveling on levee forbidden:** It shall be unlawful for any person to ride a horse or drive any vehicle along or across any public levee except at the crossing of public roads or such private crossings as the levee commissioners may have established, and any one so offending shall be found guilty of a trespass and for each offense fined not less than ten nor more than fifty dollars. [938a-10]

**Penalty for injuring levee:** Any one who shall willfully and feloniously cut, damage, destroy or attempt to cut, damage or destroy any public levee shall be deemed guilty of a felony, and for each offense confined in the state penitentiary for not less than one nor more than five years. [938a-11]

**Hogs, penalty for permitting to run at large on levee:** It shall be unlawful for any person to suffer or permit any hogs owned by them to run at large on any public levee, and any one so offending shall be found guilty of trespass and for each offense fined not less than five nor more than ten dollars; and any hogs found running at large on said levees, may be impounded by the levee commissioners, and held for five days, and unless within that time the owner of said hogs, shall pay to said commissioners the penalty above described, said hogs may be sold by said commissioners for the benefit of said levee. [938a-12]

**Burning warehouse, barn, house, etc.:** If any person shall willfully and unlawfully burn a powder house, tobacco house, warehouse, storehouse, stable, barn, or any house or place where wheat, corn or other grain, grass, fodder, hemp, cotton, wool, fruit, ice, hay or straw is usually kept, or any other house whatever; or any stack, rick or shock of hay, fodder, flax, hemp, cotton, straw or grain; or pile of lumber, plank, rails, posts, hoop-poles, shingles, boards, spoke timber, stave timber, cross-ties, boat gunwales, cordwood, or other timber or wood prepared for any purpose of use or sale; or pile of tanbark, wheat or other grain; or any bridge or causeway upon a street, public highway or private passway, railroad, turnpike, plank or other road, or canal, river or other water; or steam saw or gristmill, water grist or sawmill, or other mill or factory, gas, coal, oil, iron or waterworks, rolling mill, railroad car, stillhouse, engine, wagon, buggy or carriage, threshing machine, mowing or reaping machine, steamboat, or other water craft or vessel; or dwelling house or other building, or house upon which there is any insurance or lien, he shall be confined in the penitentiary not less than one nor more than six years. [1169]

**Tobacco plants, destroying or stealing:** That if any person shall willfully and unlawfully destroy or take from the premises of another

tobacco plants growing in the bed, he shall be guilty of a felony and confined in the penitentiary not less than one nor more than three years. [1201a]

**Chickens or fowls, stealing:** If any person shall steal chickens, turkeys, ducks, or other fowls of the value of \$2, or more, he shall be confined in the penitentiary not less than one nor more than five years. [1201c]

**Injury to locks, dams, railways, highways and bridges:** If any person shall maliciously blow up or attempt to blow up with gunpowder or other material, any of the locks of a canal, or any of the works of a railroad company, street railway, turnpike, gravel road, or plank road company, or any of the locks and dams upon any water-course; or shall, by any other means, willfully and maliciously destroy or injure any of the locks or dams, or works aforesaid, or any bridge over the same, or other public bridge, with intent to impede or injure the navigation or the travel thereon, or the use of any bridge across such canal or lock, or other water-course, or cut or ravine, he shall be confined in the penitentiary not less than two nor more than four years. [1227]

**Trespassing on or injuring enclosed premises:** That it shall be unlawful for any person without the consent of the owner thereof to enter any orchard, game preserve, ginseng garden or farm or other premises when same is enclosed by a wire, board, plank, picket, stone, stone cleft, or other fence, not less than seven feet in height, after the owner thereof has conspicuously displayed on said premises on board not less than twelve by twenty-four inches in size the word "posted," and it shall be unlawful for any person to cut, tear down, burn or otherwise injure any such fence enclosing such orchard, game preserve, ginseng garden or farm or other premises; and any one found guilty of violating the provisions of this act shall be deemed guilty of a felony, and on conviction shall be confined in the state penitentiary not less than one nor more than three years. [1228a]

**Injuring person or property by obstructing highway or passway:** If any person shall willfully obstruct any turnpike road, plank road, gravel road, public road or private passway, by stretching or placing any wire, chain, metal bars, rope, twine or cord in or across the same, or placing any obstruction dangerous to the traveling public in or on any of said roads in this commonwealth, whereby any person, animal or personal property shall be injured, such person shall, upon indictment and conviction, be confined in the penitentiary for not less than one nor more than five years; and if any person shall die from any injury so caused, the person who willfully stretched or placed such wire, chain, metal bars, twine, cord or rope in or across any of said roads, or placed any obstruction dangerous to the traveling public in or across any of said roads, whereby such death was caused, shall be guilty of murder,

and shall, upon indictment and conviction, be punished with death or confinement in the penitentiary for life, in the discretion of the jury. [1241]

**Banding together to disturb or injure persons:** If any two or more persons shall confederate or band themselves together for the purpose of intimidating, alarming, disturbing or injuring any person or persons, or to rescue any person or persons charged with a public offense from any officer or other person having the lawful custody of any such person or persons with the view of inflicting any kind of punishment on them, or with the view of preventing their lawful prosecution for any such offense or to do any felonious act, they, or either of them, shall be deemed guilty of a felony, and upon conviction shall be confined in the penitentiary not less than one nor more than five years. [1241a-1]

**Banding together to injure property:** If any two or more persons shall confederate or band together and go forth, for the purpose of molesting, injuring or destroying any property, real or personal, of another person, persons or corporation, whether the same be injured, molested or damaged or not, they shall be guilty of a felony, and upon conviction shall be confined in the penitentiary not less than one nor more than five years. [1241a-2]

**Threatening letter:** If any person shall send, circulate, exhibit or put up any threatening notice or letter, signed with such person's own or another's name or anonymously, he shall, upon conviction thereof, be fined not less than one hundred dollars nor more than five hundred dollars, and imprisoned in the county jail not less than three nor more than twelve months. [1241a-6]

**Firing woods, fence, grass:** If any person shall unlawfully set fire to any woods, fence, grass, straw or other thing capable of spreading fire on land, he shall be fined not exceeding one hundred dollars. [1254]

**Firing woods and damaging another's property:** If any person intentionally or negligently set any woods on fire, whereby damage is done to the lands or property of another, he shall be fined at the discretion of a jury. [1255]

**Carrying away or injuring property — destroying boundary mark:** If any person unlawfully, but not with felonious intention, take, carry away, deface, destroy or injure any property, real or personal, or other thing of value not his own, or willfully and knowingly, without a felonious intention, break down, destroy, injure or remove any monument erected to designate the boundaries of this state, or any county, city or town thereof, or the boundaries of any tract or lot of land, or any tree, mark, or post or stone planted for that purpose he shall be fined not less than ten or more than two thousand dollars. [1256]

**Destroying or injuring trees, fences, gates or vegetables:** If any person shall willfully and unlawfully cut down or destroy, by belting,

topping, or otherwise, any fruit or shade tree of another, or quarry stone on the land, pull down or open the fence or gate, or break or cut any wire-fence, destroy or injure the vegetables, trees, or shrubbery of any other person, he shall be fined not less than five nor more than five hundred dollars. [1257]

**Leaving gates open, or breaking fences, taking fruit or vegetables:** If any person shall enter into or upon the inclosed land of another, without the permission of the owner or tenant in possession, and shall leave open any gate belonging to the inclosure, or shall pull down or remove any portion of the fence surrounding the land, so that cattle may enter into the premises, or shall enter any orchard or garden, and take and carry away any fruit or vegetables, without the consent of the owner thereof, he shall be guilty of a misdemeanor, and fined not less than five nor more than twenty dollars for each offense. [1260]

**Defacing or taking down advertisements:** If any person shall take down or deface an advertisement required by law, or for the sale of property, put up by any officer or commissioner authorized to make sale of such property by execution, judgment or order of sale or otherwise, before the time of sale mentioned in it, he shall be fined not less than five nor more than thirty dollars. [1263]

**Selling liquor without license:** Any person who shall, without license so to do, sell or otherwise dispose of any spirituous, vinous, or malt liquors shall, for each offense, be fined not less than twenty nor more than one hundred dollars. [1304]

**Selling, giving or furnishing liquor to minor:** Any person who shall sell, lend or give, procure for, or furnish vinous, spirituous or malt liquor, or any mixture of either, to a person under twenty-one years of age, other than his own children, without the special written direction so to do, specifying the person by name and the quantity, from the father, mother or guardian of such infant, shall be fined fifty dollars. [1306]

**Carrying deadly weapons concealed, selling to minor:** If any person shall carry concealed a deadly weapon upon or about his person, other than an ordinary pocket-knife, or shall sell such weapon to a minor, other than an ordinary pocket-knife, such person shall, upon conviction, be fined not less than twenty-five nor more than one hundred dollars, and imprisoned in the county jail for not less than ten nor more than thirty days, in the discretion of the court or jury trying the case. [1309]

**Carrying concealed weapons, when lawful:** Carrying concealed deadly weapons shall be lawful in the following cases: By sheriffs, constables, marshals, policemen, and other ministerial officers when necessary for their protection in the discharge of their official duties; by United States mail carriers when actually engaged in their duties as such, and by agents and messengers of express companies when necessary for their protection in the discharge of their official duties. [1313]

**Profane swearing, drunkenness:** If any person shall profanely curse or swear, or shall be drunk, he shall be fined one dollar for each offense; and every oath shall be deemed a separate offense. If either of the offenses in this section be committed in the presence of a justice of the peace, or of any court of record, the justice of the peace, or such court, may instantly, without further proof, inflict the penalty. [1319]

**Dog-fighting and chicken-fighting:** If any person shall, for profit, cause dogs or chicken cocks to engage in fighting, or shall keep any house or place to be used for dog-fighting or chicken-fighting, or shall bet upon any such dog or chicken fight, or engage therein, or furnish any dog or chicken cock to be used in a dog or chicken fight, he shall be fined not less than ten nor more than one hundred dollars. [1344]

**Enticing laborer to abandon contract:** If any person shall willfully entice, persuade, or otherwise influence any person or persons, who have contracted to labor for a fixed period of time, to abandon such contract before such period of service shall have expired, without the consent of the employer, he shall be fined not exceeding fifty dollars, and be liable to the party injured for such damages as he or they may have sustained. [1349]

**Selling impure lead and oils:** That it shall be unlawful for any person in this state to sell, or offer for sale, any lead for painting purposes as pure lead other than pure lead, and to sell, or offer for sale, linseed oil as pure linseed oil other than pure linseed oil. That for each violation of the above section the person so offending shall be fined not less than fifty dollars nor more than one hundred dollars, in any court of competent jurisdiction. [1373]

**Grass seed, selling adulterated:** That the selling, offering or exposing for sale of any orchard grass, Kentucky bluegrass, timothy, red clover, mammoth clover or alfalfa seed which are mixed, adulterated or misbranded within the meaning of this act is hereby prohibited, and any person who shall sell, offer or expose for sale any such seeds which are mixed, adulterated or misbranded and known by the persons offering, selling or exposing same for sale to be mixed, adulterated, misbranded and done with fraudulent intent, within the meaning of this act, shall be guilty of a misdemeanor and for such offense shall be fined not less than twenty-five dollars nor more than one hundred dollars for the first offense, and for each subsequent offense not more than two hundred dollars, or to be imprisoned six months, or both, in the discretion of the court. [1376b]

**Employe to have leave of absence to vote:** Any person entitled to a vote at any election in this state shall, on the day of such election, be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of four hours, between the time of opening and closing the polls; and such voter shall not, be-

cause of so absenting himself, be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages: *Provided, however,* That application for such leave of absence shall be made prior to the day of election. The employer may specify the hours during which said employe may absent himself as aforesaid. Any person or corporation who shall refuse to an employe the privilege hereby conferred, or shall discharge or threaten to discharge an employe for absenting himself for the purpose of said election from his work, or shall subject an employe to a penalty or deduction of wages because of the exercise of such privilege, or who shall, directly or indirectly, violate the provisions of this section, shall be deemed guilty of a misdemeanor, and be fined in any sum not less than fifty nor more than five hundred dollars. [1574]

**Milepost or signboard, injuring:** Whoever shall willfully break, deface, pull down or remove any milepost or stone, or any direction post, or board thereof, or any printed list of the rates of toll affixed at a tollgate put up on or near any turnpike or plank road, shall be fined from five to ten dollars for every such offense. [4714]

**Bridge, crossing faster than walk:** Whoever shall ride or drive across a bridge of any such road faster than a walk shall, for every such offense, be fined from one to five dollars. [4715]

**Injuring public building or school-house:** If any person willfully and unlawfully pull down or injure a church, court-house, school-house, or other public building, he shall be fined not less than five nor more than five thousand dollars. [1258]

**Grand larceny:** Persons guilty of larceny of goods, money, chattels or other property of the value of twenty dollars or more, shall be punished by confinement in the penitentiary not less than one nor more than five years. [1194]

**Trespass, actual possession not necessary to maintain action:** The owner of land may maintain the appropriate action to recover damages for any trespass or injury committed thereon or to prevent or restrain any trespasses or other injury thereto or thereon, notwithstanding such owner may not have the actual possession of the land at the time of the commission of the trespass. [2361]

**False brand, use with intent to deceive:** If any person use a false brand on anything sold, or to be sold, or offered for sale, with intent to deceive purchasers, he shall be fined not less than two hundred dollars for each offense. [1280]

## CHAPTER 19.

### Pooling of Crops.

**Farmers may pool their crops:** It is hereby declared lawful for any number of persons to combine, unite or pool, any or all of the crops of wheat, tobacco, corn, oats, hay, or other farm products raised by them, for the purpose of classifying, grading, storing, holding, selling or disposing of same, either in parcels or as a whole, in order or for the purpose of obtaining a greater or higher price therefor than they might or could obtain or receive by selling said crops separately or individually. [3941a]

**Contracts entered into valid:** That contracts or agreements made or entered into by persons with each other, the object or intent of which is to unite, pool or combine all or any of the crops of tobacco, wheat, corn, oats, hay, or other farm products, raised by such persons, for the purpose of classifying, grading, storing, holding, selling or disposing of said crops, or any of them, either in parts or as a whole, in order, or for the purpose of obtaining a better or higher price therefor than could or might be obtained by selling said crops separately or individually, are hereby permitted, and shall not, because of any such combination or purpose of said persons, be declared illegal or invalid. [3941a-2]

**Agent may be selected to hold and sell crops:** Such persons so entering into such an agreement or contract as is set out in the foregoing sections are hereby permitted to select an agent or agents through or by or with whom said parties so entering into such agreement may classify, grade, store, hold, sell, or dispose of said crop, or any of them, and said agent or agents shall have the right to take, receive, hold, store, classify, grade, sell or dispose of said crop so placed in said agreement, for the purpose of accomplishing the object of such combination or agreement between such principals, and contracts and agreements entered into by such agent or agents for the purpose of classifying, grading, storing, holding, selling or disposing of said crop so combined, united or pooled, either in parcel or as a whole, are hereby permitted, and shall not, because of any such combination or purpose of such original agreement of such principals so entering into said combination, or of such agent or agents, be declared illegal or invalid. All contracts heretofore made by any person or persons for the purposes set out in the foregoing sections are hereby declared valid, if otherwise legally binding on the parties. To prevent any breach or violation of any contract made for the purposes set out in the foregoing sections a restraining order and writ of injunction may be issued by proper officer, as prescribed in the Civil Code of Practice.

For any breach or violation of any contract entered into for the purposes set out in the foregoing sections, the injured party may recover

the damages sustained by him by reason of such violation of such contract of the person violating the same, and also of any person who shall induce or persuade another to violate such contract, which damages shall include the reasonable expense and attorney's fees incurred by the injured party in prosecuting an action to recover such damages, or to prevent a violation of such contract, if the party complaining shall succeed in doing so, which may be recovered in the same action or original proceeding. Said agent when so selected as herein provided shall have the sole right to sell said crop so pooled or combined, and it shall be unlawful for any owner of such crop to sell or dispose of same and for any person to knowingly purchase the same without the written consent of such agent, and upon conviction thereof he or they shall be fined in any sum or amount not exceeding \$250.00 for each offense, to be fixed by the jury in their discretion. [3941a-3]

*(Act of 1910.)*

**Products may be pooled:** It is hereby declared lawful for any number of persons to combine, unite or pool any or all of the crops of wheat, tobacco, corn, oats, hay or other farm products raised by them, or proposed to be raised by them, whether or not the said crops have been sown, set, pitched or planted, for the purpose of classifying, grading, storing, holding, selling or disposing of same, either in parcels or as a whole, in order or for the purpose of obtaining a greater or higher price therefor, than they might or could obtain or receive by selling said crops separately or individually.

*(Act of March 8, 1910.)*

**Lists of persons pooling crops to be recorded:** 1. It shall be lawful for any person or corporation to whom or to which any article of farm products has been pooled or pledged for any purpose to record a list of the persons pooling or pledging same, together with a general description of the land upon which same was grown or proposed to be grown in the office of the clerk of the county court of the county in which said land is situated.

**Effect of recording:** 2. Such recordation shall have the same effect as to creditors or purchasers as the recordation of chattel mortgages.

**Penalty for buying pooled crops:** 3. Any person buying or soliciting pooled or pledged property, the lists of which have been recorded as herein provided shall upon conviction be fined not less than ten nor more than one thousand dollars or imprisoned not less than fifteen nor more than ninety days or both so fined and imprisoned.

*(Act of 1910.)*

**Agreement to abstain from growing crops:** That it shall be lawful for the growers of any kind of farm products to agree to abstain from growing any kind of crops for any given period or season.

## CHAPTER 20.

### Property Exempt from Execution.

- I. Personal property.
- II. Homestead.

#### I. Personal Property.

**NOTE**— See section 1403, Descent and Distribution.

**Exemptions for person with family residing in state:** The following property of persons with a family resident in this commonwealth, shall be exempt from execution, attachment, distress, or fee-bill, namely: Two work beasts, or one work beast and one yoke of oxen; two plows and gear; one wagon and set of gear, or cart or dray; two axes, three hoes, one spade, one shovel; two cows and calves; beds, bedding and furniture sufficient for family use; one loom and spinning wheel and pair of cards; all the spun yarn and manufactured cloth manufactured by the family necessary for family use; carpeting for all family rooms in use; one table; all books not to exceed seventy-five dollars in value; two saddles and their appendages; two bridles; six chairs, or so many as shall not exceed ten dollars in value; one cradle; all the poultry on hand, ten head of sheep, not to exceed twenty-five dollars in value; all wearing apparel; sufficient provisions, including breadstuff and animal food to sustain the family for one year; provender suitable for live stock, if there be any such stock, not to exceed seventy dollars in value; and if such provender be not on hand, such other property as shall not exceed such sum in value; all washing apparatus, not to exceed seventy-five dollars in value; one sewing machine, and all family portraits and pictures; one cooking stove and appendages, and other cooking utensils not to exceed in value twenty-five dollars; ninety per centum of the salary, wages, or income earned by labor, of every person earning a salary, wages, or income of seventy-five dollars or less per month, provided that the lien created by service of garnishment, execution, or attachment, shall only effect ten per centum of such salary, wages, or income, earned at the time of service of process; of the salary, wages, or income earned by labor, of every person earning a salary, wages, or income in excess of seventy-five dollars per month, sixty-seven and one-half dollars per month and no more shall be exempt." Provided, that these amended exemptions shall only apply in actions brought upon contracts entered into after the effective date of this act, and no provision of this law shall be construed to make it retroactive in effect. [1697, as amended 1910]

**Mechanic's tools exempt:** The tools, not exceeding one hundred dollars in value, of any mechanic are exempt from levy under execution, attachment, distress for rent or fee-bills. If a mechanic claims the benefit of this section, there shall be but one work beast exempt in his favor.

For the purpose of carrying out the provisions of this section, the officer making the levy shall, before he proceeds to sell, ascertain, by the judgment of two discreet, disinterested housekeepers selected and sworn by him, the value of the tools, and set apart for the defendant such as may be selected by him or his agent, not to exceed in amount the sum of one hundred dollars, and may sell the residue. If there be not more than that amount in value, then all the tools shall be set apart to the defendant. A list of the tools so set apart shall be returned by the officer with the process. [1699]

**Professional libraries exempt:** The libraries of all ministers of the gospel, and the professional libraries of attorneys-at-law, the professional libraries and instruments of physicians and surgeons, not to exceed in value five hundred dollars, shall be exempt from execution, attachment, distress for rent or fee-bills: *Provided*, That such ministers, lawyers, physicians and surgeons shall be entitled to only one work beast, and to no wagon, cart or dray. [1700]

## II. Homestead.

**Exemption except as to certain debts:** In addition to the personal property exempted by this article, there shall, on all debts or liabilities created or incurred after the first day of June, one thousand eight hundred and sixty-six, be exempt from sale under execution, attachment or judgment, except to foreclose a mortgage given by the owner of a homestead, or for purchase money due therefor, so much land, including the dwelling-house and appurtenances owned by debtors, who are actual *bona fide* housekeepers with a family, resident in this commonwealth, as shall not exceed in value one thousand dollars; but this exemption shall not apply to sales under execution, attachment or judgment, if the debt or liability existed prior to the purchase of the land, or of the erection of the improvements thereon. [1702]

**Waiver of exemption:** No mortgage, release or waiver of such exemption shall be valid unless the same be in writing, subscribed by the defendant and his wife, and acknowledged and recorded in the same manner as conveyances of real estate; and such exemption in favor of an execution debtor, or one against whom judgment has been rendered, shall continue after his death for the benefit of his widow and children, but shall be estimated in allotting dower. [1706]

**Right of widow and children to homestead:** The homestead shall be for the use of the widow so long as she occupies the same, and the unmarried infant children of the husband shall be entitled to a joint occupancy with her until the youngest unmarried child arrives at full age. But the termination of the widow's occupancy shall not affect the right of the children; but said land may be sold, subject to the right of said widow and children, if a sale is necessary to pay the debts of the husband. [1707]

**Right of husband to homestead of wife:** The homestead of a woman shall, in like manner, be for the use of her surviving husband and her children, situated as above, and when his and their interest ceases, it shall be disposed of in like manner and the proceeds applied on the same terms to her debts; if none, divided among her children.  
[1708]

## CHAPTER 21.

### Rates of Interest.

**Legal rate, six per cent:** Legal interest shall be at the rate of six dollars upon one hundred dollars for one year, and at the same rate for a greater or less sum, and for a longer or shorter time. [2218]

**Contracts for greater than legal rate, void for excess—remedies:** All contracts and assurances made, directly or indirectly, for the loan or forbearance of money, or other thing of value, at a greater rate than legal interest, shall be void for the excess over the legal interest. The amount loaned, with legal interest, may be recovered on any such contract or assurance; but if the lender refuse, before suit brought, a tender of the principal, with legal interest, he shall pay the costs of any suit brought on such contract or assurance.

