#14.1

REPORT OF THE VIRGINIA CODE COMMISSION ON REVISION OF THE CODE OF VIRGINIA OF 1950, AS AMENDED, TO CONFORM WITH THE CONSTITUTION OF VIRGINIA EFFECTIVE JULY 1, 1971

November 30, 1970

HOUSE DOCUMENT NO. 2

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
RICHMOND
1970

Report of the

VIRGINIA CODE COMMISSION

to

His Excellency, A. Linwood Holton

Governor of Virginia

and

the General Assembly of Virginia

November 30, 1970

VIRGINIA CODE COMMISSION

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COMMONWEALTH OF VIRGINIA

Virginia Code Commission

8th Street Office Building

Richmond, Virginia 23219

November 30, 1970

The Honorable A. Linwood Holton
Governor of Virginia

and

The General Assembly of Virginia
State Capitol
Richmond, Virginia

Gentlemen:

The General Assembly at its Regular Session of 1970 directed the Virginia Code Commission, by House Joint Resolution Number 106 of that session, to undertake a general revision of the Code of Virginia with particular reference to amendments throughout the Code which would be necessary should the proposed Revision of the Constitution of Virginia be adopted by the voters at the referendum to be held on November 3, 1970.

A staff with Mr. Hugh R. Thompson, Jr. as Director was organized and a plan for the overall study of the Code was adopted.

In the course of this study the advice and assistance of many able citizens and attorneys of the Commonwealth were solicited. The Commission is grateful for their valuable assistance and cooperation in this project.

The recommendations in this report reflect the view of a majority of the Commission's membership. In most instances the Commission was unanimous in its conclusions. The commentary which accompanies the text is full and comprehensive and, in the main, reflects the basis advanced for each change that was necessary in the Code.

The Commission submits this report confident that it correctly reflects those changes necessary to conform the Code of Virginia with the new Constitution.

Respectfully submitted,

A. L. PHILPOTT,
Chairman

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I. INTRODUCTION

I. INTRODUCTION

Virginia's new Constitution was suggested by former Governor Mills E. Godwin, Jr., was conceived by a Commission on Constitutional Revision composed of preeminent Virginia statesmen under the leadership of former Governor and Supreme Court Justice Albertis S. Harrison, Jr., was nurtured by the General Assembly at its sessions of 1968, 1969 and 1970, was adopted by the Virginia electorate on November 3, 1970, and will become the basic law of Virginia on July 1, 1971. That Constitution is both the reason for and the basis of this report.

The General Assembly, at its 1970 session, directed the Virginia Code Commission to undertake a general revision of the Code of Virginia, with particular reference to amendments throughout the Code which would be made necessary should the proposed revision of the Constitution of Virginia be adopted by the voters at the referendum held on November 3, 1970, and to make a report, containing the Virginia Code Commission's recommendations for amendments in the Code made necessary by the new Constitution, to the Governor and the General Assembly not later than December 15, 1970.

The Virginia Code Commission tenders this report as the result of the undertaking so directed.

At the outset the Commission wishes to distinguish between the general nature of the work undertaken by the Commission on Constitutional Revision and this undertaking by the Virginia Code Commission. The Commission on Constitutional Revision was concerned primarily with political philosophy. More specifically, it was concerned with a concise and appropriate exposition of basic principles and policies for the exercise of sovereignty by the Commonwealth. In contrast, this undertaking of the Virginia Code Commission is highly pragmatic.

The Code Commission conceives its work as being that of suggesting to the Governor and the General Assembly the statutory procedure by which Virginia may, on July 1, 1971, simultaneously exchange not only an old Constitution for a new one, but those statutes made obsolete by the new Constitution for such new statutes as are basically required to support the new Constitution.

Considering the magnitude of the undertaking and the paucity of time available, the Code Commission determined that its study would require both a very broad base and strict procedural controls. In addition, the Commission determined that none of its own members should become specially involved in, or be recognized as sole authority with respect to, any particular subject matter to be considered by the Commission.

The Commission therefore determined to establish committees, independent of the Commission itself, to undertake the study of appropriate areas of the Code. To facilitate control, without overloading any single committee, after careful consideration of the particular subject matter involved, the Commission established six committees. Among these committees were divided all of the titles of the Code, with the exception of the Uniform Commercial Code, i.e., Titles 8.1 through 8.10, and Title 14.1. Insofar as possible, each committee was assigned a primary area of responsibility, topically identifiable, and was assigned topically related titles. Inevitably, however, in balancing the workload, it also was necessary to burden some committees with some unrelated titles.

The committees were:

No. 1—Corporations. Titles: 5.1, Aviation; 6.1, Banking and Finance; 10, Conservation Generally; 12, Corporation Commission; 13.1, Corporations; 27, Fire Protection; 33, Highways, Bridges and Ferries; 38.1, Insurance; 45.1, Mines and Mining; 56, Public Service Companies; 59.1, Trade and Commerce, and 62.1, Waters of the State, Ports and Harbors.

No. 2—Counties, Cities and Towns. Titles: 15.1, Counties, Cities and Towns; 21, Drainage, Soil Conservation, Sanitation and Public Facilities Districts; 25, Eminent Domain; 32, Health; 35, Hotels, Restaurants and Camps; 36, Housing; 43, Mechanics' and Certain Other Liens; 46.1, Motor Vehicles, and 48, Nuisances.

No. 3—Justice. Titles: 8, Civil Remedies & Procedure; Evidence Generally; 16.1, Courts Not of Record; 17, Courts of Record; 18.1, Crimes and Offenses Generally; 19.1, Criminal Procedure; 20, Domestic Relations; 39.1, Justices of the Peace; 44, Military and War Emergency Laws; 47, Notaries and Out-of-State Commissioners; 49, Oaths, Affirmations and Bonds; 55, Property and Conveyances, and 60.1, Unemployment Compensation.

No. 4—Education. Titles: 22, Education; 23, Educational Institutions; 29, Game, Inland Fisheries and Dogs; 50, Partnerships; 51, Pensions and Retirement; 52, Police (State); 53, Prisons and Other Methods of Correction; 54, Professions and Occupations; 57, Religious and Charitable Matters: Cemeteries; 61.1, Warehouses, Cold Storage and Refrigerated Locker Plants, and 63.1, Welfare.

No. 5—Franchise. Titles: 1, General Provisions; 2.1, Administration of Government Generally; 3.1, Agriculture, Horticulture & Food; 4, Alcoholic Beverages and Industrial Alcohol; 7.1, Boundaries, Jurisdiction & Emblems; 9, Commissions, Boards & Institutions; 24, Elections; 30, General Assembly; 31, Guardian and Ward; 40, Labor and Employment; 41, Land Office, and 42.1, Libraries.

No. 6—Taxation & Finance. Title 58, Taxation, and those provisions found elsewhere in the Code relating to taxation and State debt. John F. Kay, Jr., Esquire, who served as counsel for the Committee on Taxation and Finance, also reviewed, with the assistance of volunteer counsel, the following Code Titles: 11, Contracts; 26, Fiduciaries Generally; 28.1, Fish, Oysters, Shellfish and Other Marine Life; 34, Homestead and Other Exemptions; 37.1, Institutions for the Mentally Ill: Mental Health Generally; 64.1, Wills and Decedents' Estates, and 65.1, Workmen's Compensation.

Titles 8.1 through 8.10 and 14.1 were reviewed by Special Counsel.

It will be observed that although careful consideration was given to the procedures of the Commission on Constitutional Revision, as well as to that Commission's substantive findings and recommendations, the Code Commission necessarily established its committees along somewhat different topical lines because of its different basis for allocating the workload. In so subdividing the work, insofar as possible, the Commission carefully considered, among other things, the nature and quantum of materials to be reviewed, the nature, number and relative difficulty of problems which might reasonably be anticipated, the ease or difficulty with which the several titles assigned to a committee might be correlated or jointly considered and similar matters.

To direct, coordinate and support the work of the several committees, the Commission designated its General Counsel, Hugh R. Thompson, Jr.,

Esquire, as Director, and established offices for the project in the Eighth Street Office Building in Richmond. In addition to Mr. Thompson's services, the Commission also procured the services of Augustus S. Hydrick, Esquire, as Executive Assistant and Associate Counsel. A small, but highly efficient, secretarial staff was maintained at the Eighth Street offices to support its work. The services of this force, particularly those of Mrs. Mary Kathryn Church, were of inestimable value to the Commission throughout its undertaking.

To reinforce the work of its committees, the Commission determined to solicit an independent examination by each of the State agencies of departmental or comparable level into its own area of responsibility to determine what, if any, statutory changes might be required to conform the Code with the new Constitution. The response of these agencies was of great value to the Commission and reference thereto is made throughout this report.

To further broaden its base of support in this undertaking, the Code Commission determined that it should suggest and accept the voluntary services of many highly competent law firms throughout the State. Without such support the Commission would have been much more limited in this undertaking and seriously doubts that it could have met the reporting date prescribed.

The Code Commission wishes to acknowledge, and the Commonwealth should be grateful in large measure to, the following distinguished Virginians who served selflessly and with distinction on the Commission's committees:

1. Committee #1—Corporations:

   Chairman: Toy D. Savage, Jr.

   Counsel: R. Gordon Smith

   Members: John S. Davenport, III
   George D. Gibson
   Charles L. Kaufman
   Stanley E. Sacks

2. Committee #2—Counties, Cities and Towns:

   Chairman: Weldon Cooper

   Counsel: Francis C. Lee

   Members: Julian F. Hirst
   Charles Hooper, Jr.
   J. Clifford Hutt
   Michael A. Korb, Jr.

3. Committee #3—Justice:

   Chairman: M. Ray Doubles

   Counsel: J. Westwood Smithers

   Members: A. Scott Anderson
   Charles D. Fox, III
   Francis B. Gouldman
   James A. Harper, Jr.
   Francis M. Hoge

Murray J. Janus
E. Page Preston
Richard W. Smith
Rayner Varser Snead
James R. Snoddy, Jr.
William Earle White

4. Committee #4—Education:
   Chairman: Luther W. White, III
   Counsel: R. D. McIlwaine, III
   Members: Howard C. Gilmer, Jr.
   Alonzo B. Haga
   Leonard G. Muse
   James A. Overton
   H. I. Willett

5. Committee #5—Franchise:
   Chairman: Turner T. Smith
   Counsel: William G. Thomas
   Members: Carter O. Lowance
   Mary A. Thompson

6. Committee #6—Taxation and Finance:
   Chairman: W. Gibson Harris
   Counsel: John F. Kay, Jr.
   Members: William C. Battle
   Thomas C. Boushall
   C. H. Morrissett
   Frank W. Rogers, Jr.
   William A. Stevens
   James C. Wheat, Jr.
   Carrington Williams

7. Special Counsel for review of Uniform Commercial Code:
   Prof. Wilfred J. Ritz
   Washington & Lee University Law School

The Commission also wishes to commend the following participating law firms for their outstanding contribution to this study and report:

Edmunds, Freed and Cooley
509 West Main Street
Waynesboro, Virginia 22980

Gentry, Locke, Rakes & Moore
Suite 300 Shenandoah Building
Roanoke, Virginia 24004

Hirschler and Fleischer
2nd Floor Massey Building
4th and Main Street
Richmond, Virginia 23219

Hunter, Fox & Trabue
Suite 310, 707 Building
Roanoke, Virginia 24011

Hunton, Williams, Gay, Powell & Gibson
700 East Main Street
Richmond, Virginia 23212

Kaufman, Oberndorfer and Spainhour
Virginia National Bank Building
Norfolk, Virginia 23510

Mays, Valentine, Davenport and Moore
1200 Ross Building
Richmond, Virginia 23219

Mitchell, Petty & Shetterly
30 Broad Street
New York, New York 10004

Preston, Preston, Wilson and Mason
1930 Virginia National Bank Building
Norfolk, Virginia 23510

Rixey & Rixey
Suite 1000 Maritime Tower
Norfolk, Virginia 23510

Sands, Anderson, Marks and Clarke
1420 Fidelity Building
Richmond, Virginia 23219

Seawell, McCoy, Winston & Dalton
936 Wainwright Building
Bute & Duke Streets
Norfolk, Virginia

Shackelford & Robertson
The National Bank of Orange Building
Orange, Virginia 22960

Simmonds, Coleburn, Towner & Carman
15th Street and North Courthouse Road
Arlington, Virginia 22201

Timberlake, Smith & Thomas
First Security Bank Building
Staunton, Virginia 24401

White, Hamilton, Wyche, Shell & Pollard
20 East Tabb Street
Petersburg, Virginia 23803

White, Reynolds, Smith & Winters
Suite 906
One Main Plaza East
Norfolk, Virginia 23510

Williams, Mullens and Christian
United Virginia Bank Building
Richmond, Virginia 23219

In addition to those listed above, many other law firms offered their services. The Virginia Code Commission sincerely regrets that it is unable to individually recognize all of them.