1. A court of equity may grant relief for any such excess of interest, and to that end compel the necessary discovery from the lender or forbearer.

2. Such excess of interest may be recovered from the lender or forbearer, although the payment thereof was made to the assignee.

3. Partial payment on a debt bearing interest shall be first applied to the extinguishment of the interest then due. [2219]

**Judgments bear legal interest from date:** A judgment shall bear legal interest from its date. A judgment may be for the principal and accrued interest; but if rendered for accruing interest, it shall bear interest only according to its terms. [2220]

**Foreign judgments—presumption as to interest:** Any indebtedness incurred or evidenced by judgment rendered out of the state shall be presumed, unless the contrary be shown, to bear like interest as if it had been incurred or the judgment rendered in this commonwealth. [2221]

**Banks to fix rates of exchange monthly:** Once in each month, and oftener, if thought proper, the rate of exchange at which all bills shall be purchased shall be fixed by all incorporated banks and institutions authorized to deal in such paper, and the same entered upon the proceedings of the board designating the difference, if any be made, on account of the time the bill has to run, a copy whereof shall be posted in some conspicuous place in the public room of the bank. If the rates of exchange be fixed by a branch bank, the same shall not be entered on its records or acted upon by it until corrected, if needful, and approved by the principal bank. Any alteration made in the rates of exchange shall, before acted upon, be noted on the copy posted in the public room. All bank officers shall, in all respects, conform to the rates of exchange so fixed. [2222]

**Interest accruing after death of decedent, when not to be paid:** No interest accruing after his death shall be allowed or paid on any claim against the decedent's estate unless the claim be verified and authenticated as required by law, and demanded of the executor, administrator or curator within one year after his appointment. [3884]

**Specific legacies, when payable:** If no time is fixed for the payment of a specific pecuniary legacy, it shall be payable one year after the testator's death, and carry interest after due. [2065]

**Interest, when guardian charged with:** If, from any source, a balance is owing by a guardian at the end of any year, counting from the time of his appointment, which ought to have been invested or loaned out for the benefit of the ward in reasonable time, but which remains in the hands of the guardian, he shall be charged with interest from the end of the year in which such balance arose; and thereafter he shall be charged with interest upon interest, in biennial rests, and the guardian shall account to his ward for whatever profit or rate of interest he receives from loans or investments of the trust funds. [2035]

**Interest charged guardians, curators, committees:** That guardians, curators and committees, appointed and qualifying under the passage of this act, shall be charged with the following rates of interest, to-wit:

Where the amount received and held in trust does not exceed five thousand dollars, five (5) per cent; where the amount received and held in trust exceeds five thousand dollars, four (4) per cent: *Provided*, That nothing in this act shall prohibit or prevent such fiduciaries from accounting for, or being chargeable with, such sum or sums in excess of the rates herein fixed, as may be realized upon any investment of any such funds made by any such fiduciary. [2035a]

## CHAPTER 22.

### Roads.

- I. Turnpikes, appropriations for.
- II. Roads and passways.
  - a. Public roads.
  - b. Passways.
- III. Turnpike, gravel and plank roads.
  - a. General provisions.
  - b. Tolls.
  - c. Appropriations by counties for pike and gravel roads.
  - d. Free turnpike and gravel roads.
- IV. Motor vehicles.
- V. Miscellaneous.

The provisions in the Kentucky Statutes relating to roads, especially their location and construction and the preliminary steps thereto, are too voluminous to present in this volume, and its pages are therefore confined as near as possible to the provisions governing the repair and the rights and duties of citizens in the care and use of the public highways. Persons desiring further and more detailed information on the subject are advised to consult public officials or competent legal counsel.

#### I. Turnpikes, Appropriations For.

**Fiscal court, appropriation to build roads:** That the fiscal court of any county in this state shall have the power to appropriate any surplus money in its treasury to the grading, graveling or building turnpikes or to the purchasing of any turnpike already constructed or improving the county roads of their respective counties. [1886]

**Aid to district to build road:** That should any magisterial district or districts desire to unite in building a turnpike; it shall be mandatory on the part of the fiscal court to build the same: *Provided*, The citizens of said magisterial district or districts shall have subscribed one-tenth of the cost of same as estimated by the engineer. *And provided, further*, That nothing in this act shall be construed to prevent the fiscal court from building a turnpike exclusive of said subscription if it desires to do so. [1887]

**Money, how expended:** Said money to be expended by said court in the magisterial districts of said counties, each district receiving its *pro rata* as the assessed value of property of said district bears to the entire county. [1888]

**Commissioners to let out work:** The fiscal court shall appoint three commissioners in each magisterial district, who shall let out the work in their districts to the lowest and best bidder, with the privilege of refusing all bids. [1889]

**Powers of commissioners:** Said commissioners shall have the power to contract for labor, buy or hire teams, machinery and tools with which to prosecute their work; and shall have the right to condemn land as provided now by law when necessary to place the road on better grounds, or to widen, to shorten or straighten same. [1891]

**Bonds for turnpike purposes, election to be held:** That the fiscal court shall have power to issue and sell bonds, from time to time, within the constitutional limitation, for the purpose of constructing turnpike or gravel roads, and may cause the bonds of said county to be prepared, executed and issued \* \* \* But before said bonds shall be issued, the question shall be submitted to the legal voters, at a general election held in such county. Before said question shall be submitted, a petition signed by legal voters, to the number of at least fifteen per cent of the votes cast at the last general election held in such county, shall have been filed in the county court of such county asking a submission of the question whether such bonds shall be issued. \* \* \* If two-thirds of the legal voters, voting on said proposition, vote in favor of the proposition, then the fiscal court of said county shall issue bonds as provided herein. [1893a-1]

**Tax may be levied to pay:** That for the purpose of raising the money to pay the interest on the aforesaid bonds, and to finally redeem and pay off same, the said court may annually levy an *ad valorem* tax on all the taxable property of the county, sufficient for the purpose of paying said interest on said bonds and of creating a sinking fund for the ultimate redemption of such bonds when due; and said sinking fund shall be held and kept sacredly for that purpose and no other, but such tax shall not exceed fifty cents on each \$100 worth of said property. [1893a-6]

## II. Roads and Passways.

### a. Public Roads.

**Public roads, what are:** All public roads on which the several county courts have heretofore appointed surveyors to work the same, and allotted lands therefore, which have not been vacated according to law, are hereby declared public roads, without regard to any informality in the orders of the county court by which they were established. [4287]

**Places to which road may be opened:** Applications for opening roads shall be allowed only for the convenience of traveling to the county court-house, to a public warehouse, an established town, postoffice, landing, ferry, mill, lead or iron works, the seat of government, salt works, house of public worship, public cemetery, poor-house, coal or iron banks, to a lock or dam, to an oil well, copper or other mines, a stone quarry, sand bank, to any navigable river, or to a convenient depot on a railroad. [4288]

**Damages and costs:** The court may open or alter a road on con-

dition that all or a part of the sum required to be paid to the owner and tenant, and the cost of procedure, shall be paid by the applicants, or on condition that the applicants wholly or in part open or alter the road; but if the court be of the opinion that such sum or sums and the cost of the proceedings shall be paid by the county, it shall order the same to be paid to the person or persons entitled thereto. [4299]

**Places where road shall not be established, widening of road:** No road shall be ordered to be opened or altered through any burying-ground or dwelling-house, yard and lawn attached, or orchard, without the consent of the owner. The county court may widen roads already established, not to exceed sixty feet in width. [4301]

**Turnpike may be turned over to county:** The owners of the stock of any turnpike, plank, gravel or other road may, at any time, surrender to the fiscal court of the county in which the road is situated the right to use, occupy, repair and control the same as a public road, and thereupon said court may immediately take charge of said road, which shall become a part of the public road system of the county. [4302]

**Ditches and branches for benefit of road:** That the judge of the county court shall, on information in writing by the supervisor or any overseer that a ditch is needed through the land of any person, or that a ditch, branch or creek through any person's land needs cleaning out, straightening, widening or opening in order to carry off the water from any part of the public road, and that the water can not be carried off otherwise, notify such persons, in writing, to have the same done; and upon his failure, after reasonable time, being reported by the supervisor or overseer, the judge shall issue a summons against such person citing him or them to appear at the next regular term of his court, which shall meet not less than five day thereafter, to show cause why the same shall not be done by the supervisor, overseer or contractor, and the cost thereof laid as a tax upon his or their property as other county taxes; and upon failure of such person or persons to show cause, the court shall order said work to be done, giving specific directions therefor; and the cost thereof shall be laid and collected as a tax on the property of said party or parties, and the work shall be paid for out of the county levy. But in all such cases the party or parties affected shall have due compensation for property taken and damages sustained, to be ascertained in the same manner and by the same proceedings as in fixing damages and compensation for property, and so forth, in opening roads. [4305]

**Fiscal courts to control roads:** The fiscal court of each county shall have general charge and supervision of the public roads and bridges therein, and shall prescribe necessary rules and regulations for repairing and keeping the same in order, and for the proper management of all roads and bridges in said county under and subject to the provisions of this act. The public roads shall be maintained, either by taxation or

by hands allotted to work thereon [or both] in the discretion of the fiscal court of the respective counties, as hereinafter provided. [4306]

**Tax may be levied:** The fiscal court shall have full power and authority to levy an *ad valorem* tax for road and bridge purposes of not exceeding twenty-five cents per year on each one hundred dollars' worth of property assessed for state and county taxation, and also a *per capita* tax of not exceeding one dollar on each male citizen of the county, liable to work on roads, between eighteen and fifty years of age. Said tax to be collected in the same manner, by the same officer, and under the same obligations, as other county revenue is collected, and the fund shall be designated as the "Road and Bridge Fund." [4307]

**County may vote road tax, road hands:** That any county with a less assessed valuation than three million dollars, shall, upon a vote of two-thirds of those voting upon the proposition, vote a tax of not to exceed twenty-five cents on each one hundred dollars of assessed property for road purposes, shall be levied for the building of and repairing roads. It shall be the duty of the county judge to lay off all roads in said county in road districts and to appoint one road overseer in each district, and it shall be the duty of said road overseer to work, or cause the same to be done, in his respective road district, and he shall be paid out of said road fund not to exceed one dollar per day for his service, and he shall have not to exceed ten days in any one year. Said road overseer shall require to be performed in actual labor, on or in his road district, not less than eight hours of actual labor for one day's work, and for said labor the price shall be not more than one dollar per day for a man, and two dollars and fifty cents per day for a team of two horses and wagon, or plow and scraper, and each taxpayer shall have the right to perform actual labor under the supervision of the road overseer to the amount of his or their tax, said labor to be performed in or on the roads in his or their respective road districts, and it shall be the duty of said road overseers of each and every county of this commonwealth, voting a tax for building roads under this act, to make a full and complete report of all labor performed and by whom performed, and shall make a full and complete report of all funds received and how disbursed. And all funds levied and collected under this act shall be spent in and on the roads of the respective road districts where the said tax originates, and the said road overseer shall be subject to an indictment and fine of not less than ten nor more than fifty dollars for each and every fraudulent statement he may make in his report: And it is *further provided*, That in no county voting a tax under this act, shall be barred from requiring each and every able-bodied road hand to perform such labor in or on his or their road district, as the fiscal court may direct, as now provided by law: And it is *further provided*, That an election shall be held in any county to determine the wishes of the people as now provided by law for special elections. No tax levied hereby shall exist beyond

a period of five years unless again carried at an election herein provided for. [4307a-1]

**Persons required to work roads:** The fiscal court of any county may require all able-bodied male citizens of the county, over eighteen and under fifty years of age, except licensed ministers of the Gospel and citizens of incorporated towns and cities, to provide themselves with necessary tools and implements, and to work on the public roads of the county not exceeding two days in a week, and six days in each year, and in cases of unusual emergency, the overseers may require the road-hands to work a greater number of days in any week or year. In cases where the fiscal court shall pay the road hands for their work, the said court may require them to work more than six days in the year. Any such citizen may furnish an able-bodied substitute to work in his place. A day's work in the road for such hands shall be eight hours. The fiscal court, in its discretion, may pay the hands so ordered to work on the roads a reasonable compensation per day for all or any part of their labor. The amount due to each hand shall be certified by the overseer to the fiscal court, which court shall direct the sheriff to settle all such claims in the payment of taxes, when any taxes are due by the person to whom allowed; and if no taxes are due, or if the claim amounts to more than the taxes due, the sheriff shall pay the person holding such claim, taking their receipt for the same, which shall be his voucher in his settlement. Any one assigned to work on a public road who shall, without good cause, fail to appear with proper implements, and do good work thereon, after having been notified for two days by the officer having supervision of the road, or by some one authorized in writing, by him, to give said notice, shall, on trial and conviction before a justice of the peace, or the county judge, be fined for each day he so fails to work, two dollars and fifty cents. All such fines, when collected, shall be used for road purposes, and upon failure to pay, a *capias pro fine* may issue. [4308]

**Road precincts, overseers:** The judge of each county court shall, at the first regular term of his court after this act takes effect, divide his county into road precincts, shall fix boundaries for the same, and shall allot all the able-bodied male citizens within said boundary, between the ages of eighteen and fifty years, to work on the roads in their respective precincts. For each precinct he shall appoint an overseer, a resident of the precinct, who shall hold his office two years from the day of his appointment and until his successor shall be appointed, unless sooner removed by the county court. And the county judge shall fill all vacancies that may occur in said office. [4309]

**Duty and powers of overseers:** The duties of the overseers shall be as follows, to-wit: In counties wherein the roads are worked by hands allotted as hereinbefore provided, the overseers shall have charge of the roads and bridges in their respective precincts, construct bridges and

work the roads in the manner directed by the fiscal court, shall summons the hands to work the roads in their precincts; superintend and direct said work and keep the road and bridges thereon free of obstructions and in good condition for travel; and may employ the necessary wagons, plows, scrapers, teams and such additional implements as may be needed to work said road; and shall report to the nearest justice of the peace or to the county judge any failure or refusal of any of the hands on his road to appear and do good work in obedience to his summons, and the number and length of time of such failure, and he shall also report promptly to the county judge any damage, injury or obstruction caused by any one to said road or the bridges thereon. And when the fiscal court has provided for paying hands for working on the roads, it shall be the duty of the overseers to report to the fiscal court the number of hands and the time worked by each who have worked on the roads of their respective precincts, and to furnish to each hand a certificate of the time so worked by him. [4311]

**Duty of overseers where roads worked by taxation:** In counties wherein the roads are worked by taxation, it shall be the duty of the overseers to assist the supervisor, if there be one, in looking after the roads in their respective precincts and seeing that they are kept in good repair; to report promptly to the supervisor all obstruction to travel thereon and to report to the county judge all failures of the contractors to comply with their contracts, and all violations or neglect of duty of the supervisor with regard to said roads. If there be no supervisor, they shall discharge such duties and have such powers with regard to the roads and bridges in their respective precincts, as may be conferred and imposed upon them by the fiscal or the county court. [4312]

**Supervisor:** The fiscal court of any county wherein the roads are worked by taxation may, at its first regular term after the taking effect of this act, and every two years thereafter, appoint a supervisor of roads in and for its county, who shall be a citizen of the county, and who shall hold his office for the term of two years, and until his successor is appointed and qualified, unless sooner removed by the fiscal court. Any vacancy in the office of supervisor shall be filled by the fiscal court at a regular term, and it shall be the duty of the county judge, in the event of such vacancy, immediately to fill the same till the next regular term of the fiscal court. [4313]

**Supervisor, duty and powers of:** In counties wherein roads are worked by taxation, it shall be the duty of the supervisor, or if there is no supervisor, the county judge, to advertise for fifteen days in succession in some newspaper of general circulation in his county or by written or printed notices posted up in three or more conspicuous places in each voting place in said county just preceding the regular monthly meeting of the fiscal court in April in each year, that the fiscal court will receive bids to let out to the lowest and best bidder (who shall give bond with

surety approved by said court) the working and keeping in repair of all roads in said county for a term of not less than one nor more than four years, not however including in such letting, roads previously contracted for. The said work shall be done as prescribed in bonds of contractors, the fiscal court reserving the right to annul any and all contracts made with contractors, when the terms of the contracts are not fully complied with. The fiscal court shall also let out at such times needed and on reasonable (printed or written) notice, the building and repairing of all such bridges and culverts as are not embraced in the contracts for working roads. It shall be the duty of the supervisor to superintend the opening, widening and changing of roads, superintend the erection of gates on public roads, to inspect new roads and alterations in the roads, and report the same to the fiscal court when and in the manner directed by said court and to see that all roads and bridges are kept clear of obstructions and at all times in good order for travel and transportation.

\* \* \* [4315]

**Fiscal court may purchase tools:** That the fiscal courts in each county in this commonwealth, wherein the dirt and gravel roads are worked, by hands allotted to same, shall have the right to purchase, out of the road and bridge funds of their respective counties, and furnish to each overseer of roads, such tools as the court may think right and proper to be used in keeping said roads in repair. Each overseer shall be required to give his receipt for all tools furnished him under the provisions of this act, and it shall be his duty to take proper care of all tools thus furnished him, and when not in use keep them properly housed, and at the expiration of his appointment turn them over to his successor and take his receipt therefor, which receipt shall be filed with the clerk of the county court. [4318a]

**Delinquent taxpayers to work out taxes:** That all delinquent and capitation taxpayers of the county between the ages of eighteen and fifty years shall be required to work out their said taxes at such time and on such roads as the supervisor may prescribe; within reasonable distance of their respective places of residence, for which each delinquent shall have credit at the rate of one dollar for each full day's work performed by him. [4321]

**Prisoners to be worked:** All male persons confined in county jails or work-houses, under judgment of a court directing that they may be worked at hard labor, shall be available to the supervisor or overseer, for the purpose of working them on the public highways. [4322]

**Taxpayer may work out his tax:** If the fiscal court shall so decide, any taxpayer who may so desire shall have the privilege of working on the public roads in his county sufficiently long to pay his road and bridge-tax, but shall work for the same compensation per day and the same number of hours per day, and under the same regulations that other hands employed to work on the roads do, and the supervisor shall

give such person who desires to pay his road-tax in work a receipt, specifying the number of days he may so work; and if the work done shall equal his tax at the specified price agreed on, then such receipt shall be evidence of the payment of his road and bridge-tax in full, but if he only works out a part of said tax, the receipt shall only evidence such part payment thereof. [4324]

**Person damaging road by unusual use, to repair:** Any corporation, company or individual who may, by unusual use of a road, materially damage the same, shall repair all damages caused by the use of such road or roads. The supervisor or overseer of roads shall, at any time when necessary, notify said corporations, companies or individuals of their duty as provided in this section; and should the said parties so notified fail, in a reasonable length of time, to be filed in the notice, to make such repairs, such parties shall be deemed guilty of obstructing the public roads, and shall be subject to a fine of not exceeding one hundred dollars, to be applied to road purposes. [4325]

**Passenger and freight vehicles may be licensed:** That in all counties having free turnpikes the fiscal court of such counties may place license on livery vehicles or any other vehicles that carry passengers or freight for pay. [4325a]

**Sign boards at cross-roads:** Every road supervisor or overseer shall, when directed by the county court, keep an index erected at the forks or crossings of all the public roads in his district, upon which shall be inscribed in plain letters the name of, and distance to, the most noted place or places to which each road leads, the cost of which shall be paid as other road expenses. [4326]

**Injuring or obstructing public roads:** Any person who shall willfully obstruct, injure or destroy any of said public roads or bridges, any index or finger board, or any culvert or ditch on said roads, or shall willfully injure any of the tools or implements, or who shall, without right, take possession of or use or appropriate the same, shall be fined for each offense not less than five nor more than fifty dollars, to be recovered in like manner as fines against contractors, and shall also be liable in a civil action for double damages to the county, or any person aggrieved or injured, to be recovered in any court in the county having jurisdiction of the amount claimed. It shall be the duty of the supervisor or overseer and his assistants, and of all constables, town marshals and sheriffs, to report promptly to the county judge or some justice of the peace all violations of this act. [4335]

**Wells and cisterns:** The fiscal court of each county is authorized and empowered to have wells or cisterns made at such points on the public roads in said county as it may deem necessary for furnishing water to work-beasts employed in hauling or in travel over said roads, and other stock traveling on roads; and to have suitable pumps, buckets,

pipes and troughs provided at such wells or cisterns for furnishing water to such beasts; and may provide means to utilize the water from any spring, pond or running stream for such purpose: *Provided, however,* The rights of the owners of such springs, ponds or running streams be protected, and compensation, if required by the owner, be made as now provided by law in regard to condemning private property for public use. The county court shall have such watering places kept in good repair. [4341]

**Injuring well or appliances:** Any person injuring any such well, cistern, pump, trough, pipe, bucket or other means of watering stock, as provided for in the preceding section, shall be fined for each offense not less than five nor more than fifty dollars, to be recovered by warrant before the quarterly court, and the offender may be imprisoned and required to labor on the streets or roads, unless the fine be replevied or paid. [4342]

**b. Passways.**

**Private passways over land of another:** Whenever it shall appear to a county court, that it is necessary for a person to have a private passway over the land of one or more persons to enable him to attend courts, elections, a meeting house, a mill, warehouse, ferry, a railroad depot, most convenient to his residence, or whenever it shall appear to a county court, that it is necessary for a person to have a private tram-road or haul-road over the land of one or more persons to enable him to reach a warehouse, steamboat landing, ferry, railroad switch or navigable stream, for the purpose of operating and marketing the products from a lead mine, iron works, salt works, coal mine, fire clay and other minerals, oil well, stone quarry, sand bank or merchantable forest timber, the court shall appoint commissioners, as in case of a road, who, being first sworn to discharge their duties faithfully and impartially, shall go upon the land of the person through which the passway, private tram-road or haul-road is proposed, whether arable or not, and shall report in writing to the court, whether or not a private passway, tram-road or haul-road is necessary for any of the purposes aforesaid; and, if favorable to the passway, private tram-road or haul-road, they shall, in their report, designate the exact route for the same by metes and bounds, course and distances, and the width thereof, which, in no case, shall exceed twenty feet, and they shall determine and assess what will be a just compensation to each owner and tenant, if any, for the land proposed to be taken for a passway, private tram-road or haul-road, in the same manner as upon application to open and establish a new road. [4348-1]

**Right to use not exclusive:** Nothing in this act shall operate to give any person, firm or corporation exclusive use of said passage, but any other person, firm or corporation shall have the right to use the

same upon paying proper compensation therefor. If no agreement can be made for such compensation, then the right to such use may be condemned as herein provided. [4348-6]

**Damages paid by applicant before road opened:** No passway shall be established without the consent of the owners, until compensation and damages to the owner and tenants, if any, of the land shall be assessed, as in case of a public road, which compensation and damages, and the cost of the whole proceeding, shall be paid by the applicant before the passway shall be established. [4352]

**Gates to be erected and maintained by applicant:** Any gates that shall become necessary by the establishment of a passway shall be erected and kept up at the expense of the applicant for the passway. [4353]

**Obstructing passway:** Any person who shall put any obstructions in a passway, or shall prop open, pull down, injure, or leave open a gate erected across the same, shall be liable to a fine of ten dollars, recoverable by warrant in the name of the commonwealth, the fine to be laid out in repairing the passway or gate. [4354]

**Discontinuance of passway:** Passways may be discontinued by court in the same manner as roads. The law regulating appeals in road cases shall apply to and govern proceedings concerning passways. No passway shall be established through any town lot, burying ground, buildings or yard (or ground of any charitable institution of this commonwealth), without the consent of the owner. [4356]

### III. Turnpike, Gravel and Plank Roads.

#### General Provisions.

**Land acquired by condemnation:** That any company incorporated, or which may hereafter be incorporated, for the purpose of making a turnpike, gravel, graded or plank road, may acquire the title to one acre of land adjacent to each mile of the road, in one or more parcels, for the purpose of obtaining materials for the making or repairing of the road; and also, in addition, not exceeding two acres of land for the purpose of erecting thereon a toll-house for the use of a gate-keeper and for the use of himself and family.