The Commission also wishes to recognize and express its appreciation for the cooperation and support provided by the staffs of the Office of the Attorney General and the Division of Statutory Research and Drafting.

II. PROPOSALS

A. GENERAL

Whereas the work of the Commission on Constitutional Revision in producing a new basic law for the Commonwealth was that of the political philosopher or theoretician, the Virginia Code Commission's perspective in the preparation of this report has been that of the statutory technician. It has had to accept, prospectively and in the alternative, each of the several versions of the Constitution which might have been adopted on November 3, 1970, as the basic document which the Code of Virginia must implement and to which the Code must be made to conform. More precisely, from the perspective of the Code as it will exist immediately prior to noon on July 1, 1971, the Commission has been required to observe those statutes which must or should be changed to achieve compatibility with the new Constitution at the moment it takes effect.

The process has been that of comparing the Code, provision by provision as it will exist at the moment before noon on July 1, 1971, with the new Constitution, provision by provision as it will become effective at noon on July 1, 1971. This tedious winnowing process has revealed, as was anticipated on the Commission's preliminary survey, that relatively few of the substantive provisions of the Code are affected by the revised Constitution.

Perhaps the most significant question to come before the Commission was raised by Article IV, § 6 of the Constitution, which provides that the General Assembly shall meet once each year. Acutely aware of the biennial budgetary system, its history and relationship to traditional biennial sessions of the General Assembly, as well as its effect on the operation of the entire process of State government, the Commission was concerned by the question of whether the State should change to an annual fiscal basis. Attention is invited to Chapter 6 of Title 2.1, "Budget System".

The Commission, after numerous consultations and conferences, and upon the unanimous recommendations of appropriate officers of the State, present and past, recommends that the biennial budget system be retained and that the provisions of Chapter 6 (§§ 2.1-52 through 2.1-63) of Title 2.1 of the Code remain unchanged.

In general, the provisions of the Constitution requiring the greatest attention and their counterparts in the Code of Virginia are:

Constitution	*Code*
1. Article IX, Corporations	Title 12, Corporations and Title 56, Public Service Companies
2. Article VIII, Education	Title 22, Education
3. Article VI, Judiciary	Title 2.1, Administration of the Government Generally and Title 17, Courts of Record
4. Article VII, Local Government	Title 15, Counties, Cities and Towns
5. Article II, Franchise and Officers	Title 24, Elections
6. Article X, Taxation and Finance	Title 58, Taxation

Although they are few in number, those changes which the Commission recommends in Title 1, General Provisions, and Title 2.1, Administration of the Government Generally, are of particular significance because of their general effect throughout the Code.

The Commission recommends that § 1-12, which provides when statutes shall take effect, should be amended to conform with Article IV, § 13 of the new Constitution, which provides that all laws, except a general appropriations law, shall take effect on the first day of the fourth month following the month of adjournment of the session of the General Assembly at which it has been enacted, unless a subsequent date is specified or unless in case of an emergency (which emergency shall be expressed in the body of the bill) the General Assembly shall specify an earlier date by a vote of four-fifths of the members voting in each house, the name of each member voting and how he voted to be recorded in the journal. Section 53 of the old Constitution provides that acts, in due course, shall take effect ninety days after adjournment.

Section 1-13.2, which construes the word "city", should be amended to conform with the definition found in Article VII, § 1, which defines "city" as "an independent incorporated community which has within defined boundaries a population of five thousand or more and which has become a city as provided by law."

Section 1-13.5:1 should be amended to construe the term "court of record" so as to embrace the definition of that term as found in Article VI, § 1, paragraph 1 and as construed in Article VI, § 7, paragraph 1 so as to embrace all of those courts construed to be courts of record immediately prior to noon on July 1, 1971.

Section 1-13.21, which construes the words "personal representative", should be amended to delete the word "sergeant" appearing therein so as to conform with the provisions of Article VII, § 4, which replaced the city sergeant with a sheriff.

Section 1-13.26, which construes the word "State", should be amended to include the term "Commonwealth", the term "Commonwealth" having been substituted for the word "State" throughout the new Constitution.

Section 1-13.27:1 should be amended to construe the term "Supreme Court of Appeals", wherever those words remain in the Code after the new Constitution becomes effective, to mean "Supreme Court". The purpose of this construction provision is twofold: First, to clearly identify the "Supreme Court of Appeals" under the old Constitution and under the Code before amendment as one and the same entity as the "Supreme Court" under the new Constitution and, secondly, to obviate the numerous technical changes throughout the Code and thereby reduce the bulk of this report.

Section 1-13.29, which defines the word "town", should be amended to conform with the definition found in Article VII, § 1, i.e., "any existing town or an incorporated community within one or more counties which has within defined boundaries a population of one thousand or more and which has become a town as provided by law."

Section 1-13.38, which construes compliance with certain provisions of the Constitution, should be amended to refer to Article IV, § 12 of the new Constitution instead of to § 52 of the old Constitution.

A new section numbered 1-13.41 should be added to the Code to provide a guide for the construction of references to the old Constitution

which inadvertently will remain in the Code after the new Constitution, with its renumbered provisions, takes effect. The provision, although not ideal, is recommended as a necessary expedient pending a more thorough revision of the Code.

The Code Commission recommends the addition in Title 2.1 of a new chapter numbered 4.1 and entitled "Judicial Inquiry and Review" to comply with the provisions of Article VI, § 10 of the new Constitution. The provisions of this new chapter will be discussed in detail later in this report.

Section 2.1-153, which provides for the election and compensation of the Auditor of Public Accounts, should be amended to provide for a term of four years as prescribed by Article IV, § 18.

Section 2.1-177, relating to the Department of the Treasury and the State Treasurer, should be amended to conform with the provisions of Article V, § 10, which requires that "Except as may be otherwise provided in this Constitution, the Governor shall appoint each officer serving as the head of an administrative department or division of the executive branch of the government, subject to such confirmation as the General Assembly may prescribe. Each officer appointed by the Governor pursuant to this section shall have such professional qualifications as may be prescribed by law and shall serve at the pleasure of the Governor."

Having indicated above the principal areas of the Commission's concern, the highlights in these areas will be discussed in the remainder of this part of this report in the order (1) Corporations, (2) Counties, Cities and Towns, (3) Justice, (4) Education, (5) Franchise, and (6) Taxation and Finance.

A table of all sections of the Code affected by this report and the general nature of the change may be found in Appendix C.

Section by section recommendations may be found in Part III of this report.

The full text of each section with respect to which any change is proposed may be found in Part IV of this report.

B. CORPORATIONS

Those provisions of the old Constitution relating primarily to corporations and to the State Corporation Commission are found in Article XII. Most of the statutory provisions relating to Article XII are in Title 12 (State Corporation Commission) and in Title 56 (Public Service Companies). Consequently, the majority of the changes relating to corporations found in this report occur in Titles 12 and 56.

A summary of the Commission's recommendations follows:

1. Replace Title 12 with a new Title 12.1 to eliminate many obsolete provisions now found in old Title 12, to conform and codify certain provisions of Article XII of the old Constitution not found in the new Constitution, and to conform those provisions of Title 12 which are retained in Title 12.1 with the provisions of Article IX of the new Constitution. The new Title 12.1 also should have a more logical sequence of sections than does Title 12. A section-by-section analysis of proposed Title 12.1 may be found in Part III of this report. Disposition of all revisions of Title 12 are accounted for in Appendix C of this report.

By way of an explanation of the necessity for a new Title 12.1, Article XII of the old Constitution sets forth detailed, statute-like provi-

sions dealing with the State Corporation Commission and with the regulation and control of railroads. A commentary upon the effect of the repeal of Article XII of the old Constitution may be found in Part V of this report. Most of present Title 12 is directly related to and intertwined with Article XII of the Constitution. With the repeal of the old Constitution, substantial statutory revision is required in Title 12. The Commission believes that a section-by-section patchwork of amendments to present Title 12 would be confusing and inadequate. The text of the proposed Title 12.1 may be found in Part IV of this report. A section-by-section commentary upon each of the sections of the proposed Title 12.1 may be found in Part III of this report.

Although still technically on the books, § 12-6, which relates to free transportation to members and officers, was effectively repealed by the amendment of § 161 of the Constitution adopted in 1956.

The provisions relating to supplies, printing, expenses, etc., found in § 12-7 have been superseded by Chapter 15 (Purchases and Supply) of Title 2.1.

Section 12-8, which relates primarily to money owed to the "Fund for Internal Improvement," is now obsolete.

Members of the Commission and certain "officers" are required by § 12-11 to take an oath whereby they swear to abide by the conflict of interest prohibitions set forth in § 12-10. Since the oath adds nothing to the prohibitions found in § 12-10 (and in proposed § 12.1-10), the Commission recommends that the oath be eliminated.

The transitional section vesting the State Corporation Commission with the functions formerly performed by the Board of Public Works (§ 12-15) is no longer necessary.

Sections 12-26 through 12-37 relate primarily to "works of internal improvement" and ownership by the State of stock therein. The State no longer owns any such stock. See Constitution of 1902, § 185. Chapter 687 of the 1970 Acts of Assembly transferred State-owned RF&P stock to the Virginia Supplemental Retirement System.

Although § 12-40 technically requires every employee of the Commission to be a qualified voter, many present employees of the Commission are under twenty-one, and the section is ignored in practice. It should be deleted.

Section 12-44, which relates to duties of certain assistants, and § 12-50, which relates to the docket, are unnecessary under existing law and under proposed Title 12.1.

Section 12-47, which relates to agents for the collection of debts, and § 12-48, which relates to the compensation of collection agents, are no longer needed under existing practices of the Commission.

Section 12-53, which is designed to assure that the Commission will provide notice and hearing to any party prior to imposing any fine or other penalty, is no longer necessary since notice and hearing are adequately provided for by Article IX, § 3 of the new Constitution and by proposed § 12.1-28.

Section 12-57.1 provides that correspondence mailed by the Commission to the registered agent at the registered office of a corporation shall be deemed delivered to the corporation. It also sets forth the procedure under which a registered agent can resign without being liable to the

corporation for damages resulting from his failure to forward papers received from the Commission. This is now found in Chapter 5 of Title 12 dealing with procedure before the State Corporation Commission and appeals. The section is out of place in Title 12 and should appear in Title 13.1 (Corporations). Generally, the Commission recommends that it be reenacted verbatim as new § 13.1-11.1.