1. The necessary rock, gravel, wood or other material, or the use of any rock or quarry for making or repairing the road, may be obtained by purchase; or as an equivalent therefor, in whole or in part, the use of the road free of toll may be granted to the owner of the materials at one or more gates, in perpetuity or for a term of years.

2. When the land or material can not be obtained by private agreement the company may have the same condemned as provided for the condemnation of land for railroads.

3. The company may retain any such land heretofore obtained,

whether there was any law authorizing its acquisition or not, and may sell any such land heretofore or hereafter acquired to the owner of the adjoining land, but none other; nor shall any building be erected thereon, or otherwise used as a residence, for any person except for the use of a gate-keeper. If any part or parcel of such land is built on, and otherwise so used, such parcel shall revert to and become the property of the person from whom it was purchased, or his heirs. But if any such land be sold, as herein allowed, the company may purchase as much more elsewhere within the mile.

4. If the company ceases to keep up the road, any land procured as herein authorized shall revert to the person from whom it was obtained, or his heirs, saving the rights of creditors. [4712]

**Vehicles meeting, rules to be observed:** The following rules shall be observed by all vehicles running on any turnpike, gravel or plank road:

1. Vehicles meeting shall give to each other one-half of the road, each bearing to its right; when a fast vehicle overtakes one of slower movement the latter shall bear to the right so as to permit the other to pass on its left side. But on plank roads not affording room for the passage of both on the planks no loaded wagon or cart shall be required to get off the planks to afford a passage to any vehicle other than another loaded wagon or cart.

2. If any driver fail or refuse promptly to comply with either of these rules, he or his employer shall be fined for each offense not less than two nor more than five dollars.

3. No bells of any kind shall be carried on the animal or animals drawing any vehicle. For any violation of this rule the driver or his employer shall be fined from two to five dollars for every day during any part of which the offense is committed.

4. Whoever shall obstruct any portion of a turnpike, gravel or plank road by depositing thereon any stone, wood, material, filth or trash, or by feeding any stock on either the stone or plank or dirt part of the road, shall, for every such offense, be fined from two to five dollars.

5. No vehicle shall be unnecessarily left standing, by night or day, on the stone, gravel or plank part of the road; nor shall the animals attached thereto be fed on such part of the road. Every driver or his employer violating this rule shall be fined, for each offense, from two to five dollars.

6. Any unlawful obstruction to a road may be removed by the agent or superintendent thereof, at the cost of the person making the obstruction, which may be recovered in the name of the company. [4713]

**Obstruction on turnpike:** Where any turnpike or gravel road shall be obstructed by fences or otherwise, by any person or persons, and who shall not remove the same when notified to do so by order of the board, it shall be the duty of such directors to cause the same to be re-

moved without delay, as now directed by law, or may proceed by suit in the circuit court in the name of the company to recover the ground; or they may proceed by indictment in the name of the commonwealth for such obstruction, and shall be governed by the laws in regard to the obstruction of public roads. [4721]

**County court may take charge of road:** That whenever any incorporated turnpike company in this commonwealth shall abandon and refuse to keep up and maintain their turnpike road, or shall forfeit their charter, as provided for by law, the county court of the county wherein said road is situated, consisting of the county judge and justices of the peace, may (in their discretion) take charge of said turnpike road, and maintain and keep up same, with the bridges thereon, in proper repair, at the expense of the county; and to aid in the maintenance of the road said county courts (courts of claims) may fix and establish toll-gates thereon, not less than five miles apart, and collect tolls thereon not exceeding the amounts authorized by the charters of said original turnpike companies. [4723]

**b. Tolls.**

**Rates for gates five miles apart:** The following shall be the rates of toll on all turnpikes and gravel roads:

1. These rates are for gates standing five miles apart, and in that proportion for a less distance; but when there is a fraction of a road, of a mile or more, less than five miles, toll may be charged at the gate next thereto for the fraction in the proportion that its length bears to five miles.

2. All tolls are to be paid at the several gates at the time they are passed, or in advance, unless by agreement with the managers of the road, a special permit is obtained to pass for a month or other longer term, not exceeding a year, as provided in section 4728, which is made applicable hereto. If not so paid, the gate-keeper may stop any person and prevent him or his property from passing till payment is made.

*General Traveling.*

3. For every horse or mule and rider, five cents.  
 For a horse, mule or jack, led or driven, three cents.  
 For each head of cattle, two cents.  
 For each head of hogs, one-half cent.  
 For each head of sheep, one-quarter cent.  
 For each vehicle drawn by one horse or mule, ten cents.  
 For each vehicle drawn by two horses, mules or oxen, twenty cents.  
 For each pleasure carriage or hackney coach, drawn by two horses or mules, twenty-five cents.  
 For same when drawn by four horses or mules, thirty cents.  
 For each sleigh drawn by one or two horses or mules, fifteen cents.

For each wagon drawn by three horses, mules or oxen, thirty cents.

For same drawn by four animals, forty cents.

For same drawn by five animals, sixty cents.

For same drawn by six animals, seventy-five cents.

But empty wagons, or such as have no other loading than provender for the team, shall pay only one half these rates.

For each stage coach having seats within for six passengers, thirty-five cents.

For same for nine passengers, fifty-five cents.

For same for twelve passengers, seventy-five cents and two cents in addition for every passenger over four.

For each traction or other engine, one dollar.

*Broad-tread or Tire.*

For each wagon with four animals, of four-inch tread or over, thirty-five cents.

For same with five animals, fifty cents.

For same with six animals, sixty cents.

*Neighborhood Travel or Hauling with Common Tire or Tread.*

For each wagon or cart drawn by two animals, and loaded with nothing but the produce of the farm, for a trip, going and returning, thirty-five cents.

For same drawn by three animals, forty-five cents.

For same drawn by four animals, fifty-five cents.

For same drawn by five animals, seventy-five cents.

For same drawn by six animals, one dollar.

*Neighborhood Hauling with Broad Tread.*

For each wagon loaded as above, drawn by four animals, for every trip, fifty cents.

For same drawn by five animals, sixty cents.

For same drawn by six animals, eighty-five cents.

That when less than the above rates are charged the reduction shall be made equal upon all rates. When any part of a turnpike or gravel road is within the corporate limits of any city or town, and is kept in repair by such city or town, then no toll shall be charged for travel therein. No corporation shall charge, exact or receive any toll greater than or in excess of the tolls authorized by its charter when the tolls authorized to be charged by such charter are less or lower than those prescribed by this act.

**Gate-keeper may administer oath to traveler:** The toll-gate-keeper of any road or chartered bridge may require any person wishing

to pass any gate or bridge to truly state, on oath, to be administered by him, the distance traveled or intended to be traveled on the road, and the number contained in any drove of stock, with whatever else may be necessary to ascertain the true amount of toll that should be paid. Any person refusing to give such information, under oath, when required, shall be fined ten dollars. [4725]

**Ministers, etc., free on roads:** The managers of any turnpike, gravel or plank road shall permit ministers of the gospel to travel on the road without paying toll when on ministerial duty, and shall charge no toll against scholars going to or from school, or to persons who are going to or from any place of religious worship, and funeral processions going to or from any place of burial; but if any other person than scholars going to or returning from school, and the driver shall occupy a vehicle, full toll shall be charged and collected for such vehicle. [4726]

**Evading payment of toll:** Whoever shall defraud or attempt to defraud the company by going around a tollgate, or otherwise evade or attempt to evade the payment of tolls, or to lessen the amount of tolls fairly payable by him, shall, for every such offense, be fined ten dollars. [4729]

**Collecting toll when road out of repair:** If the road in any part becomes impassable the gatekeeper for the five miles within which the defect exists shall, immediately on notice thereof, cease to demand toll until the road is repaired. For failure herein the company shall be fined fifty dollars a day for every day in which toll is so improperly received or demanded. [4730]

**Charging excessive toll:** If any toll-gate keeper, on any turnpike or gravel road in this commonwealth, shall charge a greater rate of toll than that fixed and prescribed by this law, he shall be fined ten dollars for each offense; and if the corporate authorities or owners of any such road authorize a greater charge they shall be fined fifty dollars for every excessive charge made by their authority. [4733]

**c. Appropriations by Counties for Pike and Gravel Roads.**

**Appropriation of funds—submission of questions:** That any county in this commonwealth be, and is hereby, authorized and empowered to appropriate any funds it may now have, or that it may hereafter acquire, other than such funds as are or may hereafter be raised or levied for some specific purpose, and other than such funds as are now appropriated to some other purpose, to building and maintaining pike or gravel roads in such county, provided that a majority of the legal voters of said county voting at any regular election at which the question of such appropriation is submitted as hereinafter provided, shall vote in favor of same. [4742]

**d. Free Turnpike and Gravel Roads.**

**Petition and order for election:** That upon written application, directed to the county judge of any county in this commonwealth, asking for a vote in said county upon the proposition to have free turnpike and gravel roads in said county, signed by a number of voters of said county, equal to fifteen per cent of the vote cast at the last preceding general or county election in said county, it shall be the duty of the judge of the county court, at the next regular term thereof after receiving said petition, to make an order in his book, directing an election to be held in said county at the next regular or county election in said county, that does not occur within sixty days of the date of entering the order, to take the sense of the qualified voters of said county upon the proposition to have free turnpike and gravel roads in said county, which order shall direct the sheriff or other officer of said court, who may be appointed to hold said election, to open a poll at each and all of the voting precincts in said county, for the purpose of taking the sense of the qualified voters on the proposition aforesaid. [4748b-1]

**NOTE**— By act of 1910 the fiscal court of any county containing a city of the second class may purchase any turnpike road without such election.

**Fiscal court to acquire roads if proposition carries:** If it shall appear that a majority of all the votes cast for and against said proposition are in favor of said proposition, then the fiscal court may acquire, by gift, lease, purchase or contract, any or all the turnpike roads, or parts of such as lie within the county, on the best terms consistent with the public interests, in the discretion of said court, and may provide for the construction of new turnpike or gravel roads when the public good demands it. Said fiscal court may levy a tax from year to year on all the estate of every kind assessed for state and county purposes, not to exceed in any year twenty-five cents on the one hundred dollars of taxable property, for the purpose of paying for and maintaining such roads as may be acquired under this act and keeping them in repairs. [4748b-5]

**Fiscal court to take charge of roads:** All turnpike and gravel roads thus acquired or constructed shall become public roads, and shall be maintained and kept in repair by and through the provisions of the fiscal court. Said court may provide for keeping them up as is directed and permitted under the general road law, or it may adopt other rules for the maintenance, repair and management of the same. But said roads shall be free of toll to the traveling public. And all toll-houses, and the land occupied for the use thereof, or owned or held by any turnpike road company, which may be acquired under this act, shall pass with the possession or ownership of such road, to be held by the fiscal court for the use of such road, and may be leased or rented by said court, and the proceeds thereof shall be applied to the maintenance of the county roads acquired under this act. The fiscal court may either rent or sell the

toll-houses, and lots that may come into their possession, but the parties owning the land from which the toll lot came off of originally shall have the refusal of purchase. [4748b-6]

**Bonds may be issued by fiscal court — submission of question to voters:** The fiscal court shall have the power and authority to issue and sell bonds from time to time within the constitutional limitations for the purpose of purchasing and maintaining the roads so acquired or constructed under this act \* \* \* But before the bonds authorized under this act shall be issued, the fiscal court of the county shall, by an order entered of record, call an election to be held and direct a poll to be opened at the next county or regular election to be held in the county, which does not occur within sixty days from the date of the order calling said election. \* \* \* All legal voters in said county shall be privileged to vote at said election. The same officers that hold the regular election shall hold this election, which shall in all respects be held in accordance with the general election laws of this state, the question, "Are you in favor of issuing bonds for the purchase and maintenance of the turnpike roads of this county free of toll to the traveling public?" being printed on the ballot as provided for in the general election law, section 1459, Kentucky Statutes. If two-thirds of the legal voters voting on said proposition vote in favor of the proposition, then said fiscal court shall issue bonds as provided herein. The question of issuing bonds may be submitted to the voters at the same time that the question to have free turnpike and gravel roads is submitted, or it may be submitted at another time. [4748b-9]

**Tax levied to pay bonds and keep roads in repair:** If bonds are sold to enable the fiscal court to purchase and construct roads, the fiscal court shall levy a tax on all taxable property subject to county and state taxation, not to exceed twenty-five cents on every one hundred dollars' worth of taxable property, at its assessed valuation, which shall be collected as other county taxation, and appropriated as follows: First, to the payment of the interest on the bonds; second, to keep said roads in repair, and third, the balance to be placed to the credit of a sinking fund for the redemption of said bonds. [4748b-10]

**Toll may be collected on roads owned by county if voters consent:** That in counties in this commonwealth that have acquired the turnpikes therein under section 4748b of the Kentucky Statutes, embracing an act of the General Assembly, approved March 17, 1896, and are now maintaining such roads by taxation or otherwise, upon written application, directed to the county judge of any county of this commonwealth, asking for a vote in said county upon the proposition to allow counties owning their turnpikes and gravel roads to charge a toll on horses and cattle, and vehicles traveling same, or such part thereof as the court may designate, and to erect toll-gates for the collection of such tolls, signed by a number of voters of said county, equal to fifteen per cent of the vote

cast at the last preceding general or county election in said county. It shall be the duty of the judge of the county court, at the next regular term thereof after receiving said petition, to make an order in his book directing an election to be held in said county at the next regular or county election in said county that does not occur within sixty days of the date of entering the order, to take the sense of the qualified voters of said county upon the proposition to erect tollgates and collect toll on turnpike and gravel roads belonging to said county, or any part of such roads as in the discretion of the court shall be fixed in the order, which order shall direct the sheriff, or other officer of said county who may be appointed to hold said election, to open a poll at each and all of the voting precincts in said county for the purpose of taking the sense of the qualified voters upon the proposition aforesaid. [4748c]

**Toll that may be charged:** If it shall appear that a majority of all the votes cast for and against said proposition are in favor of said proposition, then the fiscal court may acquire, by gift, lease, purchase or contract, such sites and buildings as may be necessary for toll-houses and cause to be erected on such part of the turnpike and gravel roads in the county and at the places where it will be most expedient, toll-gates and employ persons to keep same and collect toll on such roads at rates not greater than those fixed in section 4724, Kentucky Statutes, but such rates may be reduced at any time, in the discretion of the fiscal court. [4748c-5]

**Toll used to repair road:** It shall be the duty of the fiscal court to appropriate to each road on which toll is collected all the money collected thereon and cause same to be expended in keeping said road in repair. [4748c-6]

#### IV. Motor Vehicles.

**Speed at which may be run on highway:** That no person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper at the time and place, having regard to the traffic and use of the highway and its condition, or so as to endanger the life or limb of any person, or in any event at a greater rate than 15 miles an hour, subject, however, to the other provisions of this section. [2739g-1]

**Slower speed at certain places:** Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control, and operate it at a rate of speed no greater than six miles an hour, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public. [2739g-2]

**Duty of operator to give warning:** Upon approaching a person walking in the roadway of a public highway, or a horse or other draft

animals, being ridden or driven thereon, a person operating a motor vehicle shall give warning of its approach by signaling with a horn, bell or other device not calculated to frighten such animal, and use every reasonable precaution to insure the safety of such person or animal, and, in the case of horses or other draft animals, to prevent frightening the same, and at once reduce the speed at which such vehicle is being operated and hold same under control, and if such horses or other draft animals appear frightened, to not more than one-half the speed permitted by section two, and bring same to a stop if apparently necessary for the safety of such person or animal, having due regard to safety of passengers in such motor vehicles. [2739g-3]

**Operator to stop to avoid accidents:** A person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal: *Provided*, That in case such horse or animal appears badly frightened or he is requested so to do, the person operating such motor vehicle shall, if apparently safer, cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals. [2739g-4]

**Duty in passing others:** Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person so operating such motor vehicle shall reasonably turn the same to the right of the center of such highway, so as to pass without interference. Any such person so operating a motor vehicle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the left of such intersections when turning to the left. [2739g-5]

**Brakes, horn and lights to be provided:** Every motor vehicle, while in use on a public highway, shall be provided with good and efficient brakes and also with a suitable bell, horn or other signal, and be so constructed as to exhibit during the period necessary from or after sunset until not necessary before sunrise, a white light visible within a reasonable distance in the direction toward which vehicle is proceeding and red light in reverse direction, provided that in case of heavy fog, if

necessary such light shall be displayed in daytime before sunset and after sunrise. [2739g-6]

**Penalty and civil action:** Whoever shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than ten dollars nor more than one hundred dollars, and in addition thereto shall be liable in a civil action to any person injured in his person or damaged as to his property by the violation of the provisions of this act, and a lien shall attach to the vehicle causing the injury or damage in favor of the person injured or damaged upon the filing of a suit for damages. [2739g-7]

**Machines this act applies to:** This act shall not apply to the operation or use of automobiles or other motor vehicles within incorporated cities or towns, or to their use in the parks or park ways of any such city or town, or connected with or controlled by such city or town. Motor vehicles, as used in this act, includes all vehicles propelled by gasoline or other explosive vapor, steam, electricity or other kindred power, but the provisions of this act do not apply to traction engines, road rollers, fire engines, nor to motor vehicles run upon rails or set tramways or tracks. [2739g-8]

(Act of March 23, 1910.)

**Motor vehicle:** Sec. 1. That the short title of this act shall be the "Motor Vehicle Law." Whenever the term motor vehicle is used in this act, it shall be construed to include automobiles, locomobiles and all other vehicles propelled otherwise than by muscular power, except motor bicycles, traction engines and road rollers, the cars of electric and steam railways and other vehicles as are propelled exclusively by muscular pedal power.

**Registration and fees:** Sec. 2. Every owner of a motor vehicle which shall be driven in this state shall, except as otherwise provided in this act, within ten days after he becomes the owner of such vehicle file in the office of the secretary of state an application properly sworn to, setting forth his name and address, with a brief description of the vehicle to be registered, including the name of the maker, factory number, style of vehicle and motor power, stated in figures of horse power, on a blank to be prepared and furnished by such secretary of state for that purpose, and shall pay to the said secretary of state a registration fee of five dollars on all motor vehicles of a power, less than twenty-five horse power, and ten dollars on all motor vehicles of a power equal to or greater than twenty-five horse power, and less than fifty horse power, and twenty dollars on all motor vehicles of a power equal to or greater than fifty horse power, per annum for each motor vehicle owned by the person making such application. Said registration shall be made on the date the application is received and filed by the secretary of state and

shall expire one year thereafter. Upon the filing in the office of the secretary of state of said application as hereinbefore provided, the secretary of state or his duly authorized agent, shall, without further fee assign to such motor vehicle, as described in such application, a distinctive number and shall issue to the owner of such motor vehicle as is described in the application filed a certificate of registration, which certificate shall be in the form of a card, which may be carried in the pocket, and which certificate shall contain the distinctive number so assigned to such motor vehicle, the name and address of the owner, a brief description of such motor vehicle, stating the name of the manufacturer, the motor power, and the amount of such motor power stated in figures of horse power: Provided, that nothing in this act shall be construed to prevent cities of the first, second and third classes from levying and collecting license taxes from resident owners of motor vehicles for city purposes, by ordinances properly passed.

The secretary of state shall issue to the owner of such motor vehicle a seal of aluminum or other suitable metal which shall be circular in form and not to exceed two inches in diameter, having stamped thereon the words "Registered Motor Vehicle No. —, Ky.," thereafter at all times to be affixed to the motor vehicle to which such number has been assigned. Duplicate certificates of registration will be issued upon the payment of a fee of fifty cents and the filing in the office of the secretary of state an affidavit to the effect that the original certificate of registration was lost, stolen or destroyed.

The secretary of state shall cause the name of such owner with his address, registration number and date of the filing of application and description of such motor vehicle or motor vehicles, to be entered in alphabetical order of the owner's name, in a book to be kept for that purpose in the office of the secretary of state: Provided, that this section shall not apply to manufacture of or dealers in, motor vehicles in this state, except as to vehicles kept by such manufacturers or dealers for private use or for public hire.

**Number to be displayed:** Sec. 3. The owner of each motor vehicle shall have a number corresponding with the number of the certificate of registration and registration seal issued by the secretary of state, as hereinbefore provided, conspicuously displayed upon the front and back of every such motor vehicle owned by him, whenever the same shall be driven or used upon the public streets, roads, turnpikes, parks, parkways, drives or other public highways in this state; such numbers to be separate Arabic numerals, not less than four inches in height and each stroke to be a width of not less than one-half of an inch and also as part of such number, the letters "Ky.,"; such numbers and letters shall be white on black ground, and such letters to be not less than one inch in height. Said owner shall not be required to place any other marks of identity upon said motor vehicle.

**Lights to be displayed:** Sec. 4. Every motor vehicle shall carry during the period from sunset to one hour before sunrise, at least two lighted lamps, showing white lights visible at least two hundred feet in the direction towards which each motor vehicle is proceeding, and shall also exhibit at least one red light visible in the reverse direction attached to the rear of such motor vehicle. Upon each of the glass fronts of the two first mentioned lamps showing white lights, shall be displayed in such manner as to be plainly visible when such lamps are lighted, the number of the certificate issued as aforesaid by the secretary of state and in addition thereto, the letters "KY." such figures to be separate Arabic numerals not less than one inch in height.

**Provision as to manufacturers:** Sec. 5. Each manufacturer of and dealer in, motor vehicles doing business in this state, shall register one vehicle in each class manufactured or dealt in by him, and if a number corresponding to the number of the registration seal issued to such manufacturer or dealer is displayed upon every vehicle of the class for which it was issued as provided in this section, while such vehicle is being operated by such manufacturer or dealer, or his agent or representative, on the public highway, it shall be deemed a sufficient compliance with sections two, three and four of this act, until such vehicle shall be sold or let for hire: Provided, that electrically driven motors shall constitute a class, those propelled by steam power a class, and those propelled by gasoline explosive type engines a class, and that nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for his private use or for hire. No motor vehicle shall be used or operated upon the public highways of this state after this act shall take effect unless the owner shall have complied in all respects with sections two, three, four and five of this act.

**Duty of owner and purchaser in case of sale:** Sec. 6. The vendor and purchaser of every motor vehicle which has been previously registered by any person other than a manufacturer or dealer, shall within ten days after such sale join in a statement and send the name by mail to the secretary of state, and thereupon said registration shall cease to apply to the motor vehicle so sold; and the purchaser of such motor vehicle shall register the same as in case of an original registration and another and different number than the original registration number shall be assigned to said motor vehicle, and the original registration number shall be cancelled by the secretary of state.

**Application to non-residents:** Sec. 7. The provisions of sections two, three, four, and five of this act shall not apply to any motor vehicle owned by non-residents of this state, provided the owner thereof has complied with any law requiring the registration of motor vehicles, or the names of the owners thereof, in force in the city, state, territory or federal district of his residence, provided the registration number

showing the initial or abbreviation of the same of such city, state, territory or federal district shall be displayed on such vehicle, substantially as in section three of this act provided. And provided, that nothing in this section shall be so construed as to exempt non-resident owners and drivers of automobiles from complying with the first part of section 4 of this act requiring the carrying of lighted lamps as in said section provided.

**Vehicles must have brakes:** Sec. 8. Every motor vehicle while in use on a public highway, shall be provided with good and sufficient brakes and also with a suitable bell, horn or other signal device. No part of the machinery of any motor vehicle shall be left running while such vehicle is left standing without an attendant, on any public highway in this state.

**Speed limits:** Sec. 9. No person shall drive a motor vehicle or motor bicycle upon any public highway in this state at a speed greater than is reasonable and proper, having regard to the traffic and use of the highway or so as to endanger the life or limb or injure the property of any person.

If the rate of speed of any motor vehicle or motor bicycle operated upon any public highway in this state where the same passes through the closely built up business portions of any incorporated city, town or village exceed ten (10) miles an hour for a distance of 1-8 of a mile, or if the rate of speed of any motor vehicle or motor bicycle operated upon any public highway in this state where the same passes through the residence portions of any incorporated city, town or village exceeds fifteen (15) miles an hour for a distance of 1-8 of a mile, or if the rate of speed of any motor vehicle or motor bicycle operated on any public highway of this state outside of the closely built up business portions and the residence portions of any incorporated city, town or village exceeds twenty (20) miles an hour for a distance of  $\frac{1}{4}$  of a mile, such rate of speed shall be *prima facie* evidence that the person operating such motor vehicle or motor bicycle is running at a rate of speed greater than is reasonable and proper, having regard for the traffic and use of the way or so as to endanger the life or limb or injure the property of any person. If the rate of speed of a motor vehicle or motor bicycle operated on a public highway in this state in going around a corner, curve, or crossing a highway, where the operator's view of the road traffic is obstructed exceeds eight (8) miles an hour, such rate of speed shall be *prima facie* evidence that the person operating such motor vehicle or motor bicycle is running at a rate of speed greater than is reasonable, having due regard to the traffic and use of the way or so as to endanger the life or limb or injure the property of any person.

**Duty towards animals:** Sec. 10. Whenever it shall appear that any horse ridden or driven by any person upon any of said roads, streets or highways is about to become frightened by the approach of any such

motor vehicle, it shall be the duty of the person driving or conducting such motor vehicle to cause the same to come to a full stop until such horse or horses shall have passed.

**Regulations as to cities:** Sec. 11. No owner of a motor vehicle shall be required to display upon his motor vehicle any other number than the number of the registration seal issued by the secretary of state, or excluded or prohibited from, or limited in the free use of his said motor vehicle or vehicles, nor limited as to speed upon any public street, avenue, road turnpike, driveway, parkway or any other public place, at any time when the same is or may hereafter be opened to use of persons having or using other vehicles, nor be required to comply with other provisions or conditions as to the use of said motor vehicles except as in this act provided: Provided, however, that nothing in this section contained shall be construed to apply to or include any speedway created, provided for, or maintained by the local authorities of any city, town, village or other municipal corporation within the state: And provided, further that the local authorities having jurisdiction over the public parks and boulevards connecting or pertaining to the same shall not by the terms of this act be prohibited from adopting and enforcing such reasonable ordinances, rules or regulations, concerning the speed at which motor vehicles may be operated, within or upon any such parks, parkways, or boulevards, provided the rate of speed of motor vehicles fixed by such ordinances, rules or regulations, shall not be lower than the rate fixed for other vehicles, and provided that such authorities shall by signs conspicuously placed, indicate the rate of speed permitted by such ordinances, rules or regulations: And provided, that nothing in this act shall be construed as affecting the power of municipal corporations to make and enforce ordinances, rules and regulations affecting motor vehicles which are used within their limits for public hire.

**Right of civil action for damages:** Sec. 12. Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to persons or property resulting from the negligent use of motor vehicles or motor bicycles on the public highways.

**Fees for benefit of state road fund:** Sec. 13. All fees collected by the secretary of state under this act, shall be covered by him into the state treasury, for the benefit of the State Road fund, and to be applied and set apart as an addition to the fund.

**Penalty for violations:** Sec. 14. Any person willfully violating any of the provisions of this act shall upon conviction be fined not less than twenty dollars nor more than fifty dollars. Any one using a fictitious number or numbers after the registration for same has expired shall be deemed guilty of a misdemeanor and upon conviction fined not less than fifty dollars nor more than one hundred dollars.

All laws or parts of laws in conflict or inconsistent with the provisions of this act are hereby repealed.

#### V. Miscellaneous.

**Portable engine operating on highway:** Any person using, operating or moving any traction or portable engine on or along any highway or private passway or lane in this state, that is moved in whole or in part by steam power, shall send, and keep at least two hundred yards in advance of said engine, a messenger, whose duty it shall be to warn all persons of its approach, and render such assistance as shall be necessary to secure the safety of all such persons; and any person failing to comply with the provisions of this section shall be fined not less than ten nor more than fifty dollars for each offense. [1343]

*(Act of March 24, 1910.)*

**Crossing over road; culverts to be provided:** Sec. 1. That it shall be unlawful for any one to obstruct the water tables of a turnpike or any public road by putting a crossing, either private or public, over the water table of a public road without providing a culvert or drain pipe of sufficient dimension to carry the full volume of water that may drain in this water table or to curb it so as not to impede the full flow of water. It shall also be unlawful to plant trees, telephone poles or fence in or closer than two and one-half feet of the outer edge of the ditch, so that a plow or machinery may be used in making, widening or deepening them. Any fencing, tree or stone falling into a water table or rolling down from above into it, shall be removed within five days by owner of land of which the obstruction was a part or any person not an owner trimming trees or cutting weeds or briars, or any person placing any other obstruction in water table, shall be liable for all damage done by turning water into the road-bed, and also to a fine of two dollars for each day the obstruction has laid in the ditch longer than five days.

**Duty of road overseers:** Sec. 2. It shall be the duty of the road overseer or county surveyor of roads, to report every misdemeanor under this act with all the evidence he may collect to the magistrate in whose district that part of the road may lay on the penalty of being indicted by the first grand jury for misfeasance in office, and on conviction expelled from his office. On this act becoming a law the fiscal court shall order it to be published once each year for two years in some newspaper of general circulation published in their county.

**Ditch may be dammed:** Sec. 3. Any water table that may wash out deeper than necessary to carry the volume of water drained and undermining the road-bed or adjacent property by the permission of overseer or road supervisor, the ditch may be filled or dammed to its proper size.

**Funds for road drainage:** Sec. 4. In making or repairing any part of a public road one-sixth or more of all money so spent shall be used for the drainage of said road by making water tables and placing culverts or drain pipes of suitable number and size.

**Telephone poles:** Sec. 5. This act shall not apply to telephone companies that have obtained the consent of the fiscal court of the county wherein its poles are located as to the location of same.

## CHAPTER 23.

### Sunday and Its Observance.

**Act directed to be done on a day, if Sunday, next day to be taken:**

If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month, if that day happens to be Sunday, the proceeding shall take place, or the act shall be done, on the next day. [454]

**Selling liquors on Sunday:** Any person who shall, on Sunday, keep open a bar-room or other place for the sale of spirituous, vinous, or malt liquors, or who shall sell or otherwise dispose of such liquors, or any of them, on Sunday, shall be fined not less than ten nor more than fifty dollars for each offense. [1303]

**Selling within mile of church during worship:** No person shall vend or buy within one mile of any church, meeting-house, or other place of public worship, during divine service, any wine or spirituous liquor, or a mixture thereof, to be drunk or which shall be drunk within that distance of such worship, except in houses authorized by law. Any person offending herein, and each person so drinking, shall be fined ten dollars for each offense. [1305]

**Work on Sunday other than work of charity:** No work or business shall be done on the Sabbath day, except the ordinary household offices, or other work of necessity or charity, or work required in the maintenance or operation of a ferry, skiff or steamboat, or steam or street railroads. If any person on the Sabbath day shall himself be found at his own, or at any other trade or calling, or shall employ his apprentices, or other person, in labor or other business, whether the same be for profit or amusement, unless such as is permitted above, he shall be fined not less than two nor more than fifty dollars for each offense. Every person or apprentice so employed shall be deemed a separate offense. Persons who are members of a religious society, who observe as a Sabbath any other day in the week than Sunday, shall not be liable to the penalty prescribed in this section, if they observe as a Sabbath one day in each seven, as herein provided. [1321]

**Barbering on Sunday:** That any person who engages in the business of barbering on Sunday shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five dollars, and upon a second conviction for a like offense, shall be fined not less than ten dollars and not more than twenty-five dollars, or imprisoned in the county jail for a period of not less than five days nor more than ten days, or be both fined and imprisoned, at the discretion of the court. [1322]

**Hunting on Sunday:** If any person shall hunt game, with a gun or dogs, on the Sabbath, he shall be fined not less than five nor more than fifty dollars for each offense. [1323]

**Playing pool, etc., on Sunday:** No spirituous liquors shall be kept or sold in any room where a billiard, pigeon-hole or pool table is kept; nor shall any game be played on such table on Sunday. Upon conviction for a violation of either of the provisions of this section, the keeper or controller of such table or tables shall be fined sixty dollars for each offense, and his license shall be forfeited. [1369]

## CHAPTER 24.

### Time of Commencing Suits at Law.

- I. Real estate.
- II. Other than real estate.

#### I. Real Estate.

**Must be brought in fifteen years:** An action for the recovery of real property can only be brought within fifteen years after the right to institute it first accrued to the plaintiff, or to the person through whom he claims. [2505]

**Disability, time in which person laboring under must sue:** If, at the time the right of any person to bring an action for the recovery of real property first accrued, such person was an infant, married woman, or of unsound mind, then such person, or the person claiming through him, may, though the period of fifteen years has expired, bring the action within three years after the time such disability is removed. [2506]

**Thirty years utmost time allowed:** The period within which an action for the recovery of real property may be brought shall not, in any case, be extended beyond thirty years from the time at which the right to bring the action first accrued to the plaintiff, or the person through whom he claims by reason of any death or the existence or continuance of any disability whatever. [2508]

#### II. Other Than Real Estate.

**Actions that must be brought within fifteen years:** Civil actions, other than those for the recovery of real property, shall be commenced within the following periods after the cause of action has accrued, and not after: An action upon a judgment or decree of any court of this state, or of the United States, or of any state or territory thereof, the period to be computed from the date of the last execution thereon; an action or suit upon a recognizance, bond, or written contract; an action upon the official bond of a sheriff, marshal, sergeant, clerk, constable, or any other public officer, or any commissioner, receiver, curator, personal representative, guardian, committee, or trustee appointed by a court or authority of law; an action upon an appeal bond, or bond given on a *supersedeas*, attachment injunction, order of arrest, or for the delivery of property, or for the forthcoming of property, or to obey or perform an order or judgment of court in an action, or upon a bond for costs, or any other bond taken by a court or judge, or by an officer pursuant to the directions of a court or judge in an action, or after judgment or decree, or upon a replevin, sale, or delivery bond taken under execution, decree, or warrant of distress, upon an indemnifying bond

taken under a statute, or upon a bond to suspend a proceeding or sale under execution, distress warrant, order or decree, or other judicial proceeding, or upon a bond or obligation for the payment of money or property, or for the performance of any undertaking, shall be commenced within fifteen years after the cause of action first accrued. [2514]

**Actions that must be brought within five years:** An action upon a contract not in writing, signed by the party, express or implied; an action upon a liability created by statute, when no other time is fixed by the statute creating the liability; an action for a penalty or forfeiture when no time is fixed by the statute or law prescribing the same; an action for trespass on real or personal property; an action for the profits of or damages for withholding real or personal property; actions for the taking, detaining, or injuring personal property, including actions for the specific recovery thereof; an action for the injury to the rights of the plaintiff, not arising on contract, and not hereinafter enumerated; an action upon a bill of exchange, check, draft or order, or any indorsement thereof, or upon a promissory note, placed upon the footing of a bill of exchange; an action to enforce the liability of a steamboat or other vessel; an action upon an account concerning the trade of merchandise, between merchant and merchant, or their agents; an action for relief on the ground of fraud or mistake, and an action to enforce the liability of bail, shall be commenced within five years next after the cause of action accrued. [2515]

**Actions that must be brought within one year:** An action for an injury to the person of the plaintiff, or of his wife, child, ward, apprentice, or servant, or for injuries to person, cattle, or stock, by railroads, or by any company or corporation; an action for a malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of marriage; an action for libel or slander; an action for the escape of a prisoner arrested or imprisoned on civil process, shall be commenced within one year next after the cause of action accrued, and not thereafter. [2516]

**Usury, action to recover to be brought within one year:** And no action shall be prosecuted in any of the courts of this commonwealth for the recovery of usury theretofore paid, for the loan or forbearance of money, or other thing against the loaner or forbearer, or assignee, or either, unless the same shall have been instituted within one year next after the payment thereof; and this limitation shall apply to all payments made on all demands, whether evidenced by writing or existing in parol. [2517]

**Merchant's account, action to be brought within two years:** An action upon a merchant's account for goods, wares, and merchandise sold and delivered, or any article charged in such store account, shall be commenced within two years next after the cause of action accrued. In every action upon such merchant's account as last above described,

the limitation shall be computed from the first day of January next succeeding the respective dates or times of the delivery of the several articles charged in the account; and judgment shall be rendered for no more than the amount of such articles as were actually charged or delivered within two years preceding that in which the action was brought; any if any merchant or trader shall willfully post-date any article charged in such account, or the receipt for the delivery thereof, or cause it to be done, he shall forfeit tenfold the amount of such article post-dated, to be credited to the person against whom the account may be; and such credit shall be allowed such person in any action on the account without any written pleading setting it up. [2518]

**Fraud or mistake — when action for relief from accrues — limit ten years:** In actions for relief for fraud or mistake, or damages for either, the cause of action shall not be deemed to have accrued until the discovery of the fraud or mistake; but no such action shall be brought ten years after the time of making the contract or the perpetration of the fraud. [2519]

**Merchants, when action on accounts between accrues:** In an action to recover a balance due upon a mutual open and current account, concerning the trade of merchandise, between merchant and merchant, or their agents, 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 claimed, or proved to be chargeable on the adverse side. [2520]

**Fiduciaries, action by infant against:** The right of action, upon the official bond of a guardian, personal representative, curator, of the sheriff, or the officer acting as personal representative, or of any other person receiving and holding money to be distributed to a ward, distributee, or devisee, under the order of court or by authority of law, of a ward, distributee, devisee, or other person entitled, who was an infant when such bond was executed, shall not be deemed to have accrued, unless otherwise expressed in said bond, before the plaintiff attained the age of twenty-one years. Where there are several wards, or several distributees, or devisees, or other beneficiaries secured by the same bond, who, or some of whom, were infants when the bond was given, the right of action of each one of such infants shall not be deemed to have accrued before he attained the age of twenty-one years. [2521]

**Actions not provided for accrue within ten years:** An action for relief not provided for in this or some other chapter, can only be commenced within ten years next after the cause of action accrued. [2522]

**Heirs and devisees, exempt from action after seven years:** No action upon a cause which accrued against a deceased person in his lifetime shall, when his estate has been distributed and divided, be brought against his heirs or devisees, jointly with his personal representative, after the expiration of seven years from his death. [2530]

**Equity of redemption barred in fifteen years:** After a mortgagee of real property, or any person claiming under him, has had fifteen years' continued adverse possession, no action shall be brought by the mortgagor, or any one claiming under him, to redeem it. [2539]

**Mortgage on personalty barred in five years:** The provision of the last section shall apply in case of a mortgage of personal property, with the difference that the period within which the action to redeem may be brought shall be five years. [2540]

**Stolen property, action for recovery of:** Actions for the recovery of stolen property may be commenced against any person having had the same in possession within one year from the time the property is found by the owner thereof, and not after; and actions for the recovery of damages, or the value of stolen property, must be commenced against the thief or any accessory, within one year from the time of the discovery of the liability. [2553]

## CHAPTER 25.

### Trees and Timber.

**Stealing timber growing on another's land:** Any person who shall feloniously cut or saw down and carry away timber growing upon the lands of another, of the value of twenty dollars or more, and without color of title in himself to the land upon which said timber was growing, or to said timber, shall be confined in the penitentiary for a period of one year. [1201]

**Feloniously cutting and taking timber from another's land:** If any person shall feloniously cut, saw down or carry away timber, growing upon the land of another of less value than twenty and more than five dollars, and without color of title in himself to the land upon which the timber was growing, he shall be fined not less than fifty nor more than one hundred dollars, or imprisoned in the county jail not more than six months, or both. [1244]

**Brand may be adopted:** Any person, firm or corporation dealing in timber in any form shall be called and known as a timber dealer, and as such may adopt a brand. \* \* \* [1409-5]

**Timber, what constitutes:** For the purposes of this act the word "timber" shall mean and include trees, whether standing, down or prepared for sale, saw-logs, and all other logs, cross and railroad ties, boards, planks, staves and headings, and other timber cut or prepared for market. [1409-6]

**How stamped with brand:** The proprietor of such brand shall, in using the same, cause it to be plainly stamped, branded or otherwise impressed upon each piece of timber upon which the same is placed. [1409-9]

**Fraudulently marking timber:** If any person shall fraudulently place any brand on timber described as aforesaid, not his own, he shall be guilty of a misdemeanor and fined not less than one hundred nor more than five hundred dollars, and imprisoned in the county jail not less than one nor more than twelve months for each and every such offense. [1409-10]

**Defacing brand:** Any person or persons who shall unlawfully cut out, cancel, obliterate or deface any brand recorded as provided by this act, which shall have been placed upon the standing timber, saw-log or other log or tree prepared for the purpose of sale, or any cross or railroad tie, stave, heading, or other timber prepared for market, of another in this commonwealth, shall be deemed guilty of a felony, and upon conviction thereof shall be, for each offense, confined in the penitentiary of this State not less than one nor more than three years. [1409-11]

**Converting branded timber:** Any person or persons who shall unlawfully take, secrete, cut, saw, split up or destroy any timber branded as herein provided, or remove same from the main river on which the same was taken up, with the intent to prevent the owner thereof from finding the same, or in any way convert same to his or their own use without the consent of the owner thereof, or who shall receive same, knowing same to have been stolen, shall be deemed guilty of a felony and, on conviction thereof, confined in the penitentiary for not less than one nor more than three years. [1409-12]

**Contract for standing trees to be in writing:** No contract for the sale of standing trees or standing timber shall be enforceable by action unless the said contract or some memorandum thereof be in writing, signed by the person to be charged or his duly authorized agent. [1409-13]

**Title passes when timber branded:** Whenever any timber shall be branded by the seller, or by another with his consent, with the brand of the purchaser or other person or corporation, then the title to said timber shall at once pass to the person or corporation whose brand is thus placed upon it, but this shall not affect the rights of the contracting parties with respect to the payment of the purchase money therefor. [1409-14]

**Shade trees, penalty for injuring:** The fiscal court of each county may, by an order duly entered of record, provide for procuring, planting, protecting and caring for shade trees on any of the public roads in each county, and may pay for the same out of any unexpended moneys belonging to the road or bridge fund of the county, or may agree with taxpayers to do such work at a stipulated price, and allow such persons credit on their road and bridge taxes. It shall be the duty of the supervisor, his assistants and overseers, respectively, to look after such shade trees, and to report to the county court judge all injuries to or destruction of the same, or of any box or other protection placed around or near the said trees, or of any violation of the regulations made by the court for the preservation of the same. And any person who shall intentionally or carelessly destroy or injure any of such trees, or the boxes or other protection to the same, shall, for each offense, be fined not less than two dollars and fifty cents nor more than twenty dollars, to be recovered on warrant issued by, and returnable before, and to be tried by, the judge of the quarterly court. [4340]