Section 12-58 simply states than any person who shall willfully swear falsely before the State Corporation Commission shall be deemed guilty of perjury. Perjury before the Commission is adequately covered by the general perjury statutes. See §§ 18.1-273 through 18.1-277.

2. Transfer Chapters 6 and 7 of present Title 12 to Titles 38.1 and 36, respectively. Chapter 6 relates to the uninsured motorists' fund and Chapter 7 is the industrialized building unit and mobile home safety law. Both chapters appear to have been placed in Title 12 originally because they are administered by the State Corporation Commission. Both chapters may be considered as satellite provisions, related to Title 12, but susceptible to placement in a more appropriate context. It should be observed that Title 38.1 embraces the general subject of insurance and that Title 36 embraces the general subject of housing.

3. Similar but less extensive recommendations are made with respect to Title 56, and Title 56 is altered to conform to new Title 12.1. The old Constitution contains outmoded and artificial definitions for "transportation company" and "transmission company." The Commission's recommendations eliminate the definition for "transmission company" found in § 56-1 and amend sections of the Code using this term. "Transportation company" is redefined and certain sections of the Code using this term are amended.

4. Technical conforming changes relating to corporations found in other titles also are proposed. For the most part, these changes consist of correcting obsolete references to the old Constitution or to Title 12.

5. The Commission further recommends that the bill to enact new Title 12.1, which is the only completely new title recommended in this report, and to repeal old Title 12 contain a construction provision which would obviate the necessity for changing all references in the present Code to Title 12 by providing that they shall be deemed to relate to the appropriate chapter, article, or section of Title 12.1. Obviously it was not feasible in this study and report to prepare legislation which would include each such technical change.

C. COUNTIES, CITIES AND TOWNS

Article VII of the new Constitution permits the General Assembly to provide for the organization, government, powers, change of boundaries, consolidation, and dissolution of counties, cities, towns and regional governments in many respects as do the corresponding provisions of the old Constitution. The essential difference appears to lie in the combining of old Article VII, which related to the organization and government of counties, with old Article VIII, which related to cities and towns. The combination, which appears in the new Constitution as Article VII, permits the General Assembly to treat counties much the same as it heretofore has treated cities.

A number of changes in the Constitution affect local government, most of which are found in new Article VII. The most significant of these, which require legislative attention, are as follows:

1. Towns.—The definition of "town" has been changed to include any existing town or an incorporated community within one or more counties which has within defined boundaries a population of one thousand or more. The old Constitution contained no minimum population requirement.

2. Regional Government.—Regional government, as a unit of general government within defined boundaries, is now recognized by the Constitution and must be provided for by the General Assembly.

3. Special Acts.—"Special Acts", as defined in Article VII of the new Constitution for the purposes of that article, now may be enacted so as to affect a particular county, city, town or regional government, provided such legislation receives an affirmative vote of two-thirds of the members elected to each house of the General Assembly.

4. Constitutional Officers.—New Article VII provides for five constitutional officers in each county and city, but any county or city not required to have such officers prior to July 1, 1971, is not required to have them. Local governments may now share constitutional officers, which could mean less fragmentation of local governmental units. There is no longer a requirement for a city sergeant, but each city must have a city sheriff. Thus, the Commission recommends that the office of city sergeant be discontinued, except in those cities and towns which wish to retain such officers as permitted by the new Constitution.

The Commission recommends that a new section, 15.1-40.1 be enacted to require the election in each county and city of a treasurer, a sheriff, an attorney for the Commonwealth, a clerk and a commissioner of the revenue. Provision is made to except those counties or cities not requiring such officers prior to July 1, 1971. Additionally, § 15.1-821 of the Code, dealing with Commonwealth Attorneys for cities, should be amended so as to remove the limitation therein which is provided in present § 119 of the Constitution, but deleted in the revision.

Additional legislation should be enacted dealing specifically with city sheriffs who will replace city sergeants. At present the City of Richmond is the only city in which a sheriff is elected. The Commission recommends that, unless provided by charter or special act, the office of city sergeant be abolished, and except for the City Sergeant of the City of Richmond, any person holding that office will continue in office as city sheriff. The Sheriff of the City of Richmond would continue in office. All sections of the Code would be amended to substitute city sheriffs for city sergeants. The city sheriff would have the same powers and discharge the same duties as were conferred upon city sergeants prior to July 1, 1971.

5. Governing Bodies.—The new Constitution abolishes the necessity for boards of supervisors and city councils, eo nomine, but leaves to the General Assembly the manner in which the "governing body" of each county, city or town is to be elected by the qualified voters. The restrictions on the size of magisterial districts have been deleted, as well as the requirement that each district be represented by a supervisor. The new provision will permit multi-member districts so long as representation is proportional to population. If members are elected by district, the district must be composed of contiguous and compact territory and shall be constituted so as to give, as nearly as is practicable, representation in proportion to the population of the district. The governing body of each county, city or town may, in the manner provided by law, increase or diminish the number and change the boundaries of districts. In 1971 and every ten years

thereafter, and also whenever the boundaries of such districts are changed, the governing body must reapportion the representation of the governing body among the districts.

To accommodate the requirements with respect to redistricting, a new chapter 1.1 of Title 15.1 is proposed, which would add §§ 15.1-37.4 through 15.1-37.8 to the Code to provide general legislation for the election of governing bodies from districts, applicable to all counties, cities and towns. A new section, numbered 15.1-571.1 would deal generally with magisterial districts, and a new section numbered 15.1-788.1 would deal with counties having the urban county form of government. Sections 15.1-803 and 15.1-806, dealing with cities, would be amended to accommodate the new mandate for reapportionment. Sections 15.1-572 and 15.1-575 through 15.1-581, which provide for judicial action in the redistricting of counties, should be repealed.

If reapportionment must be carried out in 1971, the question arises as to the time best suited for those counties which elect new district officers in 1971. This question is particularly pertinent in counties which heretofore could not have multi-member districts. While it would be desirable to accomplish the redistricting and reapportionment in time to accommodate the primary election to be held in 1971, the Commission does not believe this to be legally possible, unless the primary date can be changed. Since § 24.1-174 of the Code, as amended, fixes the date for primary elections before the effective date of the new Constitution, there would be no legal basis for the governing bodies of counties to redistrict or to create multi-member districts and apportion representation thereto prior to July 1, 1971. However, if the primary date could be changed to September, it would be possible for the redistricting to be accomplished immediately after July 1, 1971, and thereby have the necessary districts in which candidates may qualify in time for the primary. Recommended § 15.1-37.5 would remain silent as to when the reapportionment is to take place, leaving only the constitutional mandate of reapportionment by the end of 1971, thus permitting local governments greater flexibility in meeting their own problems.

6. Franchises by Cities and Towns.—The new Constitution extends the period in which a city or town may grant a franchise or right to use public property from thirty to forty years. The term has been extended to sixty years for air rights and easements for columns of support. Unless the franchise or privilege is for a term in excess of five years, it is no longer necessary for the city or town to advertise and receive bids therefor.

The Commission recommends that the statutory provisions implementing the constitutional limitations on franchises and the leasing of public property owned by cities and towns be amended and reenacted in accordance with the new limitations.

7. Local Debt.—In many respects the new Constitution treats counties and cities similarly with respect to bonded indebtedness. While the debt limitation for cities or towns continues to be a ceiling of eighteen per cent of the assessed value of real estate, additional exclusions in the calculation of such debt are provided in the new Constitution, the most notable being pure revenue bonds.

The General Assembly may now authorize counties, or districts thereof, to incur a debt without submission of the question to the qualified voters of the county or districts thereof in certain enumerated classes. With those specified exceptions (among them, borrowing for school pur-

poses from the Literary Fund, the Virginia Supplemental Retirement System, or other prescribed State agency, debts in anticipation of current revenues, revenue bonds, and refunding bonds), county debt may be contracted only upon approval of the voters of the county as is presently required in § 115-a of the Constitution. The exception on casual deficit borrowing has been omitted. Additionally, provision is made for any county, upon approval of the qualified voters, to elect to be treated as a city for debt purposes.

The Commission recommends that all appropriate statutory provisions be amended to reflect the constitutional changes in the treatment of counties, cities and towns with respect to bonded indebtedness. Limitations in the present statute should be amended to reflect the limitations found in the new Constitution. Liberalization of the requirement for submission of the question of bonded indebtedness by counties to the qualified voters in referenda should be reflected in the amended statutes. A new section, numbered 15.1-185.1 is recommended for enactment, so as to permit counties to elect to be treated as cities for the purposes of issuing bonds.

8. Filling of Vacancies in Elective Offices by Judges.—The limitation of appointments of elective officers by judges as provided in Article VI, § 12, must be recognized in the various sections in Title 15.1 and elsewhere dealing with this general topic. At present, most vacancies are filled by appointment for the remainder of the term or until the next regular election. Under the proposed limitation, the appointment must be limited to the next ensuing general election, or, if the vacancy occurs within one hundred and twenty days prior to such election, the second ensuing general election.

9. Elections to Change Form of County Government.—At present, optional forms of county government are provided, and several counties have elected to adopt some optional form of government, rather than the form provided in Article VII of the Constitution. Several articles of the Code provide for elections in such counties to return to the form of government provided by Article VII. Provisions in those articles require the inclusion on the ballot of specific language in which the electorate is given the option to adopt some other form of government or to change back to the form provided for by Article VII of the old Constitution. Because no specific form of organization in government is provided in Article VII of the new Constitution, such provisions would be meaningless. Accordingly, the Commission recommends that such provisions be amended to provide merely for an election to change to some other form of government, without limiting such choice to the form provided in Article VII of the Constitution.

As indicated above, the new Constitution requires a number of substantive legislative changes relating to the organization and government of counties, cities and towns and regional government. Of particular significance is the fact that the governing bodies of the several counties now may be selected on a multi-member district basis as opposed to one member for each district. The requirement that districts be changed and the governing body reapportioned in 1971 and every ten years thereafter, and also whenever the boundaries of such districts are changed, places a requirement on the General Assembly to provide the machinery for effecting this mandate. At the present time, redistricting and reapportionment of representation within cities is a matter for councilmanic action, but in the counties it is a judicial function. Article VII, § 5 of the new Constitution places this burden on the governing bodies of counties, cities and towns "in a manner provided by law." Accordingly, additional legis-

lation is necessary to provide for redistricting counties, cities and towns, and to reapportion the representation therein pursuant to the constitutional mandate.

Under the new Constitution cities of the second class could well be abolished, either by requiring all five constitutional officers as contemplated in Article VII, § 4, or by providing for two or more units to share such constitutional officers. However, the new Constitution does not require all five constitutional officers in those cities or counties not required to have such officers prior to the effective date of the new Constitution and the Commission leaves to future sessions of the General Assembly the disposition of such political subdivisions.

Article VII, § 2 of the new Constitution requires the General Assembly to provide by general law for the organization and government of regional government. The Commission is aware of the problems of fragmentation of local government, but is of the opinion that such legislation should be the subject of a concentrated and more extensive study than that permitted within the time frame allotted for its current assignment. For the present, Chapter 34 of Title 15.1, providing for service Districts, is thought to be sufficient to comply with the mandate of Article VII, § 2 of the new Constitution.

At this time, statutory authority for local bond issues for capital projects for school purposes sold to State agencies appears sufficient, without additional legislation to provide for such issues to be sold to the Literary Fund. Since this is not essential legislation at this time, the Commission recommends no change in this report.

A number of statutes distinguish between "freeholders" and other qualified voters in voting in certain bond referenda. Reference also is made in the statutes to keeping lists showing poll tax payers. The Commission has given careful consideration to those statutes which relate to these two subjects and which also in any way relate to voting. Taking into account the provisions of Article II, § 1 of the new Constitution of Virginia and also appropriate provisions of the United States Constitution, the Commission makes no recommendations with respect to any changes in "freeholders" statutes at this time but does recommend abolition of the poll tax for all purposes. Elsewhere in this report it will be observed that the poll tax is not considered worthwhile for the purposes of producing revenue.