## CHAPTER 26.

### Weights and Measures.

**Standard established by United States Government:** The weights, measures and balances received from the Government of the United States, now in the custody of the secretary of state, shall continue in the custody of that officer, and shall be the standard of weights and measures in this state. [4815]

**Duplicates may be furnished counties:** The governor shall cause duplicates of those weights, measures and balances to be made for such counties as may not have the same; and, upon his written certificate of the cost, the auditor shall give a warrant on the treasury therefor. [4816]

**Wheat, how measured and weighed:** It shall be unlawful for any person, commission merchant, miller, dealer, grain inspector, corporation, company, firm or association, either by himself, itself, officer, agent, or employe, when purchasing wheat or receiving it in barter or exchange for flour or otherwise, from the owner, his agent or employe, to use for the purpose of testing or determining the weight, grade, milling or market value of wheat, any measure other than the standard half-bushel measure furnished this state by the United States; and the use of any fractional part of said standard half-bushel measure for such purpose will be a violation of this section. It shall likewise be unlawful to use anything other than a straight stick with the edges square for leveling the wheat in said half-bushel measure for the purpose of testing the weight, grade, milling or market value of wheat: *Provided*, That the provisions of this section shall not apply to wheat or grain that is inspected or graded by the carload under the regulations of any board of trade. Any person violating any of the provisions of this section shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not exceeding six months. [4819a]

**Hundredweight, ton, what is:** The hundredweight shall consist of one hundred pounds avoirdupois, and two thousand such pounds shall constitute a ton; and all contracts hereafter made shall be construed accordingly, unless the contrary be stipulated. [4820]

**Bushel, weights of different articles:** The following weights shall constitute a bushel of each article named, respectively: Wheat, sixty pounds; shelled corn, fifty-six pounds; corn in the ear, seventy pounds from the first of November to first of May following, and from first of May to the first of November following, sixty-eight pounds; rye, fifty-six pounds; oats, shelled, thirty-two pounds; barley, forty-seven pounds; Irish potatoes, sixty pounds; sweet potatoes, fifty-five

pounds; white beans, sixty pounds; castor beans, forty-five pounds; clover seed, sixty pounds; timothy seed, forty-five pounds; flax seed, fifty-six pounds; millet seed, fifty pounds; peas, sixty pounds; blue-grass seed, fourteen pounds; buckwheat, fifty-six pounds; dried apples, twenty-four pounds; dried peaches, thirty-nine pounds; onions, fifty-seven pounds; bottom onion sets, thirty-six pounds; salt, fifty pounds; stone coal, seventy-six pounds; the term coal includes anthracite, cannel, bituminous and other mined coal; bran, twenty pounds; plastering hair, eight pounds; turnips, sixty pounds; unslaked lime, thirty-five pounds; corn meal, fifty pounds; fine salt, fifty-five pounds; Hungarian grass seed, fifty pounds; ground peas, twenty-four pounds; orchard grass seed, fourteen pounds; English blue-grass seed, fourteen pounds; hemp seed, forty-four pounds. [4821]

**Irish potatoes, pounds to barrel:** One hundred and sixty pounds net of Irish potatoes shall constitute a merchantable barrel. [4822]

**Coal, selling unscreened for screened:** Any person selling unscreened coal for screened coal shall be subject to a fine of not less than five nor more than twenty dollars, recoverable by warrant before a justice of the peace. [4823]

**Hemp, hundredweight, ton:** That the hundredweight of hemp shall consist of one hundred pounds avoirdupois, and two thousand such pounds shall constitute a ton, and all contracts hereafter made shall be so construed. Any person violating this act shall be fined in a sum of not less than one hundred dollars nor more than five hundred dollars for each offense. [4823a]

*(Act of March 23, 1910.)*

**Fiscal court to provide standard weights and measures:** Sec. 1. The Fiscal Court of every county in the state, within ninety days after this act takes effect, shall provide duplicates of the standard weights, measures and balances approved by the government of the United States; said duplicates shall be kept in the custody of the clerk of the county court for each county and in the office of said clerk.

**Inspector to be appointed:** Sec. 2. The fiscal court of each county may in its discretion appoint an inspector of weights and measures, said inspector to be appointed by the fiscal court at its October session and he shall hold office for two years, or until his successor is selected and qualified. Before entering upon the discharge of his duties he shall execute bond for the faithful performance of his duties, said bond to be approved by the judge of the county court and the penal sum to be fixed by said judge of the county court. The duties of inspector shall not be incompatible with those of any other county office and the fiscal court may, in its discretion, authorize said duties to be performed by some county official.

**Duties of inspector:** Sec. 3. It shall be the duty of the inspector to test, at least once a year, all weights, measures, balances, scales, steel yards or beams in the county owned or used by any person, firm or corporation engaged in buying or selling merchandise, groceries, produce, poultry, grain, provender, meats, coal, ice, feed stuffs, iron, rags, metal, junk, wares, wool, hides, leather or other articles of trade or commerce, horses, cattle, sheep, hogs or other live stock, and using said scales, weights or measures for determining the weight of any said articles in either selling or buying same. The inspector shall also test all public scales where commodities or live stock are weighed and for which fees are charged. The fiscal court shall provide the inspector with weights, measures and balances and such other apparatus as will enable him to make the necessary tests. In counties containing cities of the first, second and third classes, where any such cities by ordinances require inspections of weights, measures and balances as often and of like character in this act, the inspector herein provided shall not make any inspections in said city.

**Compensation of inspector:** Sec. 4. The inspector shall receive as compensation the following fees: For testing each platform scales ordinarily used in weighing live stock, coal, grain, provender, wagons and heavy articles of like character, one dollar and fifty cents; for testing each steel yard, balance, beam or any other scales, twenty-five cents, and for testing each weight and measure, five cents; said fees to be paid by the owner, operator or person in possession of said scales, weights and measures. The inspector after making any of the tests provided for herein, shall deliver to the owner or operator of scales, weights, measures and balances tested, a certificate setting forth the articles tested, the result and date of the test, and the inspector shall keep a complete record of all tests made and on the first Monday in each month shall file in the clerk's office of the county court a statement over his signature showing the tests, if any, made by him during the previous month.

**Duty of inspector when complaint is made:** Sec. 5. Upon complaint of any person made by affidavit before the judge of the county court, stating that he has been cheated or defrauded by the use of any scales, balances, or measures, within thirty days previous to said complaint, the county judge shall order the inspector to immediately make a test of the scales, weights or measures complained of. If same are inaccurate in any respect, the owner, operator or person in charge of the scales, weights, or measures complained of, shall pay the fees of the inspection in addition to the other penalties prescribed by law. In the event that said scales, weights or measures complained of are found to be accurate, the complainant shall pay the fees for testing. The inspector shall have the right to make a test at any time, but there shall be fees charged for only one inspection per year of the same scales,

weights or measures except in cases of complaint as herein provided. It shall be the duty of the inspector of weights and measures having knowledge or information of the use of false weights, or measures, or inaccurate scales or measures in the county by any person whatsoever, to report same to the county attorney and to the next succeeding grand jury, if the user is not sooner arrested and tried. The inspector shall aid in the prosecution of offenders under this act.

**Refusal to permit inspection, etc.:** Sec. 6. Any person who shall buy or sell by any weight, balance, scales or measure that does not correspond to or agree with the weights, measures, and balances herein provided, or shall use or give any false weights or measures, or shall keep any false weights, measures, scales or balances on hand for the purpose of buying or selling therewith shall be fined in any sum not less than four dollars nor more than one hundred dollars for each offense or a like sum for each and every month he continues to keep the false weights, measures, scales or balances on hand. Any person who shall refuse to permit the inspector to make a test of weights, measures, scales or balances, owned or operated by him, or under his control, or shall prevent or interfere with the inspector in doing so, or shall refuse to pay the fees for tests after same has been made, shall be fined for each offense in any sum not exceeding one hundred dollars, and for each and every day the said inspector is so prevented from making the tests provided for in this act, shall constitute a separate offense.

**Repeal:** Sec. 7. Sections 4817, 4818 and 4819 of the Kentucky Statutes and all other laws in conflict with this act are hereby repealed.

## CHAPTER 27.

### Wills.

**Destroying or concealing will:** If any person fraudulently destroy, or conceal a will or codicil, with intent to prevent the probate thereof, he shall be confined in the penitentiary not less than one nor more than five years. [1226]

**Will, meaning of word:** Except where it would be contrary to the manifest intention, the word "will," as used in this chapter, shall signify a last will or testament, codicil, appointment by will, or writing in the nature of a will in exercise of a power, and also any other testamentary disposition. [4824]

**Persons competent to make:** Every person of sound mind, not being under twenty-one years of age, nor a married woman, may by will dispose of any estate, right or interest in real or personal estate that he may be entitled to at his death, which would otherwise descend to his heirs or pass to his personal representatives and though he may become so entitled after the execution of his will. [4825]

**Minor can not make will:** No person under twenty-one years of age can make any will, except in pursuance of a power specially given to that effect, and except, also, that a father, though under twenty-one years of age, may appoint by will a guardian to his child. [4826]

**Married woman may make will:** A married woman may, by will, dispose of any estate secured to her separate use by deed or devise, or in the exercise of a written power to make a will. [4827]

**Will must be in writing:** No will shall be valid unless it is in writing, with the name of the testator subscribed thereto by himself, or by some other person in his presence and by his direction; and, moreover, if not wholly written by the testator, the subscription shall be made or the will acknowledged by him in the presence of at least two credible witnesses, who shall subscribe the will with their names in the presence of the testator. [4828]

**Marriage revokes will:** Every will made by a man or woman shall be revoked by his or her marriage, except a will made in exercise of a power of appointment when the estate thereby appointed would not, in default of such appointment, pass to his or her heir, personal representative, or next of kin. [4832]

**How will may be revoked:** No will or codicil, or any part thereof shall be revoked, unless under the preceding section, or by a subsequent will or codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is required

to be executed, or by the testator, or some person in his presence, and by his direction, cutting, tearing, burning, obliterating, canceling or destroying the same, or the signature thereto, with the intent to revoke. [4833]

**Children of devisee or legatee, when take parents' share:** If a devisee or legatee dies before the testator, or is dead at the making of the will, leaving issue who survive the testator, such issue shall take the estate devised or bequeathed, as the devisee or legatee would have done if he had survived the testator, unless a different disposition thereof is made or required by the will. [4841]

**Child or grandchild believed to be dead:** If the testator has a child or grandchild living at the time of his death whom, then and at the time of making the will, the testator believes to be dead, or if a child dies out of the state within the knowledge of the testator, leaving issue of which the testator has no knowledge at such time, and no provision for or exclusion of such child, grandchild, or issue is made by the will, the child, grandchild, or issue, shall take of the testator's estate as if he had died intestate, and as is hereinafter provided in favor of a pretermitted child. But the presumption that such pretermission was the result of mistake on the part of the testator may be rebutted by parol or other proof. [4842]

**Pretermitted child:** If any person dies leaving a child, or his wife with child which shall be born alive, and leaving a will made when such person had no child living, wherein any child he might have is not provided for or mentioned, such will, except so far as it provides for the payment of the debts of the testator, shall be construed as if the devises and bequests therein had been limited to take effect in the event that the child shall die under the age of twenty-one years, unmarried and without issue. [4847]

**Pretermitted child to receive equal share:** If a will is made when a testator has a child living, and a child is born afterward, such after-born child, or any descendant of his, if not provided for by any settlement, and neither provided for nor expressly excluded by the will, but only pretermitted, shall succeed to such portion of the testator's estate as he would have been entitled to if the testator had died intestate; toward raising which portion the devisees and legatees shall, out of what is devised and bequeathed to them, contribute ratably, either in kind or in money, as a court of equity in the particular case may deem most proper. But if any such after-born child or descendant dies under the age of twenty-one years, unmarried and without issue, his portion of the estate, or so much thereof as may remain unexpended in his support and education, shall revert to the person to whom it was given by the will. [4848]

## CHAPTER 28.

### Miscellaneous.

**Farmers' institutes, provision for:** It shall be the duty of the Commissioner of Agriculture, Labor and Statistics, with the approval of said board, to see that a farmers' and industrial institute, of at least two days' duration, is held in each county of the state annually. The institute shall be advertised at least one month before convening, and an effort shall be made to interest and instruct the farmers in the most profitable and approved methods in agriculture and horticulture and awaken an interest in the industrial development of the state generally. This institute shall be used as a means of gathering the people together, of ascertaining their names and post-offices, learning their needs, and giving them information in agriculture and other industrial lines, and of distributing literature upon these subjects. The county institute shall select one or more crop reporters from each magisterial district in the county, to serve for one year without pay, whose duty shall be to report to the Commissioner of Agriculture, Labor and Statistics monthly the acreage and condition of crops and such other information as he, under the law, may ask them. [37, 38-5]

**Canada thistles:** It shall be the duty of every person or persons, and of every corporation holding lands in this commonwealth, either by lease or otherwise, on which any Canada thistles, or weed commonly known as Canada thistles, may be growing, to cut the same, so as to prevent such weeds or thistles from going to seed and the seed of the same from ripening. Any person or persons, or corporation as aforesaid, who shall or may have land as aforesaid in this commonwealth, and who shall knowingly neglect or refuse to comply with the provisions of this act, shall forfeit and pay a fine of five dollars, recoverable before any justice of the peace, or by indictment in the circuit courts of the state. [200]

**Right of aggrieved person to enter and cut thistles:** If any person or persons, or corporation, so holding land as aforesaid on which Canada thistles or the weeds commonly known as such, shall be growing and likely to ripen seed thereon, shall knowingly neglect or refuse to cut and destroy the same so as to prevent the seed thereof from ripening, it shall and may be lawful for any person or persons, who may consider themselves aggrieved or about to be injured by such neglect or refusal, to give five days' notice in writing to such person or persons, or corporation, to cut and destroy such weeds or thistles, and on their neglect or refusal to cut and destroy the same at the end of five days, it shall and may be lawful for any person or persons so aggrieved, or believing themselves about to be injured thereby, to enter upon or hire

other persons to enter upon such lands or premises, and cut down and destroy such Canada thistles. And the person or persons so employed shall be entitled to recover from such person or persons, or corporation, owning or holding such lands, compensation at the rate of one dollar per day, to be recovered as debt of like amount in any court of this commonwealth of competent jurisdiction. [201]

**Contracts in consideration of gaming void:** Every contract, conveyance, transfer, or assurance, for the consideration, in whole or in part, of money, property, or other thing won, lost or bet in any game, sport, pastime, wager, or for the consideration of money, property, or other thing lent or advanced for the purpose of gaming, or lent or advanced at the time of any betting, gaming, or wagering to a person then actually engaged in betting, gaming, or wagering, shall be void. [1955]

**Persons who come into this state under contract:** All persons who shall come to this state under a contract to serve another in any occupation, shall be compelled to perform the contract specifically during the time thereof, or so much of the same as shall not exceed seven years. Infants under fourteen years, under contract entered into by their guardian or father, shall serve to the age of twenty-one years, or such shorter time as the contract shall fix. [2607]

**Duty of master toward servant:** A servant bound to service shall be provided by his master with a sufficiency of wholesome food, clothing, lodging, and medical attention; and, at the end of his service, the servant shall receive from the master a good full new suit of clothes, suited to the season of the year. [2608]

**Master may assign contract by consent of servant:** The master of such servant may assign the benefit of his contract to any person whom the servant may, in the presence of a judge of a court, consent to serve, the judge attesting such consent, which must be in writing. The right of such service shall, on the death of the master, pass to his personal representative or devisee. [2609]

**Contracts between master and servant—when void:** All contracts entered into between master and servant during the period of service, shall be void, except such as are clearly beneficial to the servant. [2610]

**Frauds, statute of; contracts required to be in writing:** No action shall be brought to charge any person—

1. For a representation or assurance concerning the character, conduct, credit, ability, trade, or dealings of another, made with intent that such other may obtain thereby credit, money or goods; nor,

2. Upon a promise to pay a debt contracted during infancy, or a ratification of a contract or promise made during infancy; nor,

3. Upon a promise of a personal representative as such to answer any liability of his decedent out of his own estate; nor,

4. Upon a promise to answer for the debt, default, or misdoing of another; nor,

5. Upon any agreement made in consideration of marriage, except mutual promises to marry; nor,

6. Upon any contract for the sale of real estate, or any lease thereof for longer term than one year; nor,

7. Upon any agreement which is not to be performed within one year from the making thereof, unless the promise, contract, agreement, representation, assurance, or ratification, or some memorandum or note thereof, be in writing, and signed by the party to be charged therewith, or by his authorized agent; but the consideration need not be expressed in the writing; it may be proved when necessary, or disproved by parol or other evidence. [470]

**Property exempt from taxation:** The following property is exempt from taxation: Public property used for public purposes; places actually used for religious worship, with the grounds attached thereto, and used and appurtenant to the house of worship, not exceeding one-half acre in the cities or towns, and not exceeding two acres in the country; places of burial not held for private or corporate profit; institution of purely public charity and institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education; public libraries, their endowments, and the income of such property as is used exclusively for their maintenance; all parsonages or residences owned by any religious society, and occupied as a home, and for no other purpose, by the minister of any religion with not exceeding one-half acre of ground in towns and cities, and two acres of ground in the country, appurtenant thereto; household goods or other personal property of a person with a family not exceeding two hundred and fifty dollars in value; crops grown in the year in which the assessment is made and in the hands of the producer. [4026-8]

**When taxes due, interest and penalty:** All state, county and district taxes, except as otherwise specially provided, shall be due and payable on and after the first day of March after the assessment, and all taxpayers whose taxes are not paid on the first day of December after the same are due shall be deemed delinquent, and such taxes shall bear interest at the rate of six per cent per annum from the first day of December after they are due until paid; and any person or persons failing to pay their taxes by the first day of December in the year following the assessment for such taxes, shall pay a penalty of six per centum additional on the taxes due and unpaid. The sheriff or collector whose duty it is to receive or collect the taxes shall collect the interest and penalty and account for the same in the same way in which they are required to collect and account for the taxes. [4148-20]

**BUSINESS FORMS**  
**AND**  
**BUSINESS LETTERS**

**(139)**

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## CHAPTER 29.

### Business Forms.

- I. Agreements — Contracts.
- II. Affidavit.
- III. Assignment.
- IV. Bill of sale.
- V. Bonds.
- VI. Bank Checks.
- VII. Drafts.
- VIII. Deeds, Mortgages, Leases, Etc.
- IX. Guaranty.
- X. Indorsement.
- XI. Orders.
- XII. Promissory Notes.
- XIII. Receipts.
- XIV. Wills.

#### I. AGREEMENTS.

##### General Form of Agreement for Ordinary Purposes.

Articles of agreement made and entered into this..... day of .....in the year 19...., by and between A B, party of the first part, and C D, party of the second part, witnesseth:

The said party of the first part doth hereby covenant and agree with the said party of the second part to do and perform the matters and things following, to-wit: (*Here state what the party of the first part is to do and perform*).

And the said party of the second part doth hereby covenant and agree with the said party of the first part in consideration of the agreement and stipulations above made and to be performed, that he will, upon the performance of said agreement by said party of the first part, (*Here state what the second party is to do or pay, and if to pay, state when and in what manner and amounts*).

In witness whereof, the said parties have hereunto set their hands the day and the year first above written.

A. B.

C. D.

##### Agreement for Employing Farm Laborer.

This agreement made and entered into this.....day of .....in the year 19...., by and between A B and C D, witnesseth:

The said A B hereby agrees to work faithfully for the said C D as a general laborer on the farm of said C D and to perform other labors in connection therewith for the period of.....consecutive months, beginning on the.....day of ....., 19...., for the sum of ..... dollars (\$—.)

In consideration of said services to be performed, by said A B, the said C D hereby binds himself to pay the said A B the sum of .....dollars (\$—) in monthly installments of.....dollars (\$—) each, at the end of each month of services performed under this agreement.

In witness whereof, the parties have hereunto set their hands the day and date first above written.

Witnesses:

A. B.

C. D.

#### Another Form for Same.

This agreement made and entered into this.....day of.....19...., by and between A B of....., party of the first part, and C D of....., party of the second part, witnesseth:

The said party of the first part has this day agreed to enter into the service of said party of the second part, in the capacity of a general farm laborer, for a period of.....months beginning on the....day of ....., 19...., for the sum of ..... dollars, (\$—) and other considerations as the same are payable and set forth herein below.

The said party of the second part hereby agrees to take said party of the first part into service in said capacity and pay him therefor, the said sum of.....dollars (\$—) in monthly installments of .....dollars (\$—) at the end of each and every month of service performed until said term of service is completed. And the said party of the second part agrees, as further consideration for said service to be performed, to give the said party of the first part, boarding, lodging, washing, mending and all ordinary home conveniences (protracted sickness and expenses thereof excepted) at the dwelling house of said party of the second part, throughout said term of service.

It is hereby mutually agreed by and between said parties that twenty-six days' service shall constitute one month, and that said party of the first part shall be allowed for all time, present, (excepting Sundays) from the beginning of said term, excepting such days, if any, when he shall not work on account of ill health, etc. It is further and finally agreed by and between said parties, that either of said parties may terminate this agreement upon.....days' notice to the other and performance of the terms hereof until the expiration of said notice.

In witness whereof, the parties have hereunto set their hands on the day and date above written.

A. B.

C. D.

#### Agreement for Work and Labor of Any Kind.

This agreement made and entered into this.....day of.....in the year 19...., by and between A B of....., party of

the first part, and C D of....., party of the second part, witnesseth:

The said party of the first part doth hereby covenant and agree with the said party of the second part to work and labor faithfully for the said party of the second part for the term of.....months, commencing on the.....day of ....., in the year 19...., in business of....., and perform such other services and labor as the said party of the second part may reasonably require.

The said party of the second part hereby agrees to pay the said party of the first part for said term of service at the rate of.....dollars (\$—) per month, in the following manner:

*(Here state times and conditions of payment.)*

It is hereby agreed further between said parties that either of them may put an end to this agreement and cease the relation of employer and employee, by giving the other.....days' notice, verbal or otherwise, of such intention; but in such case the said party of the second part shall pay the said party of the first part for the time he may have worked at the rate above fixed.