D. JUSTICE

The provisions of the new Constitution relating to the judiciary are fairly terse, having been stripped of much statutory detail and retaining only provisions considered essential for the establishment and maintenance of the judiciary branch of government.

The most significant change found in the judiciary provisions of the Constitution are the new requirements of Article VI, § 10, relating to disabled and unfit judges.

One of the most critical and difficult tasks confronting the Commission was that of producing appropriate recommendations for the implementation of the provisions of Article VI, § 10, which requires the General Assembly to establish a Judicial Inquiry and Review Commission.

Judge M. Ray Doubles, as Chairman of the Commission's Committee on Justice, and J. Westwood Smithers, Counsel for that Committee, prepared for the Commission the text for a new chapter for the Code of

Virginia which the Commission recommends for adoption. The Commission's recommendation would add, in Title 2.1 of the Code, a new chapter numbered 4.1, entitled "Judicial Inquiry and Review", which chapter would contain three articles and eighteen sections.

First of all, this new legislation would create a Judicial Inquiry and Review Commission composed of five citizens and residents of the Commonwealth who would be chosen by the vote of a majority of the members elected to each house of the General Assembly. Two members of the Commission would be active judges of courts of record other than the Supreme Court, two would be active lawyers and one would be a public member who would never have been an active or retired judge and would never have been a licensed lawyer. Their terms of office would be for four years each after the initial appointments, which would be for staggered terms to achieve a rotating effect. The Commission annually would elect one of its members to be chairman for the ensuing year.

The Commission would have the power and the duty to investigate charges which would be the basis for retirement, censure or removal of a judge. It also would have the power to order and conduct hearings at such times and places in the State as it might determine. If the Commission finds that charges are well founded, and sufficient to constitute the basis for retirement, censure, or removal of a judge, it would be authorized to file a formal complaint before the Supreme Court.

The Commission would have authority to make rules, not in conflict with general law, to govern its investigations and hearings. However, no act of the Commission would be valid unless concurred in by a majority of its members.

Proposed Chapter 4.1 of Title 2.1 provides for employment of appropriate officers and employees for the Commission for the attendance and compensation of experts, reporters and witnesses and also for the employment of special counsel from time to time as necessary. Although all members of the Commission would be allowed their necessary expenses for travel, board and lodging incurred in the performance of their duties, per diem would be authorized only for the non-judicial members.

Unless otherwise determined by the Commission, any member would be empowered to administer oaths and affirmations, to issue subpoenas, or to make orders for or concerning the inspection of books and records in the conduct of investigations in formal hearings.

Any such process would be effective throughout the Commonwealth and could be served in the manner prescribed by law for service of process in civil actions. Sufficient orderly provisions are made in the proposed chapter for compelling witnesses to attend and testify hearings and for the taking of depositions.

All proceedings of the Commission, as well as all papers filed with the Commission, would be confidential and could not be divulged by any person to any one except the Commission. However, the record of any proceeding filed with the Supreme Court then would lose its confidential character. Nevertheless, should the Commission find cause to believe that any witness under oath wilfully or intentionally testified falsely it could direct the chairman or one of its members to report that finding, together with certain other information, to the Commonwealth's Attorney of the city or county where the act occurred for possible perjury prosecution. It is especially provided that proceedings before the Commission relevant to the alleged perjury would lose their confidential nature in any subsequent prosecution for perjury based on such proceedings.

Any person guilty of a breach of the provisions protecting the confidential nature of the Commission's proceedings would be guilty of a misdemeanor.

Provision also is made in this proposed legislation to establish the privileged character of the filing of papers and the giving of testimony in such proceedings. Special consideration and treatment having been given to this subject, it is important to observe the precise language of this provision: "The filing of papers with and the giving of testimony before the Commission shall be privileged, except where such filing of papers or giving of testimony is motivated or accompanied by actual malice. Nor the publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the Commission with the Supreme Court, in support of a formal complaint filed therewith, continues to be privileged and (b) a writing which was privileged before its filing with the Commission does not lose such privilege by such filing."

Article III of the new chapter would require the cooperation of and reasonable assistance and information from virtually all agencies and persons connected with State and local government in connection with such investigations and proceedings. It also would require sheriffs and constables to serve process and execute orders of the Commission, as well as orders entered by courts at the request of the Commission, without costs therefor.

Proposed Chapter 4.1 was based on a study of the constitutional and statutory provisions of California and Maryland. Obviously, many questions of legislative policy were considered by the Commission and are expected to be raised by the General Assembly. Among these questions are: (1) Shall the Statute apply only to justices of the Supreme Court, judges of other courts of record, and to members of the State Corporation Commission, to whom it must apply under the mandate of § 10 of Article VI of the proposed new Constitution, or should it go further as permitted by said section of the proposed new Constitution to apply to all "personnel exercising judicial functions?" (2) How many members shall compose the Commission? (3) How shall each member of the Commission be appointed and for how long a term? (4) Shall there be a provision for power to grant immunity from prosecution to witnesses? (5) Shall the privilege to give evidence without liability for defamation be granted?

The Code Commission has given careful consideration to each of the preceding questions. It does not purport to have the ultimate answer to any of them. However, after careful consideration, it recommends adoption of Chapter 4.1 of Title 2.1, as a reasonable plan conforming to the Constitutional mandate.

Other changes relating to "Justice" also are proposed.

In the new Constitution the "Supreme Court of Appeals" is redesignated the "Supreme Court." Because the term "Supreme Court of Appeals" is used throughout the Code, a general construction provision (§ 1-13.41) should be added to make the term "Supreme Court" applicable wherever the words "Supreme Court of Appeals" are used until all references to "Supreme Court of Appeals" are deleted.

Although the new Constitution permits the General Assembly, by a three-fifths vote of its elected membership at two successive regular sessions, to increase the size of the Supreme Court to no more than eleven justices, initially the number of justices remains at seven; therefore, no legislative change is required at this time.

Changes also are recommended in a number of instances to conform to the provisions of Article VI, § 12, which provides: "No judge shall be granted the power to make any appointment of any local governmental official elected by the voters except to fill a vacancy in office pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election." Although the Commission does recommend changes to conform to the new constitutional provision, it makes no recommendation at this time as to whether judges should be allowed to exercise appointive powers within the new time limitations and whether judges should be allowed to make appointments to boards and agencies, which matters are left to the discretion of the General Assembly by the new Constitution.

Section 8-1.2, which basically provides that Rules of Court adopted by the Supreme Court shall be included in the Code and shall supersede conflicting statutes, should be amended so as to prevent the adoption of the new Constitution from reviving any statutory provisions which heretofore may have been superseded by Rules of Court.

Section 16.1-162, which relates to proceedings in Juvenile and Domestic Relations Courts, should be amended to delete the sentence "the presence of the child in court may be waived by the judge at any stage of the proceedings." It is the consensus of the Commission that due process, interpreted in light of recent court decisions and the spirit of the new Constitution, precludes the broad power of a judge to deny a juvenile the right of confrontation at any stage of any proceedings basically criminal in nature. The Commission also considered, but decided against, the amendment of this section to provide that in prosecutions before a juvenile court for violation of criminal laws the accused, whether a child or an infant, shall have the right to a public trial. The Commission does not consider itself competent to determine what juvenile proceedings, under Virginia practice, are basically criminal in nature. Although the old Constitution has no requirement for a public trial in criminal prosecutions, such a provision is found in Article I, § 8 of the new Constitution.

Because of the language of Article VI, § 11, which provides that "no justice or judge of a court of record shall, during his continuance in office, engage in the practice of law within or without the Commonwealth, or seek or accept any non-judicial elective office, or hold any other office of public trust, or engage in any other incompatible activity," § 17-3 should be either completely rewritten or replaced by another section conforming to the constitutional language.

Section 17-5, which relates to the residence requirements of judges, should be amended to delete the present exception permitting certain judges to reside outside the jurisdiction of the court and add conforming language with respect to a judge of a court whose jurisdiction has been changed by annexation or otherwise. See Article VI, § 7, second paragraph, last sentence.

References to sessions of the Supreme Court to be held in Staunton should be deleted wherever they appear. Section 93 of the old Constitution required sessions in Staunton. The new Constitution does not.

Section 19.1-246 should be amended to guarantee the right of public trial to conform with the provisions of Article I, § 8.

All provisions for the confinement of persons for the nonpayment of costs in criminal cases should be deleted as unconstitutional and void.

In addition to the statutory changes suggested above, appropriate consequential and "housekeeping" changes should be made in those provisions of the Code relating generally to "Justice", for which purpose the reader's attention is invited to Parts III and IV of this report.

E. EDUCATION

1. A Public School Program of High Quality.—Article VIII, § 1 of the new Constitution requires the General Assembly to provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth and to seek to insure that an educational program of high quality is established and continually maintained. To comply with this mandate, a number of changes in the present Code provisions are required.

Presently, § 22-1 requires that "An efficient system of public free schools shall be established and maintained in all the counties and cities of the State and in all of the towns and constituting separate school districts."

The Commission recommends the replacement of § 22-1 with an entirely new section numbered 22-1.1 requiring the establishment and maintenance of free public elementary and secondary schools for all children throughout the Commonwealth "who have reached the age of six and have not reached the age of twenty years."

For the same reason, those provisions authorizing the establishment and maintenance of high schools (§ 22-189), should be amended to require the establishment and maintenance of such schools, as secondary schools, within the scope of Article VIII, § 1 of the new Constitution and the high school tuition provision (§ 22-193) should be amended to prohibit an imposition of tuition for the attendance of pupils of school age at high schools.

The Commission further considers it necessary to repeal present § 22-126 of the Code and enact in its place a new section (§ 22-126.1) to require each county and city to raise by taxation a sum which, together with other available funds, would provide that portion of the cost allocated to such county or city by law for maintaining an approved educational program.

The reference found in § 22-117 to maximum tax rates for school purposes should be repealed and, to conform with the provisions of proposed § 22-126.1, both §§ 22-127 and 22-128 should be appropriately amended.

Recognizing the need for some orderly legal procedure in those instances in which the governing body of a county or city might fail or refuse to provide its portion of the cost of maintaining an educational program meeting the prescribed standards of quality required by Article VIII, § 2 of the new Constitution and implementing the statutes, the Commission also recommends the enactment of a new section (§ 22-21.2) for the purpose.

The section last mentioned should provide:

"Whenever the governing body of any county or city fails or refuses to appropriate funds sufficient to provide that portion of the cost apportioned to such county or city by law for maintaining an approved educational program as required by Article VIII, § 2 of the Constitution and §§ 22-126.1 and 22-127, the State Board of Education shall notify the

Attorney General of such failure or refusal in writing signed by the President of the State Board. Upon receipt of such notification, it shall be the duty of the Attorney General to file in the Supreme Court a petition for a writ of mandamus directing and requiring such governing body to make forthwith such appropriations as is required by law.

"The petition shall be in the name of the State Board of Education, and the governing body of the county or city shall be made a party defendant thereto, and the Supreme Court may, in its discretion, cause such other officers or persons to be made parties defendant as it may deem proper. The court may make such order as may be appropriate respecting the employment and compensation of an attorney or attorneys for any party defendant not otherwise represented by counsel. The petition shall be heard in accordance with the procedures prescribed in § 8-710 and the writ of mandamus shall be awarded or denied according to the law and facts of the case, and with or without cost, as the Supreme Court may determine."

It is the design of the above recommended statute that the State Board of Education be the agency to activate the proposed statutory procedure by notifying the Attorney General of any such failure or refusal in writing signed by the President of the State Board. This procedure is supported by the general tenor of the new Constitution and also by commentaries in the report of the commission on constitutional revision.

2. Standards of Quality.—Article VIII, § 2 of the Constitution provides that "standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly."

This provision would appear to be both explicit and pragmatic, for it is the General Assembly, in any event, which must financially support any educational program proposed or established by the Board of Education.

With this in mind, the Commission recommends the enactment of a new section (§ 22-19.1), the text of which should read as follows:

"When the State Board reports its budget estimate to the Governor pursuant to § 2.1-54, it shall also submit to the Governor and the General Assembly a report containing the standards of quality prescribed for the several school divisions of the Commonwealth. Such standards of quality, subject to revision by the General Assembly, shall be effective for the school years embraced within the fiscal years for which such budget is reported."

It is the design of the recommended statute that the State Board shall submit to the Governor and the General Assembly a report containing the standards of quality prescribed for the several school divisions of the Commonwealth on or before "the first day of September biennially in the odd-numbered years" as is currently required for budget estimates by § 2.1-54 of the Code. While thought was given to the possibility of having such standards submitted on an annual basis, a number of considerations support the desirability of having such submissions made biennially. First of all, this report contemplates a continuation of the biennial budget. Moreover, in addition to prescribing the standards of quality for the several school divisions of the Commonwealth, the State Board of Education is also directed by law to submit a budget "estimate in itemized form showing the amount needed for each year of the ensuing biennial period beginning with the first day of July" after the submission of its budget estimate. See § 2.1-54. Since there is an obvious connection between the

content of the standards of quality and the amount of money required to meet those standards, it is appropriate for the State Board of Education to make simultaneous submission of its standards and its budget requests.

Submission of the standards of quality and the budget estimates for the ensuing biennium on or before September 1 of the odd-numbered years, will enable the Governor, his fiscal advisors and the various budget committees to review the budget requests in light of the standards before the transmission by the Governor to the General Assembly of his budget and tentative budget bill as required in §§ 2.1-60 and 2.1-61 of the Code. Thereafter, the General Assembly, during its regular session in the even-numbered years at which it makes its biennial appropriations, will have the opportunity to review the standards of quality, the budget requests of the State Department of Education and the budget recommendations of the Governor before making the final determination with respect to possible modification of the standards and any increase or decrease in appropriations required to meet such standards as ultimately approved. Under the concluding sentence of the proposed statute, the standards of quality, as revised by the General Assembly, shall be effective for each of the two school years which fall within the two fiscal years for which the budget estimate is reported by the State Board of Education and for which appropriations are ultimately made by the General Assembly.

3. School Divisions.—The new Constitution assigns to the Board of Education the responsibility of dividing the Commonwealth into school divisions of such geographical area and school age population as will promote the realization of the prescribed standards of quality. The General Assembly is given the power to prescribe such criteria and conditions as it sees fit governing the formation of school divisions. Thus, for example, the decision as to whether any school division would be consolidated would be governed by whatever conditions or criteria the General Assembly may prescribe.

This being the case, the Code Commission made diligent inquiry into the advisability of amending § 22-30 of the Code. That section, in its present form, contains only two conditions limiting the State Board of Education in dividing the Commonwealth into appropriate school divisions, i.e., (1) that no division shall comprise less than one county or city and (2) that no county or city shall be divided into the formation of such a division.

The Commission recommends the addition of three more conditions: (3) that adequate notice of any contemplated change in the composition of the school division be given the affected local school boards and the governing bodies of the counties and cities affected to give them time to prepare for the proposed consolidation; (4) that no school district be subject to consolidation without the consent of the governing body of the county or city represented thereby unless the school age population of the affected district is five thousand or less, and (5) that all such changes be subject to veto by the General Assembly.

Although the number of pupils in a school division is generally recognized as a major factor in the planning of a program of instruction, the acceptable limits for a school division have not been indicated by the State Board of Education and would appear to vary greatly among divisions, depending upon many other factors, principally as indicated in the criteria hereinafter recommended. The Commission is of the opinion that the State Board of Education is well qualified to prescribe the lower limits of school population for school districts, but that counties and cities which are represented by school districts having more than five thousand pupils should

not, without the consent of the counties and cities affected, be required to become involved in the creation of "super school districts". Admittedly, the five thousand figure used in the proposed amendment is arbitrary and may have to be revised after some experience under the new Constitution. However, no better figure is available at this time.

The Commission recommends condition (5) mentioned above because of the magnitude of the appropriations which will be required to support the public school program and also because of the inevitable consequential effects upon government generally of the creation and maintenance of school divisions under the provisions of the new Constitution.

Procedurally, the local governing bodies of the political subdivisions affected by a decision of the State Board, as well as the local school boards so affected, should be provided adequate and timely notice of any such change. The locality affected, if such change is objectionable to it, should be authorized to file its objections with the General Assembly. If the General Assembly fails to act upon such objections, then it will have acquiesced in the action of the State Board.

In addition to such conditions, the Commission considers it desirable, although not mandatory, that the State Board of Education be required to consider the following criteria in determining appropriate school divisions:

(1) The potential of the proposed division to facilitate the offering of a comprehensive program for kindergarten throughout grade twelve at the level of the established standards of quality; (2) the potential of the proposed division to promote efficiency in the use of school facilities and school personnel and economy in operation; (3) anticipated increase or decrease in the number of children of school age in the proposed division, and (4) geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities.

Magisterial districts of counties should remain the basis of representation on county school boards as prescribed in § 22-41, but all separate special town school districts now existing should be abolished, both for the purpose of separate operation and independent representation on the county school board. Representation on county school boards now held by certain towns not constituting separate special school districts should be abolished. The purpose of this recommendation is to achieve compliance with the mandate of the proposed Constitution that each school division be the basic unit of administration in the school system for all purposes and that it have only one school board.

Sections 22-100.2 and 22-100.12 should be repealed and the discretionary language of the remainder of §§ 22-100.1 through 22-100.12 should be amended to render these sections mandatory, thus achieving, "with an equal number of members from each county or city of the division," representation on a division school board of a division comprising more than one political subdivision.

Sections 22-38, 22-43, 22-61 and 22-197 should be amended to comply with the requirement of Article VIII, §§ 5 and 7 of the new Constitution permitting only one school board in each school division.

4. State Board of Education.—The membership of the Board of Education is increased from seven to nine members. See Article VIII, § 4 of the new Constitution, which further provides four year terms staggered, so that no more than three regular appointments are made in the same

year. To conform the statutes, § 22-11 should be amended to increase the membership and § 22-13 should be amended to specify the method of selection and the term of the president of the State Board.

The section also recommends the repeal of § 22-12 which relates to the appointment, terms and vacancies of members of the State Board of Education and its replacement with a new section, numbered 22-12.1, to direct the appointment of two additional members to the State Board of Education on July 1, 1971. These two new appointments, together with the one regular appointment scheduled to be made in 1971, would increase the membership of the State Board to the required number of nine and also would provide staggered terms so that no more than three regular appointments would be made in the same year.

Representatives of the State Board of Education, the Virginia Public School Authority, and the Superintendent of Public Instruction have requested an amendment to add a paragraph to § 22-29.6 of the Virginia Code. Although this request was received too late for consideration by the Commission, it obviously deserves the attention of the General Assembly. The suggested new paragraph follows:

> "For the purpose of Article VII, § 10(b), of the Constitution of Virginia, the Authority shall be deemed a State agency authorized to purchase bonds issued, with the consent of the school board and the governing body of the county, by or on behalf of a county or district thereof for capital projects for school purposes."

Article VII, § 10(b), of the proposed Constitution, in effect, requires the approval by the voters in a referendum of any debt contracted by any county or district thereof with certain exceptions. Among these exceptions are "bonds issued, with the consent of the school board and the governing body of the county, by or on behalf of a county or district thereof for capital projects for school purposes and sold to the Literary Fund, the Virginia Supplemental Retirement System, *or other State agency prescribed by law. . . .*" (Emphasis added.) The purpose of the suggested amendment is to designate the Virginia Public School Authority as the State agency prescribed by law within the meaning of the above italicized language, so that counties or districts thereof may borrow from the Virginia Public School Authority for capital projects for school purposes without a vote of the people. While there is no doubt that the Virginia Public School Authority is a State agency, some question exists as to whether it would be a "State agency prescribed by law" within the meaning of Article VII, § 10(b), unless the General Assembly takes affirmative action after adoption of the proposed Constitution to so designate it.

At present, under § 115(a) of the existing Constitution, counties wishing to borrow from the Virginia Public School Authority are required to secure a vote of the people before funds may be borrowed from that source. No such voter approval is required for loans contracted from the Literary Fund or the Virginia Supplemental Retirement System. Thus, the proposed amendment would in effect make an additional source of funds for school construction available to counties, or districts thereof, without a vote of the people, i.e., moneys of the Virginia Public School Authority.

5. State Aid in School Construction.—Under the new Constitution Chapter 8.1 (§§ 22-146.1 through 22-146.11) of Title 22, entitled "State Aid in Construction of School Buildings", becomes obsolete and should be repealed.

6. Grants for Educational Purposes.—The provisions of Chapter 7.3 of Title 22, entitled "Grants for Educational Purposes", also become obsolete under the new Constitution and also should be repealed.

7. Interest on the Literary Fund.—The new provision of Article VIII, § 8 requiring the payment of interest on the Literary Fund into the principal of the Literary Fund requires conforming changes in §§ 22-101, 22-102 and 22-116. The new Constitutional provisions may be compared with §§ 173 and 135 of the old Constitution.

8. School Boards.—A comprehensive definition (§ 22-3.1) is recommended to replace § 22-3 so as to provide a comprehensive definition for the terms "county school board" or "city school board" or "town school board" or any similar term so as to mean the school board exercising its functions in the county or city comprising a school division, or in the county, city or town constituting a part of a school division. The terms quoted appear too frequently throughout Title 22 for individual amendment in this report.

9. Other Changes.—The attention of the reader is invited to additional specific changes in the Code recommended by the Commission found in Parts III and IV of this report.

F. FRANCHISE

The provisions of the Code of Virginia relating to the franchise, i.e., Title 24.1, "Elections", having been completely revised by the 1970 session of the General Assembly, reflect the General Assembly's anticipation of the new Constitution and, therefore, require relatively few changes of significance.

The Election Laws Study Commission created by House Joint Resolution No. 73 of the 1968 General Assembly, in its report of December 13, 1969, advised the Governor and the General Assembly that it had made every effort to draft the proposal then presented so as to satisfy the requirements of both the existing and the proposed Constitutions. It further reported that "In many areas where a conflict did exist, the approach adopted in the new Constitution concerning election laws was used. Where inconsistency made the execution of this policy impossible, a note has been added to the section, calling attention to the fact that at the special session in 1971, if the proposed new Constitution passes, amendment of the particular section will be necessary."

This report reflects the contingent changes recommended by the Election Laws Study Commission, together with commentaries on each such change. For those changes anticipating the new Constitution which could be, and were, initially incorporated into Title 24.1, the reader's attention is invited to House Document No. 14 of the 1970 session, which also incorporates detailed commentaries thereon.

Perhaps the most important of the election provisions of the Code to come to the attention of the Code Commission were §§ 24.1-4, 24.1-12 and 24.1-14, which are affected by Article II, § 6 of the new Constitution. Basically, that section of the Constitution requires the General Assembly to establish the electoral districts from which members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected. It further provides that, "Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district."

The same paragraph of the new Constitution cited above directs the General Assembly to "reapportion the Commonwealth into electoral districts in accordance with this section in the year 1971 and every ten years thereafter."