In witness whereof, the said parties have hereunto set their hands the day and year above written.

A. B.  
C. D.

**Agreement with Farm-house Tenant and Laborer.**

This agreement, witnesseth: That John Temple has this day become the house-tenant of James Squires by moving into the South house on said Squires' farm, for the use and rental of which house said Temple agrees to pay the sum of four dollars per month, all of which rental said Squires agrees to accept in the labor of said Temple, at the rate of One and one-half Dollars (\$1.50) for each day's service rendered, and the said Temple agrees to give the said Squires first refusal of his service during harvesting season. And this agreement shall remain in effect until either of said parties shall terminate the same by giving the other sixty days' notice of such intention.

In witness whereof, the said parties have set their hands hereunto, on the..... day of....., 19....

JAMES SQUIRES.  
JOHN TEMPLE.

**Cultivation of Field for Share of Crop.**

This agreement made and entered into, this.....day of..... 19...., by and between A B of....., party of the first part, and C D of....., party of the second part, witnesseth:

Said party of the first part has this day let unto said party of the second part, a certain twenty acre field to be planted and cultivated in corn this season, the rental rendered therefor to be the.....part of the crop raised on said field.

Said party of the second part agrees to furnish the seed and plant said field in corn, and cultivate the same in a good and proper manner, and to deliver and put in the cribs of said party of the first part, the .....part of the crop raised on said field as rental therefor. One-half of the stocks are to be allowed to remain standing for the use and benefit of said party of the first part, and the said party of the second part may cut and remove the other half thereof for his own use and benefit, but shall not pasture the same in the ground. And said party of the second part agrees to put forth all reasonable efforts to have all of said corn husked and cribbed and his fodder removed on or before December 15, next ensuing.

In witness whereof, said parties have hereunto set their hands on the day and year first above written.

A. B.  
C. D.

#### Contract for the Sale of Live Stock, Grain, Etc.

This agreement made this.....day of..... in the year 19...., by and between A B, of.....and C D, of..... witnesseth:

The said A B, for the consideration hereinafter mentioned, hereby sells and agrees to deliver on or about the.....day of .....next, to the said C D, at..... the following: (*Here describe the stock, or grain as the case may be, stating number of head, etc., or bushels and quality, etc.*)

In consideration for the above (*say grain or stock*) the said C D hereby agrees to pay to the said A B for the same, on delivery, at the rate of (*Here state number of dollars, price per hundred weight, or price per bushel, as the case may be.*)

In witness whereof, the parties have hereunto set their hands and seal the day and year above written.

A. B.  
C. D.

#### Agreement for Building and Maintaining Line Fence.

LEXINGTON, KENTUCKY, March 30, 19..

We, John Milford and George Swisher, being owners of adjoining lands in ..... township, ..... county, Kentucky, hereby agree, for the improvement of our respective properties, to remove the line fence

which has heretofore existed between our said lands, and instead thereof, erect a fence of wires and iron posts. Said Milford agrees to erect and maintain the east half end of said fence, and said Swisher agrees to erect and maintain the west half end of said fence, the said fence to consist of seven strands of No. 8. wire, and posts five feet above the ground and twenty feet apart with stay-slats midway between the posts, and a light guard-board painted white to be hung to the top wire the whole length of said fence. The erection of said fence to be completed on or before May 1st, 19....

JOHN MILFORD.  
GEORGE SWISHER.

#### **Agreement for the Opening and Maintenance of a Private Road.**

Agreement made and entered into this first day of February, 19.., by and between A B, of ....., party of the first part, and C D, of ....., party of the second part, witnesseth:

Whereas, said parties are owners of adjoining lands between and along the common boundary line of which land both of said parties desire to make a road for use and convenience of themselves and their tenants in going in and out to the turnpike, therefore, said parties mutually agree as follows, to-wit:

That each of said parties will contribute for the opening of such road, a strip of land along said boundary line, ten (10) feet wide for a distance of one hundred and twenty (120) rods back from said ..... turnpike, and that each of said parties will erect and maintain at his own expense, a good and sufficient fence along his own side of said road, made by the joining of said strips of land, and that said road shall remain for the joint use of both of said parties and their tenants until such time as said parties may mutually agree in writing to its discontinuance; that said road shall be opened and fenced in the month of April, 19...

In witness whereof, said parties have hereunto set their hands on the day and year first above written.

A. B.  
C. D.

#### **Agreement for Joint Tile Underdrain.**

Agreement made and entered into this 25th day of March, 19.., by and between H. L. Martin of ....., and John Keenan of the same place, witnesseth:

Whereas, the said H. L. Martin is desirous of draining a portion of his land by carrying the water to the Meridian Road ditch through a tile underdrain across the land of the said John Keenan, and whereas, the said John Keenan will also be benefited by such underdrain, therefore, said parties agree as follows, to-wit:

That said Martin may put in a tile underdrain across the land of said Keenan, said Martin to do all opening and filling of the ditch, and furnish one-half of the tile used in crossing said Keenan's land, and said Keenan to furnish the other one-half of the tile used in crossing his own land. Said parties mutually agree that the tile used in said underdrain shall be hard-burned and six inches in diameter, and that each of said parties will have his portion of said tile on the ground ready for use by March 1st, 19..., and that the said Martin shall begin work on said underdrain on that date or as soon thereafter as the frost shall have left the ground, and shall prosecute the work without unnecessary delay until the said underdrain is completed.

If at any time in the future said parties shall mutually agree to discontinue said drain and said tile shall be taken up, then each party shall have one-half of the tile, providing he shall take them up at his own expense, but said underdrain shall not be interfered with nor taken up without the consent of both parties. All repairs of said drain shall be made by said Martin at his own expense, and said Martin shall have the right to enter upon the lands of said Keenan for the purpose of making repairs to said drain when the same are needed, or to take up his share of the said tile in case of abandonment of said underdrain.

H. L. MARTIN,  
JOHN KEENAN.

#### **Agreement for Private Crossing on Land of Another.**

LEXINGTON, KENTUCKY, May 1, 19..

In consideration of the sum of ten dollars (\$10.00) to me paid, the receipt of which sum I hereby acknowledge, I hereby give and grant to Wm. Wilkinson the right to cross my land on a direct line west from his present wagon gate to the river turnpike for the period of one year from this date, the width of said way not to exceed twenty (20) feet, and the said Wm. Wilkinson to erect and maintain a gate at the said turnpike; and I further give and grant unto the said Wm. Wilkinson the right to use said way while I am the owner of said land, so long as he shall on the first day of each January hereafter make me a payment of ten dollars in advance.

In witness whereof, I have hereunto set my hand on the day and year first above written.

JOHN CARTWRIGHT.

#### **Agreement for Sale of Standing Timber.**

This agreement made and entered into this ..... day of ..... 19... by and between A B, of ..... Kentucky, as vendor, and C D of ..... said state, as purchaser.

**Witnesseth:**

The said vendor in consideration of the sum of ..... dollars (\$.....), to be paid to him by the said purchaser, and of the agreement hereinafter contained, on the part of the said purchaser, does hereby sell unto the said purchaser all the timber and other trees standing, growing, and being on a certain tract of land situate in the township of ....., county of ....., state of ..... and bounded and described as follows, to-wit:

*(Here give the description of the land by metes and bounds, if the same has been surveyed separately; if not surveyed then describe it as so many acres located on a certain portion of the farm or tract, giving such distances, marks, etc., etc., as may be desirable to make the description reasonably certain and satisfactory to both parties),* and said vendor hereby assures and grants to said purchaser, free and full license and authority to enter upon said land with his servants and teams, and cut and work up said timber in such manner as he may desire, and to remove the same at such time as said purchaser may desire, provided, that all of said timber shall be cut and removed on or before the ..... day of ..... 19..

The said purchaser hereby agrees to pay the said sum of ..... dollars (\$.....) for said timber, ..... dollars (\$.....) of which said purchaser has this day paid. The remainder, of ..... dollars (\$.....), it is mutually agreed shall be paid as follows:

*(Here state the conditions of further payment.)*

Said purchaser further agrees not to commit waste or damage on other lands, or to the fences of said vendor, and should such occur, said purchaser agrees to compensate said vendor therefor, at the time of the payment period next after such damage is incurred.

In witness whereof, the said parties have hereunto set their hands on the day and date first above written.

A. B.  
C. D.

**Agreement for Sale of Real Estate.**

This contract made and entered into this ..... day of ..... 19.. by and between ..... of ..... County, Ky., first part...., and ..... of ..... County, Ky., second parties, WITNESSETH:

That the first part.....ha..... this day placed in the hands of second parties for a period beginning with this date and ending the ..... day of ..... 19.., the following property, to-wit:

*(Here give proper description of property.)*

.....  
.....  
.....  
.....

and have employed them to sell said property, and hereby give, grant and contract to them the right to sell or procure the sale of said property and they are hereby authorized to sell, make a sale or contract of sale of said property within the above period of time on the following terms and conditions, to-wit:—

Said property to be sold for .....  
The consideration as stated to be paid either cash in hand at date of possession and execution and delivery of deed or ..... thereof at said time and the remainder .....

Possession to be given and general warranty deed to the property to be executed and delivered to purchaser by first part.... on the ..... day of 191.....

When a sale of said property is effected according to terms of this contract, or if effected upon other terms that may be agreed upon by the parties to this contract, the said first part...hereby bind..... to sign all papers necessary to give the purchaser complete title to said property and authority is hereby given to second parties to sign the name of first party ..... to a contract of sale made according to the terms of this contract. Second parties are to advertise said property and draft all deeds and contracts of sale of said property when sold. When the second parties within the period above mentioned make a sale or contract of sale of said property according to terms hereof, or as otherwise agreed upon by the parties hereto, first part.....agrees to pay second parties as their commission a sum equal to.....per cent of gross amount for which said property is sold or a sale contracted for. If within the period herein mentioned first party.....or any other than second parties shall make a sale of said property or so dispose of said property as to prevent second parties from making a sale thereof, first part.....are to pay second parties a sum equal to.....per cent of the consideration as above stated as settlement of their commission. The fees or commissions of second parties shall be due when the sale or trade is effected. Any sale resulting from negotiations begun during the term of this contract shall be a sale within its provisions, although closed after its expiration.

.....  
.....  
.....  
.....

**Agreement for Building House or Barn, Etc.**

This agreement made and entered into this first day of May in the year 19.., by and between A B, of ....., Kentucky, party of the first part, and C D, of said village, party of the second part, with reference to the construction of a certain (*dwelling house or barn, as the case may be*) for said party of the second part witnesseth:

First. That the plans and specifications hereto annexed, and marked "A," and every part and clause thereof, are made a part of this agreement.

Second. That the said A B, hereby agrees that he will, on or before the first day of October, 19.., do, perform, finish and complete, in the manner therein stated all work set forth and referred to in said specifications; the work to be commenced, no obstacles not under control of either party preventing, on the first day of June, 19.... (*Here state who is to furnish the materials, delivery, etc.*) And the said C D agrees to pay said A B for said work as follows:

*(Here state payments.)*

If any alterations to said building should be directed by the said C D, such work as said alterations may require, shall be estimated and the amount to be paid for the same agreed upon, and all reduced to writing, as supplemental to this agreement before said alteration is commenced.

In witness whereof, the parties have hereunto set their hands the day and date first above written.

A. B.

C. D.

**NOTE:** A drawing or plans should be made showing the dimensions of the building, of timber, foundation, elevation, etc. If a house, the thickness of the walls, the height of each story, the dimensions of the cellar, rooms, attic, floors, windows, stairways, fire-places, grates, clothes-presses, pantries, sinks, plumbing, etc., should be shown. There should be specifications of all material, workmanship, etc., etc.

**II. AFFIDAVIT.**

**General Form for Ordinary Purposes.**

STATE OF KENTUCKY,

..... County, ss:

A B, residing at ..... and of lawful age, being first duly sworn, says:

*(Here state the facts.)*

Further affiant saith not.

A. B.

Sworn to by the said ..... A B ..... and by **him** subscribed in my presence this ..... day of ....., 19..

.....  
(Official character.)

**Affidavit to Claim Against an Estate.**

COMMONWEALTH OF KENTUCKY,

..... County, ss:

I do solemnly swear that the attached claim in favor of ..... against ....., deceased, is just and due and unpaid and that all legal offsets, payments and credits known to the affiant have been allowed.

Subscribed and sworn to before me this ..... day of ..... A. D., 19...

.....  
.....

NOTE: A second affidavit of a disinterested party must be filed, in which he must give reasons why he knows the facts.

**Affidavit of Claim.**

COMMONWEALTH OF KENTUCKY,

..... County, ss:

Before me (state the name and syle of officer) in and for the said county of ....., on this day personally appeared ..... who being duly sworn states on oath, that the foregoing account in favor of ..... against ..... for the sum of ..... dollars, is within the knowledge of the affiant just and lawful; that it is due, and that all just and lawful offsets, payments, and credits have been allowed.

Sworn to and subscribed before me this ..... day of ..... A. D., 19...

Witness my hand and seal of office the day and date above written.  
(Seal).

.....  
.....

NOTE: If the affidavit is made by an agent, that fact may be shown as follows:

..... states on oath that he is the authorized agent of ..... etc. (If the affidavit is made by a member of a firm, let that fact be shown as follows:) ..... states on oath that he is a member of the firm of ..... composed of ..... and .....

**III. ASSIGNMENT.****General Form for Assignment of Written Instruments.**

LEXINGTON, KENTUCKY, July 24, 19...

In consideration of the sum of ..... dollars (\$.....) to me paid by A B, I hereby assign to him all my rights, title and interest in and to the within instrument.

C. D.

**Assignment of an Account.**

For value received, I hereby sell, assign and transfer to A B, the within (or annexed) account, and all of my right, title, interest and demand in and to the same, with full authority to collect and receipt for the same. I guarantee that the said account is just and due, and that I have not received or discharged the same or any part thereof.

Dated this 24th day of July, 19....

C D.

**Notice to Debtor by Creditor of Assignment of Debt.**

LEXINGTON, KENTUCKY, July 24, 19...

To M. N.

DEAR SIR: I hereby notify you that I have this day assigned the debt of ..... dollars (\$.....) now owing from you to me to A B, and I hereby request you to pay the said sum to him, and his receipt to you for the same shall be a sufficient and full discharge from said debt.

Yours very truly,

C D.

**Notice of Assignee to Debtor of Assignment of a Debt.**

LEXINGTON, KENTUCKY, July 25, 19...

To M. N.

DEAR SIR: I hereby notify you that C D did by an agreement on the 24th day of July, 19... assign and fully transfer to me the debt of ..... dollars (\$.....) owing by you to him. Therefore I request that you pay the said debt to me on or before the ..... day of ..... next, and very greatly oblige,

Yours very truly,

A B.

**Assignment and Guaranty of Payment.**

LEXINGTON, KENTUCKY, July 24, 19....

For value received I hereby sell, assign and transfer to A B all of my right, title and interest in, to the within account, and all money due thereon, to-wit, the sum of ..... dollars (\$.....), and I hereby guarantee the payment of the same to the said A B, or his assigns  
C. D.

**IV. BILL OF SALE.**

(LONG FORM.)

Know all men by these presents, that.....of the ..... of ..... in the county of..... and State of Kentucky, of the first part, for and in consideration of the sum of .....Dollars, lawful money of the United States, to ..... paid by ..... of the second part, the receipt whereof is hereby acknowledged, ha.. bargained and sold, and by these present do.. grant and convey, unto the said part.... of the second part, ..... executors, administrators or assigns, all the following goods and chattels, to-wit:

*(Here make a list of the goods and chattels sold.)*

belonging to ..... and now in .....possession at .....

To have and to hold the same unto said part.... of the second part, ..... executors, administrators and assigns, forever. And the said part.... of the first part, for ..... heirs, executors and administrators, do.. covenant and agree to and with the said part.... of the second part, .....executors, administrators and assigns, to warrant and defend the sale hereby made of said property, goods and chattels, unto the said part .... of the second part, ..... executors, administrators and assigns, against all and every person or persons whatsoever.

In witness whereof, ..... have hereunto set ..... hand.. and seal... this ..... day of ..... A. D. 19.....

Signed, sealed and delivered  
in the presence of

.....  
.....

..... [L. S.]  
..... [L. S.]  
..... [L. S.]

**Bills of Sale.**

(SHORT FORM.)

In consideration of ..... dollars (\$....) to me in hand paid by A B, I have this day bargained and do hereby sell and convey to the said A B the following described property, to-wit:

*(Here describe the property.)*

In witness whereof, I have hereunto set my hand this ..... day of ....., 19....

C. D.

**Bill of Sale of Horse with Guaranty.**

LEXINGTON, KENTUCKY, June 27, 19....

In consideration of the sum of one hundred and twenty-five dollars (\$125.00) in hand, to me paid by Arthur Francis, I have this day bargained and sold, and do hereby sell and convey to the said Arthur Francis one bay gelding six years old, named Dick, and I guarantee said gelding sound and gentle in every particular.

PERRY HAMBLETON.

**V. BONDS.**

**General Form for All Ordinary Purposes.**

Know all men by these presents, that we, ..... of the ..... of ..... in the County of ..... and State of ..... and ..... of the ..... of ..... in the County of ..... and State of ..... are held and firmly bound unto ..... of the ..... of ..... in the County of ..... and State of ..... in the sum of ..... Dollars good and lawful money of the United States of America, to be paid to the said ..... h.. executors, administrators or assigns, for which payment well and truly to be made, we do bind ourselves, our heirs, executors, or administrators, jointly and severally, firmly by these presents.

Sealed with our seals; dated this ..... day of ..... A. D.....

Whereas, the above bounden.....

*(Here state what is to be performed.)*

Now, therefore, the condition of the above obligation is such, that if the above bounden ..... shall well and truly indemnify and save harmless, the said ..... h.. executors and administrators,

from and against ..... then this obligation to be void, otherwise to remain in full force.

.....  
.....

.....  
.....  
.....  
.....

STATE OF KENTUCKY,

County of .....ss.

..... of ..... in said County of ..... the sure.... named in and who signed the annexed and foregoing bond, being duly sworn ..... deposes and says, that he is worth in unincumbered property, not exempt from execution under the laws of this State, the sum of ..... Dollars, after payment of all just debts, claims and liabilities, that such property consists of ..... situated and being in said County of .....

Subscribed and sworn to before me, this ..... day of ..... A. D. 1..

.....  
.....

NOTE—In case of two sureties, always insert "each for himself" in the space after the words "being duly sworn."

**Bond for Payment of Rent.**

Know all men by these presents, that we, William Smith, of ..... , Kentucky, principal, and Charles Haines, of said village, surety, are firmly held and bound unto Joseph Raymore, of said village, in the sum of five hundred dollars, for the payment of which sum to the said James Raymore, his executors, administrators, and assigns, we hereby each jointly and severally bind ourselves, our heirs, executors and administrators.

The conditions of this obligation are such that whereas, the said Joseph Raymore has leased unto the said William Smith, certain land, and the farm buildings and dwelling house situate on Wilke's pike, one mile south of said village, by lease bearing even date herewith, and whereas said lease was granted upon the condition that the above named Charles Haines should join as surety for the said William Smith, in a bond for the due payment of the rent and the performance of the covenants and conditions contained in the said lease, now, if the said William Smith, his executors, administrators or assigns, shall, during the continuance of the said lease, duly pay to the said Joseph Raymore, his heirs or assigns, the rent upon the respective dates appointed in said lease for payment thereof, or within ten days next after such respective days, and shall, during the continuance of the said lease, duly observe

and perform all and singular the covenants and conditions therein contained on the part of the said lessee, his executors, administrators and assigns, to be observed and performed; provided that the neglect or forbearance of the said lessor in enforcing payment of such rent or the performance of such covenants and conditions, or the giving of time by him for payment or performance thereof, shall not in any way release the said Charles Haines or either of them, his or their heirs, executors, or administrators, in respect of his or their liability under the above written bond, then this obligation shall be void; otherwise, it shall be and remain in full force and virtue.

In witness whereof we have hereunto set our hands this 1st day of February, 19....

Signed in the presence of:

.....  
 .....

WILLIAM SMITH, Principal,  
 CHARLES HAINES, Surety.

**VI. BANK CHECKS.**

**Payable to Order.**

No.	LEXINGTON, KENTUCKY, ....., 19..
	OHIO RIVER BANK,
Pay to .....	..... or order,
.....	Dollars \$.....
	.....

**Certified Check.**

No.	LEXINGTON,	KENTUCKY, Jan. 10, 19..
	SHIPPER'S	BANK.
Pay to Hugh McHugh	Good for \$100 when properly indorsed. Wm. Bates, Cashr.	..... or order,
One hundred .....		..... Dollars, \$100.00
		JOHN DOE.

## Certificate of Deposit.

\$500.00.

LEXINGTON, KENTUCKY, Dec. 24, 19...

## BLUE GRASS BANK.

Richard Roe has deposited in this bank, Five Hundred Dollars, payable to his own order, upon the return of this certificate properly endorsed.

JOHN DOE, Cashier.

## VII. DRAFTS.

## Sight Draft.

\$200.00

JACKSONVILLE, FLA., Feb. 1, 19..

At sight pay to the order of the Collector's Bank, Two Hundred Dollars, and charge to the account of

JAMES MCPHERSON.

To Chas. C. Cruikshank,  
Detroit, Michigan.

## Time Draft.

\$100.00.

DETROIT, MICHIGAN, Dec. 20, 19..

At ten days' sight pay to the First National Bank, New Orleans, One Hundred Dollars, and charge to our account.

C. C. DOUGLAS &amp; Co.

To Clark Simpson,  
New Orleans, La.

## Accepted Drafts.

\$212.

MARION,

MICHIGAN, Dec. 23, 19..

At ten days' sight pay  
Two Hundred and  
charge to my account.

To A. A. Barkus & Co.,  
Columbus, Ohio.

Dec. 24, 1908.

Accepted.

A. A. Barkus &amp; Co.

to Smith & Co., Bankers,  
Twenty Dollars, and

Stephen Alexander.

VIII. DEEDS, MORTGAGES AND LEASES.

Warranty Deed.

THIS DEED, between ..... of the first part and ..... of the second part

WITNESSETH, that the said party of the first part, in consideration of ..... dollars, the receipt of which is hereby acknowledged, do hereby sell, grant and convey to the party of the second part, ..... heirs and assigns the following property viz.: (Here give proper description of real estate to be conveyed) and being the same tract of land conveyed to the party of the first part by ..... by deed bearing date ..... day of ....., 19.., which is duly recorded in Deed Book No. .... at page ....., ..... county court clerk's office to which reference is hereby made: .....