However, the Code Commission has excluded from this study and report any consideration of the above cited provisions of the Constitution and of the Code, as this task has been assigned to another special commission established by the General Assembly for the purpose.

Affirmatively, the Commission has considered and hereinafter in this report makes appropriate recommendations for statutory amendments to conform the Code to the following changes in the Constitution:

Whereas the old Constitution required, for one to register and vote, residence in the State for one year, in the locality for six months and in the precinct for thirty days, Article II, § 1, of the new Constitution requires a citizen to live in the State for only six months and in the precinct only thirty days. Sections 24.1-41 and 24.1-182 should be amended to reflect the change.

Article II, § 1 provides that "no person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority. As prescribed by law, no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished." The quoted language was substituted for much broader language in the old constitutional provision, which included a whole list of offenses, some of them misdemeanors. Section 24.1-42 should be amended to conform with the new constitutional language.

Whereas the language of the old Constitution permitted members of the Armed Forces of the United States to vote by absentee ballot without prior registration, the new Constitution requires registration of all voters but in Article II, § 4 authorizes the General Assembly to provide for the absentee registration of members of the Armed Forces and their spouses. Sections 24.1-47 and 24.1-48 should be amended to authorize and prescribe the procedure for such absentee registration. Sections 24.1-227, 24.1-228 and 24.1-229 also should be amended and §§ 24.1-127 and 24.1-128 should be repealed for the same reasons.

Article II, § 5 required a person to have been a resident of the Commonwealth for one year to qualify to hold elective office. Sections 24.1-167 and 24.1-183 should be amended to reflect this constitutional change.

Section 24.1-81, when compared with the provisions of Article V, § 2, which prescribe how elections of the Governor and the Lieutenant Governor are to be determined, obviously must be amended to conform to the language of the new Constitution and not with that of § 70 of the old Constitution. Also, §§ 24.1-152 and 24.1-154 should be amended to conform with § 24.1-81 as so amended.

Section 24.1-29 should be amended to require electoral board members to take and subscribe the oath prescribed in Article II, § 7.

Section 24.1-133 should be amended to reflect the language of Article II, § 8 concerning those persons who are prohibited from serving as certain election officials.

The provisions of § 24.1-82, concerning succession to the office of Governor, should be amended to comply with the provisions of Article V, § 16. Also, § 24.1-83 should be repealed as obsolete.

G. TAXATION AND FINANCE

1. Taxation generally.—The new Constitution places only limited restriction upon the inherent powers of the General Assembly in the field of taxation. It removes or qualifies some restrictions on that power which were contained in the old Constitution.

a. State capitation tax.—An example of the restriction upon the power of the General Assembly which was removed by the new Constitution is that relating to the imposition of the state capitation tax. Under § 173 of the old Constitution, the General Assembly was required to levy such a tax. The new Constitution removes this requirement, and the General Assembly is now free to decide whether or not to continue this tax. While it can no longer make the tax a condition to voting, it has the inherent power to levy it. Thus, it is now necessary to amend § 58-49 of the Code to conform it to the new Constitution. However, the Commission has determined that, because of its low or non-existent net yield, the state capitation tax should be repealed.

Another example of a restriction which was removed is that relating to the taxation of railroad and canal companies. Sections 176 through 180 of the old Constitution contain detailed requirements for the taxation of such companies, which requirements are deleted from the new Constitution. Since Article II, § 12 of Title 58 of the Code already contained the provisions necessary to continue the same system of taxation of these companies, no changes or additions to the statutes are considered necessary. An example of the restriction in the old Constitution which would be qualified by the new Constitution is that relating to the exemption of certain property from taxation. Under § 183 of the old Constitution, the General Assembly has the power to authorize localities to exempt residences owned by elderly persons from the real estate tax. Section 6(b) of Article X of the new Constitution gives the General Assembly such power subject to certain qualifications. Thus, it is not necessary to amend the existing Code to conform it to the new Constitution although statutory amendments will be necessary if the General Assembly elects to exercise its new power.

b. Exemptions.—Article III, Chapter 1, Title 58 (Exemptions), deserves special comment. This article was examined in some detail to determine whether any amendments are required to conform it to Article X, § 6, of the new Constitution. The answer to that question is not clear-cut, since the exact status of exempt property is somewhat uncertain for several reasons:

First, a substantial body of case law and administrative interpretation has grown up around the language of § 183 of the existing Constitution, and it is impossible to determine the effect of Article X, § 6, of the new Constitution on these judicial and administrative interpretations. Article X, § 6, does depart from the language of the old Constitution in some major respects.

Second, the new Constitution contains a "grandfather" clause which preserves the exemption from taxation of all the property that is so exempt on the effective date of the new Constitution. In some instances administrative interpretation has led to the result that some property listed in § 58-12 is not being exempt since it was deemed not to be within the scope of the exemption permitted by § 183 of the old Constitution. Additionally, it is assumed that the "grandfather" clause applies to specific property and not to classes of property. Therefore, there may be some difficulty in determining just what property is protected by the "grandfather" clause.

Third, § 58-12 may be broader than the self-executing provisions of the new Constitution in some respects. For example, § 58-12 specifically exempts endowment funds of certain organizations and of certain types while reference to such funds is omitted from § 6 of the proposed Constitution.

On the other hand, § 58-12 may be narrower than the self-executing provisions of the new Constitution in some respects. For example, § 58-12(2) exempts buildings, land used in connection with the buildings, and the furniture and furnishings in such buildings. Section 6(a)(2) of Article X of the proposed Constitution exempts real estate and personal property used for religious worship or for the residences of the ministers. Therefore, it is possible that real estate with no buildings on it which is used for tent meetings, for example, may be exempt under the self-executing provisions of § 6(a)(2) of the proposed Constitution, but would not be referred to in the Code itself.

The Commission, having considered several alternatives with respect to this article, recommends that § 58-12 remain unchanged at the present time. This would maintain the exemption of all property exempted by the old Constitution, but which might not be exempt under the new Constitution. This result might be expected by reason of the "grandfather" clause in the new Constitution (Article X, § 6(f)). Further, property exempt by the self-executing provisions of the new Constitution, would be exempt whether or not it is mentioned in the article.

The Commission strongly recommends that a special study be conducted by the General Assembly on the subject of exemptions with the purpose of completely re-writing § 58-12, a task which is beyond the scope of this study and report.

c. Assessments of Public Service Corporations.—Article X, § 2 of the new Constitution provides that real estate and tangible personal property of public service corporations upon whom a state franchise, license, or similar tax is levied shall be assessed by a "central state agency, as prescribed by law." The old Constitution provides that such property shall be assessed by the State Corporation Commission. While various sections of the Code in various language designates, directly or indirectly, the State Corporation Commission as the assessing body for certain types of corporations, the Code Commission recommends the enactment of a new § 58-503.1 to preserve the language of the Constitution.

d. Local assessments.—Article X, § 3 of the new Constitution covers the substance of the last two sentences of § 170 of the old Constitution, but has been completely reworded. Accordingly, it is necessary to amend § 15.1-239 of the Code to conform that section to the language of the new Constitution. The amendment of § 15.1-239 would permit local assessment for the same purposes permitted by the old Constitution although the new Constitution grants the General Assembly broader powers if it chooses to exercise them. The population classification found in the old Constitution is not found in the new Constitution. The Commission recommends that it not be retained in the Code; however, the attention of the reader is called to this deletion.

e. Special assessments.—Section 15.1-1047.1, which was enacted in the 1970 session of the General Assembly as a general law to take care of the Richmond-Chesterfield situation, permits a lower rate of taxation on the annexed land for a period of years. It does not contain the substance of the last sentence of Article X, § 1 of the proposed Constitution. While that sentence appears to be self-executing, the Commission recommends

the amendment of § 15.1-1047.1 by adding a sentence containing the substance of the cited section of the new Constitution.

Section 15.1-1135, dealing with consolidations, should be similarly amended.

f. Assessments generally.—Section 58-804 of the Code provides that land books shall separate the assessment of white and colored persons. It also provides for the separation of assessments of Indians who have requested to be so designated. While not required by the new Constitution, the Commission recommends the deletion of the requirement for the separation of assessment of white and colored persons. It does not recommend any change with respect to Indians. It should be noted that the General Assembly in 1970 repealed § 58-880, which required the separate assessment of personal property of white and colored persons.

2. Finance generally (State Debt).—In general terms, three types of State debt are authorized by Article X, § 9:

a. Emergency debt and debt to redeem previous debt obligations (Article X, § 9(a))

b. General obligation debt for capital projects (Article X, § 9(b))

c. Debt for certain revenue producing capital projects (Article X, § 9(c))

Sections 184 and 184a of the present Constitution provide for the authorization of the type of debt described in a. and b. above though the provisions of the proposed Constitution are significantly different with respect to limitations and conditions. The present Constitution makes no provision for the type of debt described in c. above.

The present Code contains no provisions relative to the creation of the debt authorized by the present Constitution except in § 2.1-303 which deals with the authority of the Governor to incur temporary loans "to supply the wants at the State treasury." Therefore, the primary determination to be made is whether any new legislation is required rather than whether existing legislation should be amended.

The proposed Constitution vests the authority to create debt solely in the General Assembly except in one instance in which the General Assembly is empowered to authorize the Governor to contract debt to meet casual deficits or in anticipation of revenue. Since that is so, any general legislation enacted by the General Assembly to limit or condition its own actions would be subject to repeal or amendment by the General Assembly at any time. For example, any general limitation on the rate of interest to be paid on State debt could be changed at the time any specific bond issue was being considered.

Further, the technical details necessary to provide for the sale, issuance, and repayment of bonds can be contained in the legislation adopted at the time the General Assembly authorizes their issuance. Such legislation would be complete in itself and would not depend on general legislation. This was the procedure followed in connection with the bonds authorized by the General Assembly in 1968. See Chapter 17 of the Acts of 1968.

Chapter 17 of Title 2.1, entitled "Public Debt," contains general provisions relating to matters such as the manner in which records shall be maintained, in which the sales and transfers shall be made, in which lost bonds shall be treated, and in which forged bonds shall be handled. It also

contains certain general provisions relating to the sinking fund. While certain of these provisions may be unnecessary, no amendments appear to be required at this time except with respect to § 2.1-303 previously mentioned.

The Auditor of Public Accounts has raised a question which invites a policy decision by the General Assembly. Throughout Article X of the proposed Constitution, reference is made to the certification by the Auditor of "the average annual tax revenues of the Commonwealth derived from taxes on income and retail sales" for the purpose of determining the limitation on the various types of debt that can be authorized and incurred. Since the proposed Constitution does not specify the taxes that are to be deemed "taxes on retail sales," the Auditor will have to make that determination himself, unless guidance by the General Assembly or the Attorney General is provided. While no legislation is actually required, the General Assembly should consider whether it would be desirable. If the General Assembly enacted legislation specifying the taxes that are to be included by the Auditor in his certification, it would, of course, be helpful to the Auditor. Also, it would be helpful in the event this constitutional provision is ever judicially construed. Great weight is given by the courts to the contemporaneous legislative construction of a constitutional provision. *Almond* v. *Day*, 197 Va. 782 at 794 (1956); *Roanoke* v. *Michaels Bakery Corp.*, 180 Va. 132 at 143 (1942).

III. RECOMMENDATIONS BY SECTIONS

Section 1-12, which provides when statutes shall take effect, should be amended to conform with Article IV, § 13, which provides: "All laws, except a general appropriation law, shall take effect on the first day of the fourth month following the month of adjournment of the session of the General Assembly at which it has been enacted, unless a subsequent date is specified or unless in the case of an emergency (which emergency shall be expressed in the body of the bill) the General Assembly shall specify an earlier date by a vote of four-fifths of the members voting in each house, the name of each member voting and how he voted to be recorded in the journal."