To have and to hold the same, with all the appurtenances thereon, to the second party, ..... heirs and assigns forever, with covenant of "General Warranty."

IN TESTIMONY WHEREOF, witness our signature this ..... day of ....., 19..

.....  
.....

STATE OF KENTUCKY,

..... County, Sct

I, ....., Clerk of the County Court for the County aforesaid, do certify that the foregoing Deed to ..... was on the ..... day of ....., 19.., produced to me in my office, and acknowledged and delivered by ..... to be ..... act and deed in due form of law, and the same was this day lodged to be and is, with this certificate duly recorded in my office.

Given under my hand, this ..... day of ....., 19..

.....C. M. C. C.  
By.....D. C.

Deed with Lien.

THIS DEED OF CONVEYANCE, made and entered into this ..... day of ..... 19...., between ..... party of the first part, and ..... party of the second part, WITNESSETH: That said party of the first part, for and in consideration of the sum of ..... dollars do hereby sell and convey to the party of the second part, ..... heirs and assigns, the following described property, to-wit: (Here give proper description of real estate.) This being the same property conveyed to ..... by ..... on the ..... day of ..... 19...., deed to same recorded in Deed Book No. ...., ....., .....County Clerk's office.

To have and to hold the same, together with all the appurtenances thereunto belonging, unto the party of the second part, ..... heirs and assigns forever. And the said party of the first part hereby covenant with the said party of the second part that ..... will warrant the title to the property hereby conveyed unto the said party of the second part and ..... heirs and assigns forever.

A lien is retained upon the property hereby conveyed as security for the payment of the said unpaid purchase money.

In Testimony Whereof, the party of the first part ha.. hereunto subscribed ..... name the day and year aforesaid.

.....  
.....

STATE OF KENTUCKY,

County of .....

Clerk's Certificate of Acknowledgment.

I, ..... clerk of the county court for the county and state aforesaid, certify that the foregoing deed of conveyance from ..... to ..... was, on the ..... day of ..... 19...., produced to me in said county and acknowledged before me by ..... part ..... grantor thereto to be ..... act and deed.

Given under my hand, this ..... day of .....19....

..... Clerk.  
By..... D. C.

STATE OF KENTUCKY,

County of .....

Clerk's Certificate of Lodgment and Record.

I, ..... clerk of the county court for the county and state aforesaid, certify that the foregoing deed was this day lodged for record, whereupon the same, with the foregoing and this certificate, hath been duly recorded in my office.

Witness my hand, this ..... day of .....19....

..... Clerk.  
By ..... D. C.

Quit Claim Deed.

THIS DEED made and entered into this ..... day of ..... by and between ..... of the ..... of ..... and state of ..... of the first part, and ..... of the ..... of ..... and state of ..... of the second part, WITNESSETH, that the part... of the first part, for and in consideration of the sum of ..... Dollars, paid, or to be paid, as follows: ..... do ..... hereby remise, release, and forever quit claim unto the part... of the second part; ..... heirs or assigns, all ..... right, title, interest, or claim in and to the following described premises, to-wit: *(Here give proper description of real estate*

to be conveyed.) together with all the rights, privileges, or franchises incident and appurtenant thereto or connected therewith.

TO HAVE AND TO HOLD the same unto said part.... of the second part ..... heirs and assigns forever.

WITNESS our hands and seals the day and year first above written.

WITNESS:

.....  
.....  
.....  
.....

**Mortgage.**

WHEREAS, ..... being indebted to ..... in the sum of ..... dollars do ..... for the purpose of securing the payment of said sum, together with all interest and cost which may accrue thereon, hereby mortgage and convey unto the said ..... the following described property, viz.: (*Here give proper description of real estate*) warranted free of encumbrance and against any adverse claims.

TO HAVE AND TO HOLD the said property to the said ..... and his assigns forever; provided, nevertheless, that if the aforesaid ..... or ..... personal representative pay to said ..... the sum of ..... dollars on the ..... day of ..... 19...., then this Deed of Mortgage and such other writings as may exist as evidence of said debt shall be null and void, otherwise to be and remain in full force and effect.

Witness ..... hand, this ..... day of ..... 19....  
.....  
.....

STATE OF KENTUCKY,

County of ..... Sct.

I, ....., clerk of the county court for the county and state aforesaid, do certify that the foregoing mortgage from ..... to ..... was, on the ..... day of ..... 19...., produced to me in my county, and acknowledged by the said ..... to be ..... act and deed.

Given under my hand, this ..... day of ..... 19....

..... Clerk  
By ..... D. C.

STATE OF KENTUCKY, ... ..

County of ..... Sct.

I, ....., clerk of the ..... county court, do certify that the foregoing mortgage was this day lodged in my office

for record, and that I have recorded it, the foregoing, and this certificate in my said office.

Given under my hand, this ..... day of .....19....  
 .....Clerk.

**Mortgage with Waiver of Homestead.**

THIS INDENTURE, made and entered into this ..... day of .....19...., between ..... of the first part, and ..... of the second part:

WITNESSETH, that the part.... of the first part, for and in consideration of ..... indebtedness to the party of the second part as follows: (*Here state indebtedness*) and to secure the payment of the same, ..... granted, bargained, and sold, and by these presents ..... grant, bargain, and sell, to the party of the second part all of the following described real estate: (*Here give proper description of real estate.*)

To have and to hold to said party of the second part, ..... heirs and assigns forever, with general warranty.

THIS INDENTURE is CONDITIONED AS FOLLOWS: Whereas, the said ..... is indebted to the said ..... as aforesaid.

NOW, if said part.... of the first part, or any one for ..... shall pay said indebtedness at maturity, then this indenture shall be void, else remain in full force. And the said part.... of the first part hereby waive ..... and relinquish ..... to the said part.... of the second part all claims ....he.... ha.... or may have to said property under the homestead laws of this state.

WITNESS our hands and seals the day and year first above written.

.....L. S.  
 .....L. S.

STATE OF KENTUCKY, .

County of ..... Sct.

I, ....., clerk of the county court, for the county aforesaid, do certify that the foregoing mortgage to ..... was on the ..... day of ....., 19.... produced to me in my office, and acknowledged and delivered by the said ..... to be..... act and deed.

WITNESS my hand, this ..... day of ....., 19....  
 .....Clerk.  
 By ..... D. C.

**Chattel Mortgage.**

THIS MORTGAGE, made this the ..... day of ..... 19...., by and between ..... of the first part, and ..... of the second part.

WITNESSETH, That said first party, being indebted to said second party in the sum of ..... Dollars for the property hereinafter named, and this day sold to said first party by said second party, and which indebtedness said first party has and does hereby agree and promise to pay to said second party, as follows: [*Here state conditions of payment.*]

AND NOW, The said first party, to secure the prompt payment of said indebtedness as aforesaid, with all interest and costs that may accrue thereon, and to secure the faithful and prompt performance of the covenants hereinafter named, has bargained and sold, and does now hereby bargain, sell, grant, and convey unto said second party, his heirs and assigns forever, the following described property: (*Here describe property mortgaged.*)

AND ALSO, In consideration of the premises, and as part of this Mortgage, said first party expressly covenants and agrees with said second party, as follows:

FIRST. That said first party, without any notice or demand whatever, will pay each payment of said indebtedness, on the days and at the times hereinbefore named, to the second party ..... at .....

SECOND. That said first party will always retain the care and custody of all said property, and not hire or rent out any part of it, or make any other mortgage on said property while any of said indebtedness is unpaid.

THIRD. That said first party will take good and proper care of all said property, and that it shall be always kept in ..... at .....and no part of it shall be removed from said house or premises.

FOURTH. That should said first party at any time violate, or fail to strictly comply with, either or any of the aforesaid provisions or covenants, then all said payments and indebtedness then unpaid shall immediately become due and payable at once. And said second party may take possession of all said property, and have and own it as his own absolutely or sell it to pay said indebtedness. And he, said second party, may enter in and on any house or premises occupied by the first party, to take possession of all or any of said property, or said second party may bring any action or suit at law or equity to collect all said indebtedness or enforce or foreclose this mortgage on all said property at his option.

PROVIDED NEVERTHELESS, That if said first party shall pay said indebtedness as herein provided, and keep each and all the said provisions and covenants, then this Mortgage shall be null and void, but otherwise it shall remain and continue in full force and effect as herein provided.

IN TESTIMONY WHEREOF, Witness the hand of said first party, the day and date first herein written.

Witnessed by

.....  
.....

STATE OF KENTUCKY,

County of ....., Sct.

I, .....Clerk of the County Court for the County aforesaid, do certify that the foregoing Mortgage to ..... was, on the ..... day of ....., 19..., produced to me in my office, and acknowledged and delivered by ..... to be ..... act and deed, and the same was this day lodged to be, and is, with this certificate, duly recorded in my office.

WITNESS my hand, this ..... day of ..... 19...

.....Clerk.  
By .....D. C.

STATE OF KENTUCKY,

County of

Notary Public's Certificate.

I, ....., a Notary Public within and for..... County, Ky., whose commission is in full force and does not expire until ....., 191.., do certify that the foregoing Chattel Mortgage from ..... first party to .....the said second party, was this day produced to me in my office by the said first party and acknowledged by said first party to be.....act and deed.

WITNESS my hand and notarial seal, this ..... day of ..... 191..

.....  
Notary Public, .....County, Ky.

(SEAL.)

**Lease.**

LEXINGTON, KY., ..... 19...

The undersigned have this day rented from ..... a certain ..... for which ..... agree to pay the said ..... or ..... authorized agent a rental of ..... dollars per month, to be paid .....

..... further agree that if ..... fail to pay the said rental as above agreed, to vacate and surrender possession of said ..... within ..... days from the day on which the said rental became due, and no notice or demand for the possession of the said ..... shall be necessary; and ..... further

agree that when ..... vacates the said ..... to leave ..... in as good order and condition as when ..... first took possession of same, natural wear and tear and loss by fire or other natural cause not occasioned by ..... fault excepted, and to keep a quiet and orderly house.

Witness my hand and seal this the day and date above mentioned.

Witness: ..... (Seal.)  
..... (Seal.)

**Lease — Long Term.**

THIS INDENTURE, Made this ..... day of ..... 19.... between ..... of the first part, and ..... of the second part,

WITNESSETH, That the part ..... of the first part hereby lease to the part..... of the second part, the following premises, to-wit. (*Here give proper description of premises.*) for the space of ..... and covenants to keep the tenant in quiet possession of the premises during said term. It is hereby expressly agreed to and understood by the said parties, that the said property is to be used as herewith described, and not otherwise, viz.: (*Here state purposes for which premises are to be used.*)

In Consideration Whereof, The part..... of the second part bind ..... to pay for the same .....Dollars. at the ..... of each and every ..... being at the rate of ..... Dollars per Annum; to take good care of the premises, and return the same at the expiration of said term in as good order as received, ordinary wear and tear and natural decay excepted, unless the improvements should be destroyed by lightning or other natural cause, or fire not caused by ..... default; and not to erect or permit to be erected on the premises any nuisance, or commit any waste. If destruction as aforesaid, total or partial, ensues, so as to make the premises untenable for the purpose designed, the lessee may surrender and cancel this lease.

The following additional stipulations are hereby declared to be a part of this Lease: (*Here give additional stipulations agreed upon.*)

IN TESTIMONY WHEREOF, The parties of the first and second parts have affixed their signatures the day and year above written.

Witness:

.....  
.....

**Power of Attorney.**

KNOW ALL MEN BY THESE PRESENTS, That ..... of the ..... of ..... County of ..... in the

State of ..... ha... made, constituted, and appointed, and BY THESE PRESENTS do... make, constitute, and appoint ..... of the ..... of ..... County of..... and State of ..... true and lawful ATTORNEY for ..... and in ..... .. name, place and stead to (*Here state act or acts to be performed.*) giving and granting unto ..... said ATTORNEY full power and authority to do and perform all and every act and thing whatsoever, requisite and necessary to be done in and about the premises, as fully, to all intents and purposes, as ..... might or could do if personally present at the doing thereof, with full power of substitution and revocation, hereby ratifying and confirming all that ..... said ATTORNEY or ..... substitute shall lawfully do or cause to be done by virtue hereof.

IN TESTIMONY WHEREOF, ..... have hereunto set ..... hand and seal this ..... day of ..... 19.... Signed, Sealed, and Delivered in Presence of ..... (SEAL) ..... (SEAL) State of ..... County of ....., ss.

I ..... in and for, and residing in said County, in the State aforesaid, D HEREBY CERTIFY that ..... personally known to me to be the same person whose name ..... subscribed to the foregoing Instrument, appeared before me this day in person, and acknowledged that he signed, sealed, and delivered the said Instrument as ....., free and voluntary act, for the use and purposes therein set forth.

My commission expires on the ..... day of ..... 19.... GIVEN under my hand and ..... seal, this ..... day of ..... A. D. 19 ....

**IX. GUARANTY.**

**Guaranty of Payment for Goods Sold to Another**

To RICHARD ROE & Co.,  
Lexington, Kentucky.

DEAR SIRs:—I hereby guarantee payment to you for all goods which you may sell to A B, to the amount of one hundred dollars (\$100.00.)

Dated this 12th day of July, 19..

Yours very truly,

C. D.

**Notice of Acceptance of Guaranty.**

To C. D.,  
City.

DEAR SIR:— We hereby notify you that we have this day accepted your guaranty on behalf of A. B., and will sell him goods in accordance with the terms of said guaranty.

Yours truly,  
RICHARD ROE & Co.

**Guaranty in Sale of Horse.**

LEXINGTON, KENTUCKY, July 12, 19..

In consideration of one hundred and fifty dollars (\$150.00) to me paid by A. B. for a bay mare, named Topsy, I hereby guarantee to the said A. B. that the said mare is only seven years old, sound in all respects, free from all kinds of viciousness, and quiet to work or drive.

C. D.

**Guaranty of Rent, Indorsed on Lease.**

In consideration of the making of the within written lease, I do hereby covenant and agree with the within named lessor, his heirs, executors, administrators, and assigns, that if default shall at any time be made by the said lessee, his executors, administrators, and assigns, in the payment of the rent or the performance of the covenants in the within lease contained, on his or their part to be paid and performed, that I will well and truly pay the said rent, or any arrears thereof, that may remain due, and also all damages that may arise in consequence of the non-performance of said covenants, or either of them, without requiring notice of any such default from the said lessor or other person having his estate in said premises.

Witness my hand and seal this 12th day of July, 19..

C. D.

**X. INDORSEMENT.**

Indorsement, is a writing on the back of a note, check, bill, draft or other written instrument. The kinds of indorsement are, Blank, Full, Qualified, Restrictive, and Conditional. The purpose of an indorsement may be to transfer the instrument, record a payment made thereon, or to guarantee the payment thereof, or for any other purpose where the intent of the parties with reference to an instrument may be made clear by a writing upon the back of the instrument. The following forms will serve to illustrate:

**Indorsement in Blank.**

JEREMIAH C. ALEXANDER.

**Indorsement in Full,**

Pay to the order of Samuel J. Penfield.

JEREMIAH C. ALEXANDER.

**Qualified, or Without Recourse.**

Pay to Samuel J. Penfield, or order, without recourse on me.

JEREMIAH C. ALEXANDER.

**Restrictive Indorsement.**Pay to Samuel J. Penfield only (*or, for my use.*)

JEREMIAH C. ALEXANDER.

**Conditional Indorsement.**

Pay to Samuel J. Penfield, or order, unless notice is given by me, before maturity, not to pay.

JEREMIAH C. ALEXANDER.

**Money Indorsement.**

Paid on the within note, June 26th, 1908, Fifty dollars (\$50.00.)

JEREMIAH C. ALEXANDER.

**Indorsement by Agent.**

JEREMIAH C. ALEXANDER.

By J. C. SMITH, Agent.

**Indorsement of Guaranty.**

For value received, I hereby guarantee the payment of the within note.

JEREMIAH C. ALEXANDER.

**Indorsement of Assignment or Transfer.**For value received I hereby sell, assign and transfer all of my right, title and interest in and to the within account (*or note, as the case may be*) to Samuel J. Penfield.

JEREMIAH C. ALEXANDER.

**XI. ORDERS.****For Payment of Money.**

\$26.00.

LEXINGTON, KENTUCKY, July 15, 19..

James Cleary, Esq.:

DEAR SIR: Please pay to the Brown Grocery Co., the sum of Twenty-six Dollars, and charge to my account.

Very truly,

J. M. BLAKE.

**To Furnish Goods to Another.**

LEXINGTON, KENTUCKY, July 15, 19..

People's Clothing Co.:

GENTLEMEN: Please let the bearer, John Smith, have a suit of clothes and such other articles of clothing as he may wish to purchase; the total amount not to exceed Twenty-five Dollars, and I will pay you.

Very truly,

J. M. BLAKE.

**Another Form for Same Purpose.**

LEXINGTON, KENTUCKY, July 15, 19..

People's Clothing Co.:

GENTLEMEN: Please let the bearer, John Smith, have clothing to the amount of Twenty-five Dollars, and charge to my account.

Very truly,

J. M. BLAKE.

**For Delivery of Fruit Trees.**

LEXINGTON, KENTUCKY, October 1, 19..

John Kraner, Esq., Agt. Painesville Nurseries:

DEAR SIR: Please deliver the fruit trees ordered by me, to the bearer, James Masters, who will pay you the sum of Fourteen Dollars due for same.

Yours truly,

H. C. WELLS.

**For Delivery of Hogs.**

LEXINGTON, KENTUCKY, November 2, 19..

Samuel Schwenker, Esq.:

DEAR SIR: Please deliver the twenty-seven head of hogs, which

I purchased of you last week, to the bearer, Amos Whitman, and bring weights to me for settlement, and oblige,

WILLIAM STOCKMAN.

### Order for Shipment of Apples.

LEXINGTON, KENTUCKY, October 6, 19..

Herman Strader, Esq.:

DEAR SIR: Please ship apples which I recently purchased of you, to Merchant & Co., Cincinnati, Ohio, not later than October 15, and oblige,

Yours truly,

A. L. BOUGHTMAN.

## XII. PROMISSORY NOTES.

### Negotiable and Payable in Bank.

\$50.00.

GIBRALTAR, KY., November 15, 19..

One year from date I promise to pay to the order of John Doe, fifty dollars.

Negotiable; value received, with interest at the rate of six per centum per annum after maturity until paid. Maker and endorsers waive demand, protest, notice of protest and all legal diligence to enforce collection.

RICHARD ROE.

### Negotiable Note.

\$100.00.

GIBRALTAR, KY., November 12, 19..

Six months from date I promise to pay to the order of Richard Roe, one hundred dollars.

Negotiable and payable at THE BANK OF GIBRALTAR, OF GIBRALTAR, KY., value received, with interest at the rate of six per centum per annum after maturity until paid. Maker and endorsers waive demand, protest, notice of protest and all legal diligence to enforce collection.

JOHN DOE.

### Note Not Negotiable.

\$200.00.

LEXINGTON, KENTUCKY, June, 10, 19..

One year after date I promise to pay Richard Roe, Two Hundred Dollars with interest at 5% per annum from date; value received.

JOHN DOE.

**Note with Legal Interest from Date.**

\$700.00.

LEXINGTON, KENTUCKY, April 30, 19..

One year after date I promise to pay William Buck, or order,  
Seven Hundred Dollars, with interest from date; value received.

JAMES QUIGLEY.

**Note Bearing Legal Interest from Maturity.**

\$100.00.

LEXINGTON, KENTUCKY, June 10, 19..

Three months after date I promise to pay Richard Roe, or order,  
One Hundred Dollars; value received.

JOHN DOE.

**Note Payable on Demand.**

\$100.00.

LEXINGTON, KENTUCKY, February 1, 19..

On demand I promise to pay Richard Roe, or order, One Hundred  
Dollars, with interest at 6% per annum; value received.

JOHN DOE.

**Note with Surety.**

\$100.00.

LEXINGTON, KENTUCKY, March 1, 19..

Nine months after date, we, Richard Roe as principal, and John  
Doe as surety, promise to pay Thomas Benton, or order, One Hundred  
Dollars with 5% interest per annum; value received.

RICHARD ROE, *Principal*,  
JOHN DOE, *Surety*,

**Joint Note.**

\$100.00.

LEXINGTON, KENTUCKY, April 22, 19...

Six month after date, we promise to pay Robert Sheldon, or order,  
One Hundred Dollars, with interest at 6% per annum; value received.

RICHARD MANSFIELD,  
THOMAS BENTON.

**Joint and Several Note.**

\$400.00.

LEXINGTON, KENTUCKY, January, 10, 19..

One year after date, we, or either of us, promise to pay Robert  
Sheldon, or order, Four Hundred Dollars with 6% inteest from date;  
value received.

RICHARD MANSFIELD,  
THOMAS BENTON.

**Chattel, or, Note Payable in Specific Articles.**

\$200.00.                      LEXINGTON, KENTUCKY, February, 22, 19..

On demand I promise to pay Richard Roe, at my farm, two Hundred Dollars in corn at the market price when demand is made; value received.

JOHN DOE.

**Note, When Maker Cannot Write.**

\$100.00.                      LEXINGTON, KENTUCKY, September 5, 19...

One year after date I promise to pay Russell Worthington, or order, the sum of One Hundred Dollars, with interest at 6% per annum; value received.

Signed in the presence of:

JOSEPH LOWDEN,

his

JAMES X SMITHSON.

mark

**Note for Work and Labor.**

\$45.00                      LEXINGTON, KENTUCKY, Jan. 10, 19....

Three months after date I promise to pay Edward Day, or order, Forty-five Dollars, with interest at 6% per annum. value received in work and labor performed by him.

RICHARD ROE.

**Due Bill.**

\$28.00.                      LEXINGTON, KENTUCKY, February 8, 19....

Due Richard Roe, Twenty-eight Dollars; value received.

JOHN DOE.

**Due Bill Payable in Produce.**

\$16.00.                      LEXINGTON, KENTUCKY, Feb. 15, 19....

Due Robert Sheldon, Sixteen Dollars, to be paid in hay or oats at my farm at market price.

RICHARD MANSFIELD.

**Swindling Note.**

Lexington, Kentucky, Feb. 15, 19...

Six months after date I promise to pay John Doe, or bearer, ten dollars when I sell by order two hundred and sixty-five dollars [\$265.00] worth of Patent Butter Churns, for value received, at seven per centum per annum, Said ten dollars when due is payable at Indianapolis, Indiana.

SIMON GULLIBLE.      Agent for John Doe.

NOTE.—By cutting off the right end of the above agreement, Doe has the note of Gullible without conditions. The note will then be sold to a third party who collects it when due.

**XIII. RECEIPTS.****Receipt on Account.**

**\$14.00.** LEXINGTON, KENTUCKY, February, 24, 19..  
 Received of Wm. Sheldon, Fourteen Dollars to be applied on account.  
 JNO. MANSFIELD.

**Receipt in Full of Account.**

**\$84.00.** LEXINGTON, KENTUCKY, February 28, 19..  
 Received of Wm. Sheldon Eighty-four dollars in full of account of  
 money due for wood.  
 JNO. MANSFIELD.

**In Full of all Demands.**

**\$300.00.** LEXINGTON, KENTUCKY, March 1, 19..  
 Received of James Johnson, Three Hundred Dollars in full of all  
 demands.  
 CLARK WOODSON.

**Receipt for Rent.**

**\$15.00.** LEXINGTON, KENTUCKY, February 15, 19..  
 Received of Herman Ford, Fifteen Dollars in full payment of rent  
 to February 1, 19.., for residence at No. 66 Wicker street.  
 SIMON LEELAND.

**Receipt of Payment on a Note.**

*(Must be indorsed on note.)*

January 6, 19.., received on the within note Fifty Dollars (**\$50.00.**)

**Receipt to Third Party.**

**\$80.00.** LEXINGTON, KENTUCKY, June 6, 19..  
 Received of Harrison Hanford by the hand of Samuel Haynor,  
 Eighty Dollars, in full settlement of the account of said Hanford.  
 HUGH HUBBARDSON.

**Receipts for Papers, Etc.**

LEXINGTON, KENTUCKY, March 1, 19..  
 Received of Heber Tolman, two bonds of the State Traction Co.,  
 of \$100 each, and one promissory note of \$200, dated August 1, 19....,  
 and signed by Joseph Meier; said property to be redelivered to said  
 Heber Tolman on demand.  
 ROBERT SHERMAN.

XIV. WILL

I, (*name of testator here*), of (*residence*), in the county of (*name of county*), and State of Kentucky, being of sound mind and memory, do make, publish and declare this to be my Last Will and Testament, in manner following, viz.:

First, I will and direct that all my just debts and funeral expenses be paid in full.

Second, I give, devise and bequeath.....

Third, .....

Fourth, .....

Fifth, .....

Sixth, I hereby appoint (*name of person appointed executor or executrix*), of (*residence of such person appointed*), Executor of this my Last Will and Testament.....

Lastly, I hereby revoke all former wills by me at any time made.

In witness whereof, I have heretunto set my hand and seal this .....day of.....in the year of our Lord one thousand nine hundred and.....(19..).

..... SEAL.

On this ..... day of .....A. D. 19.. (*name of testator*), of (*residence*), in the County of ..... and State of Kentucky, signed the foregoing instrument in our presence, and declared it to be h.. Last Will and Testament, and as witnesses thereof we do now, at h.. request in h... presence, and in the presence of each other, hereto subscribe our names.

....., residing at .....

....., residing at .....

## CHAPTER 30.

### Business Letters.

#### Letter of Introduction.

LOUISVILLE, KY., April 1, 19....

*David Parker, Esq., Lexington, Ky.:*

DEAR SIR: I have the pleasure of introducing to you my friend, Mr. B. M. Harris, of this city. He intends visiting your community in a few days on business matters, and will call on you, at my suggestion. Any favors you may show him will be highly appreciated by him as well as myself.

Yours very truly,

H. E. BENJAMIN.

#### Another Form.

LOUISVILLE, KY., April 1, 19...

*H. E. Benjamin, Esq., Lexington, Ky.*

DEAR SIR: Permit me to introduce to you Mr. B. M. Harris, a prominent farmer and stockraiser in this locality. He will visit Detroit for the transaction of some business. As he will be a stranger there I feel that you can give him information that will be valuable to him. Any courtesies you may show him will be fully appreciated by him and myself.

Yours truly,

DAVID PARKER.

#### Inquiry as to Responsibility.

LOUISVILLE, KY., April 1, 19....

*David Parker, Esq., Lexington, Ky.*

DEAR SIR: We have an order for one of our machines from John Doe, a farmer residing in your neighborhood. As he asks for credit as to part payment of the purchase price of the machine, we desire to inquire of you as to his financial responsibility, etc. We assure you that all information given us will be treated in a strictly confidential manner.

Please send us the desired information at once and greatly oblige,

Yours truly,

GOOD MFG. CO.

#### Favorable Answer.

LEXINGTON, KY., April 3, 19..

*Good Mfg. Co., Louisville, Ky.*

GENTLEMEN: Your favor of the 1st inst. with reference to John Doe is at hand. In answer thereto I wish to say that Mr. Doe has a

very high credit at home, pays his obligations promptly and has the means of meeting any debt which he may contract for a machine.

Yours truly,

DAVID PARKER.

#### Unfavorable Answer.

LEXINGTON, KY., April 3, 19..

*Good Mfg. Co., Louisville, Ky.*

GENTLEMEN: Yours of the 1st inst. regarding John Doe received. In answer I will say that Mr. Doe for some time back has been asking extensions on his obligations, and, while apparently honest, is not credited by business men who know him, with having either the means or ability to pay promptly. He is not regarded as a good risk.

Yours confidentially,

DAVID PARKER.

#### Letter to Insurance Company Announcing Loss by Fire.

LEXINGTON, KY., May 10, 19..

*John Doe, Esq., Agent Aetna Fire Insurance Co., Louisville, Ky.*

DEAR SIR: The barn located on my premises which I insured in the Aetna Fire Insurance Company through you on September 10, 19..., for \$800, was destroyed by fire, Sunday, May 9, 19.... The number of the policy is 167181. Please come and view the premises and adjust the matter as soon as possible, and oblige,

Yours respectfully,

RICHARD ROE.

#### Letter to State Board of Agriculture.

LEXINGTON, KY., April 18, 19..

*State Board of Agriculture:*

DEAR SIR: Will you please put me on the mailing list to receive your monthly bulletins and such other matters issued by you as will be of benefit to me.

Yours truly,

JOHN FARMER.

#### Letter to State Representative, or Senator.

LEXINGTON, KY., April 15, 19..

*Hon. Simon Blank, Representative, Frankfort, Ky.*

DEAR SIR: I have been informed that Mr. .... member from ....., has introduced a bill to (*Here state the object of the bill.*)

Will you kindly procure a copy of the bill and forward same to me, as I wish to examine its provisions. My information leads me to believe

that (*Here say it is a meritorious measure, or, is not a meritorious measure*). I would be pleased to have your opinion on the merits of the said measure.

Yours truly,

H. K. LUKENS.

### Letter to Congressman.

LEXINGTON, KY., May 1, 19..

*Hon. Richard Roe, M. C., Washington, D. C.:*

DEAR SIR: As one of your constituents I write to ask that you procure for me the last report of the Secretary of Agriculture, which I want for the discussion it contains on the diseases of cattle and swine. I wish, also, that you place me on your mailing list, and the mailing lists in such government departments as will secure me all the agricultural reports, etc., that are for distribution to the people and which will be of benefit to me in my occupation of farming. I will be under many obligations to you for the above favors.

Yours truly,

JOHN DOE.

### Letter to Officers Regarding Stock Running at Large.

LEXINGTON, KY., June 22, 19..

To .....

DEAR SIR: About twenty head of live stock are running at large on the public highway in this vicinity, much to the annoyance of myself and others, and to the great damage of young trees planted along the roads and growing crops in adjoining fields. Please take such measures at once as will abate this great nuisance and save further destruction of property.

Yours truly,

A. B.

### Regarding Breachy Stock.

LEXINGTON, KY., June 15, 19..

*John Doe, Esq.:*

DEAR SIR: Your cattle have been in my wheat and corn within the past week, doing considerable damage in the former. As I have taken all reasonable precautions to put the fences in good repair without effect, I am obliged to ask you to use such means as will keep your cattle out of my crops. Please give this matter your immediate attention and oblige,

Yours truly,

RICHARD ROE.

**Regarding Diseased Stock.**

LEXINGTON, KY., May 15, 19..

*John Doe, Esq.:*

DEAR SIR: I wish to caution you not to let your sheep, which are infected with both grub and foot-rot, run out on the public road again until said diseases have been cured or the sheep disposed of. I am obliged to take my sheep over the same road, and should they become infected with either of those diseases I would be compelled to look to you for damages. I want to avoid all matters of that nature and the loss which would result to both of us. Therefore I offer the above suggestion.

Yours truly,

RICHARD ROE.

**Regarding Repair of Line Fence.**

LEXINGTON, KY., April 15, 19..

*John Doe, Esq.:*

DEAR SIR: As I want to put stock on my pasture as soon as the season opens I hope you will repair your part of the line fence between us, which is much out of condition and will not turn stock. I have already repaired my part and trust you will attend to yours by April 30th.

Yours truly,

RICHARD ROE.

**Regarding Cleaning Joint Open Ditch.**

LEXINGTON, KY., April 1, 19..

*John Doe, Esq.:*

DEAR SIR: I am ready to clean out the portion of the ditch assigned to me, but it is useless to begin the work until you clean your part below me, as the upper part will fill up at once unless the lower sections are cleaned first. Please do the work assigned to you as soon as possible and greatly oblige,

Yours truly,

RICHARD ROE.

**Announcing Financial Embarrassment, and Asking Extension of Time for Payment of Obligation.**

LEXINGTON, KY., October 1, 19..

*Harmon & Co., Chicago, Ill.:*

GENTLEMEN: On account of failure of my wheat crop this season and later, the loss of thirty head of fat hogs by cholera, I find myself unable to pay my debts, and among them, the one of \$115.00 owing you for machinery. While extremely embarrassing to me to do so, I am compelled, because of said losses which I have sustained, to ask you and all others to whom I am indebted to wait until next season for pay-

ment. My corn crop is all that I have left and it will not more than pay my rent and carry me through to next harvest. Under these circumstances, I hope you will arrange to extend me at least ten months further time. I am willing to pay interest during the extension, and will endeavor to discharge the obligation promptly at the end of the period. Hoping for a favorable response, I am

Yours truly,

RICHARD ROE.

**Answer to Above.**

CHICAGO, ILL., October 5, 19....

*Richard Roe, Lexington, Ky.:*

DEAR SIR: Your favor of the 1st received. In answer thereto we will say that while we were fully expecting payment of the amount you owe us, we are willing to assist you in your exceedingly unfortunate condition. As we cannot make use of over-due paper, we ask that you take up the old note with a new one covering time of extension for payment. One of our representatives will be in your locality within a few days, and will come to see you and arrange the matter with you.

Yours truly,

HARMON & Co.

**Notices Regarding Note About to Fall Due.**

LEXINGTON, KY., June 1, 19..

*John Doe, Esq.:*

DEAR SIR: Your note of \$150 will become due June 15, 19.... Please pay the same promptly and oblige.

Yours truly,

RICHARD ROE.

LEXINGTON, KY., June 1, 19..

*John Doe, Esq.:*

DEAR SIR: Regarding your note which is now seven months past due, and which I have been holding for your accommodation, I am obliged to ask that you make payment within the next ten days. Please be ready to take up the note within that time and greatly oblige,

Yours truly,

RICHARD ROE.

**Apology for Delay in Payment of Note.**

LEXINGTON, KY., June 3, 19..

*Richard Roe, Esq.:*

DEAR SIR: I regret deeply that I have not been able to meet my obligations promptly. but the circumstances causing delay were no

within my control. I am now regaining lost ground, however, and will pay your note within the time specified by you. Enclosed find my check for \$50 as a partial payment. The balance will be paid promptly according to request.

Yours truly,

JOHN DOE.

#### Requesting Settlement of Account.

LEXINGTON, KY., June 1, 19..

*H. B. Rowley, Esq., Frankfort, Ky.*

DEAR SIR: As we are under the necessity of meeting our obligations promptly, we are compelled to ask payment of those who owe us. Since your account is now more than two months past due, we hope to receive a remittance this week covering the same.

Yours respectfully,

HOWARD & Co.

#### Letter Declining to Extend Further Time to Pay Obligation.

LEXINGTON, KY., May 1, 19..

*John Dearborn, Esq., Frankfort, Ky.:*

DEAR SIR: Your favor of June 28th, requesting further time in which to make payment of your note received. In answer thereto I am obliged to say that I cannot consent to another extension. Please prepare to take up said note according to agreement made some time ago, and greatly oblige.

Yours truly,

SAMUEL HARRISON.

#### Requesting Payment of Rent of House.

LEXINGTON, KY., April 3, 19..

DEAR SIR: The monthly rent of ten dollars for the month of March for the use of the house you are now occupying is due at the present time. Please forward that amount to me as soon as possible that we may keep the account in accordance with our agreement.

Yours truly,

RICHARD ROE.

#### Tenant to Landlord, Requesting Extension of Time to Pay Rent.

LEXINGTON, KY., September 1, 19..

*John Doe, Esq.:*

DEAR SIR: Because of very unfortunate circumstances surrounding me and of which you already have knowledge, I will not be able to pay this year's rent when the same falls due October 1st, next, but I have arrangements completed to make payment in full on or before January 1, 19.. Trusting that you will be able to afford me this accommodation, I am,

Yours truly,

RICHARD ROE.

**Answer of Landlord to Foregoing Request.**

LEXINGTON, KY., September 1, 19..

*Richard Roe, Esq.:*

DEAR SIR: Yours of September 1st received. I am fully aware of your reasons for desiring more time for payment of rent, and I wish to assure you, without delay, that it affords me much satisfaction to grant your request, since you have always been prompt heretofore in your payments. Hoping that your plans will mature as you have laid them, I am

Yours truly,

JOHN DOE.

**Refusal of Tenant to Pay Rent.**

LEXINGTON, KY., September 1, 19..

*John Doe, Esq.:*

DEAR SIR: On account of your failure to repair ditches and underdrains as you agreed, when I took your farm, I suffered great loss from the spring freshets. As it was through your neglect that my loss occurred, I do not feel under obligation to comply with your request for the payment of rent. You understand the situation I am in, therefore I wish to say that further demand upon me will be useless.

Yours respectfully,

RICHARD ROE.

**Letter Requesting a Loan of Money.**

LEXINGTON, KY., March 15, 19..

*John Doe, Esq., Frankfort, Ky.:*

DEAR SIR: On account of some extraordinary expenses entailed upon me by reason of turnpike assessment, etc., I am obliged to procure a loan of \$100 until after harvest. If you have that amount at your disposal, I would be pleased to have it for eight months. I am willing to pay 7% interest and give you good security. An early reply will be appreciated.

Yours truly,

RICHARD ROE.

**Favorable Answer.**

FRANKFORT, KY., March 16, 19..

*Richard Roe, Esq., Lexington, Ky.:*

DEAR SIR: Yours of yesterday received. In answer I wish to say that I have the money and will accommodate you any day you may come over.

Yours truly,

JOHN DOE.

**Unfavorable Answer.**

FRANKFORT, KY., March 16, 19..

*Richard Roe, Esq., Lexington, Ky.:*

DEAR SIR: Yours of yesterday received. In answer thereto I wish to say that I would be pleased to accommodate you, but on account of failure in payment of money owing me I am not now in a position to spare the amount you need. I trust you will not have difficulty in procuring it elsewhere.

Yours very truly,

JOHN DOE.

**Letter to Tenant Advising Certain Crops.**

LEXINGTON, KY., March 1, 19..

*John Doe, Esq.:*

DEAR SIR: Regarding the spring crops, I would suggest that you put all of the lower field in corn, excepting about four acres on the south side, which I think should be sowed in oats. You will remember that we discussed this matter a couple of months ago, but did not arrive at any definite conclusion as to this one field. I will not come out to the farm until May 1, therefore I am obliged to make the above suggestion by letter. Hoping that you may view this matter as I do, and wishing you success with your work, etc., I am,

Yours truly,

RICHARD ROE.

**Letter to a Prospective Tenant for Farm.**

LEXINGTON, KY., March 1, 19..

*Joseph Rogers, Esq., Warren, Indiana:*

DEAR SIR: I am informed that you intend leaving the farm where you are now living and that you want to rent another. If my information is correct and you have not yet secured another place, I would be pleased to have you come to see me at once with reference to taking my farm of one hundred and twenty acres, one mile south of this city. If you can not come, please telephone me tomorrow evening at my expense.

Yours truly,

SAMUEL HASKINS.

**Letter to Farm Hand.**

LEXINGTON, KY., February 1, 19..

*John Doe, Esq.:*

DEAR SIR: If you are not yet engaged for the season please call and see me this week or the first of next. I am willing to pay you

eighteen dollars per month and board and washing for nine months beginning March 1st, next. Please come or write, informing me whether the above terms will be satisfactory. I am ready to enter into a written agreement any day you may come. Yours truly,

RICHARD ROE.

#### Application for Employment as Farm Hand.

LEXINGTON, KY., February 1, 19...

*John Doe, Esq.:*

DEAR SIR: If you have not yet employed any one to work for you on your farm during the coming season I would be pleased to call and see you with reference to securing the place. I can furnish the best of recommendations, etc. Hoping to hear from you at your earliest convenience, I am

Yours truly,

JOHN DAY.

#### Recommending a Farm Hand.

LEXINGTON, KY., February 18, 19..

*To Whom it May Concern:*

This is to state that John Doe has been working with me on my farm for the past three years. During that time he has always been industrious and willing to work. He is careful and can at all times be trusted fully. Any additional information will be given on inquiry.

Yours respectfully,

R. M. COLE.

#### Application for Position as Domestic.

LEXINGTON, KY., February, 15, 19..

*Mrs. A. King:*

DEAR MADAM: If you are in need of assistance in your house-work, I would be pleased to have you give me a trial. I have had five years' experience and can take full charge, including cooking, if occasion should require. I have the best of reference and am idle now only because of my former employer, Mrs. B., having moved to New York, as you well know.

Please may I hear from you at once or within a day or two at farthest, and greatly oblige,

Yours very truly,

MISS CARRIE CHRISTIE.

**Requesting Reference, Etc.**

LEXINGTON, KY., October 20, 19..

*Mr. John Doe, Lansing, Michigan:*

DEAR SIR: I have your letter at hand requesting employment with me during the winter. I am in need of a young man this coming winter to care for the stock. As we have had no previous acquaintance I would be pleased to have you send me a letter of recommendation from your former employer and any other reference you may have.

Yours truly,

RICHARD ROE.

**Letter Recommending a Gardener.**

LEXINGTON, KY., March 1, 19..

*To Whom it May Concern:*

I have had Mr. James Blucher in charge of my gardens for the past four seasons, but having now given up said gardens, Mr. Blucher will seek employment elsewhere. In severing relations with him I wish to say on his behalf that he is an honorable man and a gentleman, and has no superiors and few equals in his occupation of chief gardener. Any one wishing to employ him, may, if more information regarding him is desired, call and see me, or write to me for further particulars.

Respectfully,

JAMES KINGSLEY.

**Recommending a Farm Tenant.**

LEXINGTON, KY., Feb. 28, 19..

*To Whom it May Concern:*

This is to certify that the bearer, Richard Roe, has been a tenant on my farm during the last three years. He is a man of industrious habits and understands the management of a farm so as to make it most productive. Any additional information regarding Mr. Roe will be given on inquiry.

Yours respectfully,

JOHN DOE.

**Inquiry for a Reliable Commission Merchant.**

LEXINGTON, KY., May 15, 19..

*The Produce Bank, Cincinnati, Ohio:*

GENTLEMEN: Will you please send me the name of a reliable firm of commission merchants, handling fruits, vegetables, etc., in Cincinnati and greatly oblige.

Stamp enclosed for reply.

Yours truly,

RICHARD ROE.

**Inquiry Concerning Price of Potatoes.**

LEXINGTON, KY., October 1, 19..

*John Doe & Co., Commission Merchants, Cincinnati, Ohio:*

GENTLEMEN: Please quote me your best prices for good potatoes (Early Ohio) and oblige. I have about 150 bushels myself, and can get enough to make a carload. If prices suit, I will make a shipment by the 10th of the month. Awaiting an early reply, I am

Yours truly,

RICHARD ROE.

P. S.—You are recommended to me by the Produce Bank.

**Letter Announcing Intent to Ship Potatoes.**

LEXINGTON, KY., Oct. 15, 19...

*John Doe & Co., Cincinnati, Ohio:*

GENTLEMEN: Your quotation of 65 cents per bushel for potatoes delivered in Cincinnati received. As you also announce that the market is improving I will ship you a car load by the 10th and will sell on the market at that date.

Yours truly,

RICHARD ROE.

**Announcing Shipment of Potatoes.**

LEXINGTON, KY., May 15, 19..

*John Doe & Co., Cincinnati, Ohio:*

GENTLEMEN: I have this day shipped you one car load of good potatoes, via ..... Ry. They will probably arrive in Cincinnati tomorrow. Please sell them to best advantage and remit, less freight and your commission. Find bill of lading enclosed.

Hoping that the markets are up, I will await returns from you.

Yours truly,

RICHARD ROE.

**Letter of Credit.**

LEXINGTON, Ky., June 15, 19...

*Felix Fournier & Co., New Orleans, La.:*

GENTLEMEN: Please extend John Doe, Esq., credit for such farming machinery as he may select, to an amount not exceeding five hundred dollars (\$500.00) for six months and I will be responsible to you for the payment, should he fail to discharge the obligation at the date of maturity.

Kindly inform me of the amount of his purchase and the date on which it will fall due. Should he default in payment, please notify me of the fact without delay.

Yours respectfully,

RICHARD ROE.

**Application of Farmer to Employment Agency for Help During  
Harvesting Season.**

LEXINGTON, KY., June 1, 19..

*Manager Employment Agency, Louisville, Ky.:*

DEAR SIR: I wish to secure four men to help me during the harvesting season. I will have ten days' work beginning about June 20. I will pay \$1.75 per day and board, lodging and railroad fare from Louisville to Lexington. Please let me know within the coming week what the prospects are for getting them through your agency.

Yours truly,

RICHARD ROE.

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