Section 1-13.2, which construes the word "city", should be amended to conform with the definition found in Article VII, § 1, which defines "city" as "an independent incorporated community which has within defined boundaries a population of 5,000 or more and which has become a city as provided by law."

Section 1-13.5:1, should be added to construe the term "court of record" so as to embrace the definition of that term found in Article VI, § 1, paragraph one, and as construed in Article VI, § 7, paragraph one, so as to embrace all of those courts construed to be courts of record immediately prior to noon on July one, nineteen hundred seventy-one.

Section 1-13.21, which construes the words "personal representative", should be amended to delete the word "sergeant" appearing therein so as to conform with the provisions of Article VII, § 4, which replaced the city sergeant with a sheriff.

Section 1-13.26, which construes the word "State", should be amended to include the term "Commonwealth", the term "Commonwealth" having been substituted for the word "State" throughout the new Constitution.

Section 1-13.27:1 should be added to construe the term "Supreme Court of Appeals", wherever those words remain in the Code after the new Constitution becomes effective, to mean "Supreme Court". The purpose for this construction provision is twofold: first, to clearly identify the "Supreme Court of Appeals" under the old Constitution and under the Code before amendment as one and the same entity as the "Supreme Court" under the new Constitution and, secondly, to obviate numerous technical changes throughout the Code and thereby reduce the bulk of this report.

Section 1-13.29, which defines the word "town", should be amended to conform with the definition found in Article VII, § 1, i.e., "any existing town or an incorporated community within one or more counties which has within defined boundaries a population of 1,000 or more and which has become a town as provided by law."

Section 1-13.38, which construes compliance with certain provisions of the Constitution, should be amended to refer to Article IV, § 12 of the new Constitution instead of to § 52 of the old Constitution.

Section 1-13.41. A new section numbered 1-13.41 should be added to the Code to provide a guide for the construction of references to the old Constitution which inadvertently will remain in the Code after the new Constitution, with its re-numbered provisions, takes effect. The provision, although not ideal, is recommended as a necessary expediency pending a more thorough revision of the Code.

Title 2.1—Administration of the Government Generally

Sections 2.1-37.1 through 2.1-37.18, constituting a new chapter, numbered 4.1 and entitled "Judicial Inquiry and Review" should be added to comply with the provisions of Article VI, § 10. See general commentary, supra.

Section 2.1-118, which relates to official opinions of the Attorney General, should be amended to delete the words "or city sergeant", Article VII, § 4 having substituted sheriff for sergeant in cities.

Section 2.1-153, which provides for the election and compensation of the Auditor of Public Accounts, should be amended to provide for a term of four years as prescribed by Article IV, § 18.

Section 2.1-177, relating to the Department of the Treasury and the State Treasurer, should be amended to conform with the provisions of Article V, § 10, which requires that "Except as may be otherwise provided in this Constitution, the Governor shall appoint each officer serving as the head of an administrative department or division of the executive branch of the government, subject to such confirmation as the General Assembly may prescribe. Each officer appointed by the Governor pursuant to this section shall have such professional qualifications as may be prescribed by law and shall serve at the pleasure of the Governor."

Section 2.1-257, which provides for the printing and distribution of Acts of the Assembly, should be amended to delete the word "sergeant".

Section 2.1-303, which relates to the Governor's authority to contract debts, should be completely rewritten to conform to the authority and limitations thereon found in Article X, § 9.

Section 2.1-316, which relates to proceedings for seizure of forged or counterfeit obligations and certain related matters, should be amended to delete the word "sergeant".

Section 2.1-345 should be amended to change the internal constitutional section reference from § 47 to Article IV, § 7.

Title 3.1—Agriculture, Horticulture and Food

Section 3.1-8, which relates to the appointment of a Commissioner of Agriculture and Immigration, should be amended to substitute therein the word "Commerce" to delete the obsolete reference to § 145 of the Constitution and to provide for appointment of the Commissioner of Agriculture and Commerce by the Governor, subject to confirmation by the General Assembly for a term coincident to that of the Governor. The first of these changes was made necessary by the amendment of § 143 of the Constitution of Virginia in 1966, the second amendment was made necessary by the renumbering of the provisions of the new Constitution and the third change was made necessary by Article V, § 10, of the new Constitution.

Title 4—Alcoholic Beverages and Industrial Alcohol

Section 4-4, relating to the membership and officers of the Virginia Alcoholic Beverage Control Board, should be amended by substituting the constitutional reference to Article IV, § 17 in paragraph (c) and also by substituting Article II, § 7 in paragraph (d).

Section 4-56, which relates to the search, seizure and forfeiture of vehicles used in violation of the ABC laws, should be amended to delete the references to "sergeant" found in subsections (a), (e), (i) and (j). See, Article VII, § 4.

Title 5.1—Aviation

Section 5.1-33, which is a declaration of public purpose with respect to properties acquired by counties, cities and towns under Article I of Chapter 3 of Title 5, should be amended to refer to Article I, § 11 of the Constitution instead of to § 58 of the old Constitution. Section 58 of the old Constitution and Article I of § 11 of the new Constitution both provide that private property shall not be taken "for public uses, without just compensation, the term 'public uses' to be defined by the General Assembly."

Section 5.1-77, which relates to the collection of service fees from emplaning passengers, should be amended to correct the reference to § 56-142. The intended cross reference is to § 5.1-89. Sections 56-142 through 56-206 have been repealed and replaced by § 5.1-89 through 5.1-151. See 1970 Acts of Assembly, Chapter 708.

Section 5.1-125, which relates to complaints, should be amended to correct the internal section references. See comment for § 5.1-77.

Section 5.1-136, which relates to free passes or reduced rates, should be amended to delete the constitutional reference, which would no longer be applicable.

Title 8—Civil Remedies and Procedure; Evidence Generally

Section 8-1.2, which basically provides for Rules of Court adopted by the Supreme Court to be included in the Code and supersede conflicting statutes, should be amended so as to prevent the adoption of the new Constitution from reviving any statutory provisions which have been superseded by Rules of Court.

Section 8-494, which states the requirement for the Supreme Court of Appeals to determine a constitutional question, should be repealed as unnecessarily duplicating § 17-94.

Section 8-581.1, which relates to just compensation under declaratory judgments, should be amended to substitute "§ 11, of Article I" for "§ 58."

Section 8-653, which requires notice to be given cities and towns of claims for damages for negligence, should be amended to substitute "§ 12 of Article IV" for "§ 52."

Title 9—Commissions, Boards and Institutions Generally

Section 9-107, relating to the Law Enforcement Officers Training Standards Commission, should be amended to reflect the change in Article VII, § 4, which substitutes sheriffs for sergeants in cities.

Title 12.1—Corporation Commission

Section 12.1-1. Present § 12-1 of the Code includes many of the definitions found in § 153 of the old Constitution. Proposed § 12.1-1 eliminates definitions for *"charter"*, *"transportation company"*, *"rate"*, *"rate" and "charge"*, *"transmission company"*, *"public service corporation"*, *"person"*, *and "officers"*.

Some of the deleted definitions are unnecessary even in present Title 12, e.g., the word *"charter"* is used only once in Title 12 in connection with charter fees, and no special definition is required. See present § 12-25. The other definitions omitted are either unnecessary in Title 12.1 or have ceased to be appropriate under existing law, e.g., the old Constitution and present § 12-1 define *"transportation company"* as "any company,

trustee, or other person owning, leasing or operating for hire a railroad, street railway, canal, steamboat or steamship line, and also any freight car company, car association, or car trust, express company, or company, trustee, or person in any way engaged in business as a common carrier over a route acquired in whole or in part under the right of eminent domain." Motor carriers and air carriers, which did not exist in 1902, when the old Constitution was adopted, are not included. The old definition of *"transmission company"* includes telephone and telegraph companies. Gas, pipeline, electric light, heat, power, and water supply companies are not included.

Definitions for *"rate"*, *"public service corporation"*, and *"person"* are retained in Title 56, which covers public service corporations.

Section 153 of the old Constitution, enacted during the era of trust busting, defined *"corporation"* to include "all trusts, associations and joint stock companies having any powers or privileges not possessed by individuals or unlimited partnerships." This language does not appear in proposed § 12.1-1. The new definition, as does Article IX, § 7, of the new Constitution, excludes municipal corporations, political subdivisions, and public institutions owned or controlled by the State. The definition of *"the Commission"* is retained without substantive change.

Proposed § 12.1-1 also eliminates the definition for *"officers"*. This term is not defined in the old Constitution but is defined in present § 12-1 as follows: "[T]he word 'officers', when used in connection with the Commission, shall be construed to mean any clerk, bailiff, assistant or other appointee of the Commission." Under existing law, all employees of the Commission are technically appointees, and therefore, officers. This definition has no particular utility under existing law and is unnecessary to proposed Title 12.1.

Section 12.1-2. The substance of this section which creates the State Corporation Commission (actually continues its existence) and proscribes its powers and duties, is taken from Article IX of the new Constitution.

Section 12.1-3. This section, which relates to the seal of the Commission, reenacts the first sentence of present § 12-3 without change. The second sentence, which imposed a tax of one dollar on the seal, is unnecessary and has been eliminated. Proposed §§ 12.1-20 and 12.1-21 preserve the existing fee schedules of the Commission.

Section 12.1-4. Compare existing § 12-4, which requires the Commission to make its report "on or before the thirty-first day of December in each year." In requiring the report to be made as of the thirty-first day of December, the proposed section conforms to present practice. The proposed section also requires the report to be made no later than June 30 of each year. The last sentence of the proposed section is adapted from § 156(i) of the old Constitution.

Section 12.1-5, which relates to offices; notice, writ or process and where public sessions may be held, is identical to present § 12-5.

Section 12.1-6 relates to the election or appointment of members and their terms. Except for the requirement for staggered terms set forth in the first paragraph, this section closely parallels present § 12-9. Minor changes have been made in the second paragraph to track the precise language of the new Constitution. The terms of the commissioners are staggered now, although there is no statutory or constitutional requirement therefor. The new Constitution authorizes but does not require the General Assembly to increase the size of the Commission to not more than five members.

Section 12.1-7 relates to the chairman. This section would replace § 12-38. Article IX, § 1, of the new Constitution requires the chairman to be elected annually. Under existing practice, the chairman is elected annually for a term commencing on the first day of February.

Section 12.1-8, relates to a quorum. The language of this section is copied from § 155 of the old Constitution, except that "A majority" is substituted for "Two" at the beginning of the section. Two members are a majority under the old Constitution, which prescribed that the Commission consist of three members. However, Article IX, § 1, of the new Constitution provides that "The General Assembly may, by a majority vote of the members elected to each house, increase the size of the Commission to no more than five members." The Commission is of the opinion that the legislative intent did, and continues to, embrace the concept of a majority quorum.

Section 12.1-9 relates to the eligibility and qualification of members. This section preserves the requirement of present § 12-10 that members of the Commission be qualified voters. The provision requiring at least one member to have the qualifications prescribed for judges of courts of record is taken from Article IX, § 1 of the new Constitution. The provisions of present § 12-10 relating to conflicts of interests are dealt with in proposed § 12.1-10 below.

Section 12.1-10 prohibits conflicts of interest. Prohibited conflicts of interest for members and "officers" of the State Corporation Commission are dealt with in present §§ 12-10, 12-11, and 12-13. Proposed § 12.1-10 is designed to replace these three existing sections.

Existing §§ 12-10 and 12-11 forbid commissioners and "officers" (i.e., all employees) from having financial interests in air carriers, motor carriers, "transportation companies" (i.e., railroads), and "transmission companies" (i.e., telephone and telegraph companies). The old Constitution, § 155, includes similar prohibitions for members with respect to insurance companies and banks. Thus, under existing law, banks and insurance companies are covered only for members, and gas, pipeline, electric light, heat, power, and water supply companies are not covered at all.

Proposed § 12.1-10 prohibits any pecuniary interest in any corporation subject to supervision or regulation by the Commission, and in this respect, it broadens the prohibitions of existing law. The language "own any securities of, have any pecuniary interest in, or hold any position with" is adapted from § 56-336 dealing with employees of the Commission who administer the laws relating to motor carriers. See also § 5.1-148 (air carriers). The defective scope of existing law appears to have resulted from the gradual expansion of the Commission's jurisdiction over the years. This defect would be corrected in new Title 12.1.

The provisions of the new section relating to censure and removal refer to the section in the new Constitution which creates a Judicial Inquiry and Review Board and authorizes the Supreme Court to discipline judges and members of the State Corporation Commission. Present § 12-13 provides for impeachment in the manner provided for judges of the Supreme Court of Appeals, i.e., by trial before the Senate. See old Constitution, § 54. The Committee believes that the less cumbersome method of removal provided for in Article VI, § 10 of the new Constitution is more appropriate. Notwithstanding this section, members of the Commission will still be subject to impeachment under Article IV, § 17 of the new Constitution.

Under present § 12-13, any "officer" of the Commission who violates the conflict of interests provisions may be removed from office by the Commission. The last sentence of the proposed section sets forth a similar provision and is added only for clarity. Under present law, the Commission has unrestricted power to discharge any of its employees for any reason. See § 155 of the Constitution of 1902 and present § 12-39. See also proposed § 12.1-18.

The prohibition against the private practice of law derives from § 155 of the old Constitution and has been preserved.

Section 12.1-11, relating to the failure of a member to qualify, replaces present § 12-12.

Section 12.1-12, which prescribes the powers and duties of the Commission, sets forth the constitutional powers and duties given to the Commission by Article IX, § 2, of the new Constitution. The proposed section also makes clear that under present law, the Commission has the power and duty to regulate all public service companies, not just those public service companies specifically mentioned in the new Constitution.

Section 12.1-13 relates to the judicial powers of the Commission. The first paragraph of this section replaces present § 12-55 and tracks the language of Article IX, § 3, of the new Constitution. The second paragraph of this section replaces and expands the provisions now found in the first paragraph of § 12-14. The third paragraph of the proposed section is the same in substance as the second paragraph of present § 12-14, except that the following words are added: "in the case of an individual, and in the case of a corporation not to exceed five thousand dollars."

Present § 12-14 derives from §§ 156(a), (b) and (c) of the old Constitution. The present section is unduly narrow in that it expressly gives the Commission enforcement powers only against corporations. In this respect, § 12-14 fails to take account of the fact that since 1902, the Commission has been given many duties which involve the regulation of individuals. For example, the Commission now regulates the activities of truck drivers, insurance agents, securities salesmen, and architects. Under the proposed section, it is clear that the Commission's enforcement powers extend to all laws within its jurisdiction, not just to those laws relating to corporations.

The proposed section also gives the Commission general injunctive power. Under present law, the Commission apparently has power to issue injunctions only in special situations where injunctions are specifically provided for by statute. See, e.g., § 13.1-519, authorizing injunctions against violations of the Virginia Blue Sky law, and § 13.1-535, authorizing injunctions against violation of the Virginia Take-Over-Bid Disclosure Act. Since the Commission operates essentially like a court of record, it should have general injunctive powers in all matters within its jurisdiction.

The five hundred dollar limitation on fines where no other fine is specifically imposed is now required by § 156(c) of the old Constitution. With repeal of the present Constitution, an increase in the maximum fine limitation is permissible, but is not required.

Section 12.1-14 replaces existing § 12-19, relating to the Commission's power to impose penalties.

Section 12.1-15 is existing § 12-20 without change. Compare present § 56-38, which requires the Commission to mediate certain controversies involving transportation and transmission companies "upon the request of the parties interested."

Section 12.1-16 is present § 12-16, except that the term "employee" has been substituted for the term "officer." Even though this section mentions only the Commissioner of Insurance and the Commissioner of Banking, the State Corporation Commission has authority under existing law and under proposed § 12.1-18 below to appoint such additional department heads as may be necessary to the proper discharge of its duties.

Section 12.1-17 rewrites and combines present §§ 12-24 and 12-25. The essentials of the present sections are preserved. Obsolete requirements are eliminated.

Section 12.1-18 rewrites and replaces existing § 12-39. The old Constitution, § 155, gives the Commission absolute authority to hire and fire all of its employees. The substance of this constitutional provision is now embodied in § 12-39 and is preserved by proposed § 12.1-18.

The Commission on Constitutional Revision felt that apart from officials occupying policy-making positions, State Corporation Commission employees should be treated like State employees generally and made subject to the Virginia Personnel Act. Accordingly, the Constitutional Revision Commission recommended that the new Constitution embody the following provision:

> The Commission . . . shall have such subordinates and employees as may be provided by law, all of whom shall be appointed and subject to removal in accordance with the statutory provisions for state employees generally, except that its heads of divisions and assistant heads of divisions shall be appointed and subject to removal by the Commission.

The General Assembly changed this language so that the proposed new Constitution now reads:

> Its subordinates and employees, and the manner of their appointment and removal, shall be as provided by law, except that its heads of divisions and assistant heads of divisions shall be appointed and subject to removal by the Commission.

The new Constitution thus allows the General Assembly to choose whether or not Commission employees should be made subject to the Virginia Personnel Act. The Virginia Code Commission has not undertaken to make that choice, since no change in existing law is required by the new Constitution.

Attention is invited to the fact that § 2.1-121 provides that "no regular counsel shall be employed for or by . . . the State Corporation Commission . . . ." Accordingly, Counsel to the State Corporation Commission is now technically a special counsel employed under § 2.1-122 who serves only at the sufferance of the Attorney General. Unless Counsel to the Commission is considered to be a head or assistant head of a division, this rather peculiar arrangement will continue under the new Constitution. Since the Attorney General must at times oppose the State Corporation Commission, it seems inappropriate that he should have the power to hire and fire the Commission's chief lawyer. The General Assembly may wish to amend § 2.1-121 so as to allow the Commission to independently hire and fire its own regular counsel.

Section 12.1-19, which relates to the duties of the clerk, closely parallels present § 12-41. Subparagraph (6) has been changed to delete reference to the tax on the seal of the Commission, and minor changes have been made in subparagraphs (3) and (6).

Section 12.1-20, which relates to certain duties of the clerk, is present § 12-41.1, except that the last paragraph has been prefaced with the words "Except as otherwise provided in § 12.1-21 below," and the reference in that paragraph to the tax on the seal has been eliminated.

Section 12.1-21, which relates to fees to be charged by the clerk, closely parallels present § 12-41.2, adopted in 1966. The next to last paragraph has been changed to delete reference to the tax on the seal. The one dollar charge for the seal is preserved.

Section 12.1-22, which relates to the duties and powers of the first assistant clerk, is existing § 12-42 without change.

Section 12.1-23, which relates to the duties and powers of the bailiff, is existing § 12-43 without change.

Section 12.1-24, which relates to bonds of members of the staff, is the same as § 12-45 as amended in 1968.

Section 12.1-25, which relates to rules of practice and procedure, is in substance the same as present § 12-49. The old Constitution, § 155, states that the Commission "shall prescribe its own rules of order and procedure." Under the new Constitution, the General Assembly has the power to adopt such rules, but may allow the Commission to do so.

Section 12.1-26, which relates to public sessions, is identical to present § 12-51, except that "in their judgment" has been corrected to read "in its judgment." The Constitution of 1902, § 155, requires public sessions. The new Constitution is silent on the point.

Section 12.1-27, which relates to the Commonwealth or complainant, except for deletion of the word "whether" in the first sentence, is present § 12-52 without change. Note that discovery under this section is limited to the production of books and papers.

Section 12.1-28, which relates to notice and hearing, replaces present § 12-54. It also adequately covers the provisions now found in § 12-53. With minor exceptions, present § 12-54 is taken verbatim from § 156(b) of the old Constitution. The present Constitution imposes rather elaborate requirements for newspaper publication of general orders. These requirements are unduly restrictive and unnecessary to modern-day practice. Also, the present section is defective in that the right of parties to notice and hearing is expressly granted only to "companies."

The proposed section is taken largely from the new Constitution, Article IX, § 3. In addition to codifying the notice and hearing requirements set forth in the new Constitution, the proposed section preserves the provisions of existing law which require the Commission to hear objections to proposed general orders and to publish all promulgated general orders in each subsequent annual report. The last paragraph of present § 12-54, taken from § 156(b) of the Constitution of 1902, is unnecessary to the proposed new section and has been eliminated.

Section 12.1-29, which relates to writs and process, with minor changes, reenacts the first two sentences of present § 12-56. The last two sentences, relating to fees for the bailiff, accounting, and penalties, are unnecessary and have been deleted.

Section 12.1-30, which relates to rules of evidence, is present § 12-57 without change.

Section 12.1-31, which relates to hearing examiners, is the same as present § 12-46, except that the term "special agent" is changed to "hearing examiner."

Section 12.1-32, which relates to costs, fees and expenses, replaces present §§ 12-59 and 12-60 with obsolete and unnecessary provisions eliminated. See generally Title 14.1. The provisions of present § 12-59 relating to costs against the Commonwealth are dealt with in present §§ 14.1-201 and 58-1139.

Section 12.1-33, which relates to fines for disobedience of Commission orders, replaces present § 12-18 which stems from § 156(c) of the Constitution. Since the Commission now regulates the affairs of individuals as well as corporations, the proposed section substitutes the word "person" for the word "company." Also, the proposed section corrects the defect in present § 12-18 which apparently permits disobedience for ten days without any fine being imposed. The new Constitution permits but does not require an increase in the amount of the fine.

Section 12.1-34, which relates to punishment for contempt, replaces present § 12-21 and is intended to preserve existing law, except that the maximum period of imprisonment is limited to six months. Under present law, fines for contempt are limited to five hundred dollars (see §§ 12-21 and 12-14), but the maximum period of imprisonment is not specified.

Under present law, the Commission apparently has no power to imprison for violation of its orders. See §§ 12-18 and 12-21. This limitation on the power of the Commission is preserved by proposed §§ 12.1-33 and 12.1-34.

The last sentence of present § 12-21 provides for review of contempt proceedings on writ of error to the Supreme Court of Appeals. This sentence has been deleted because any person aggrieved by any final finding, order, or judgment in any contempt proceeding will have an appeal of right under Article IX, § 4, of the new Constitution and under proposed § 12.1-39.

Section 12.1-35, which relates to judgments to be in favor of Commonwealth, is taken from present § 12-17. The rest of present § 12-17 is either unnecessary or is adequately covered by proposed §§ 12.1-19(6) and 12.1-13.

Section 12.1-36, which relates to the time judgments take effect, is present § 12-61, except that the words "in its order and entered up" have been deleted as unnecessary.

Section 12.1-37, which relates to judgment liens and docketing, is present § 12-62, except that the words "to enforce liens" at the end of the first sentence have been deleted as unnecessary.

Section 12.1-38, which relates to concurrent jurisdiction, is identical to present § 12-2, except that the word "now" has been eliminated from the phrase "of which it now has jurisdiction." See § 156(h) of the Constitution of 1902.

Section 12.1-39, which relates to appeals from actions of the Commission, replaces present § 12-63. The first two paragraphs of the proposed section are taken from Article IX, § 4, of the new Constitution. The third paragraph is taken from § 156(f) of the old Constitution.

Under present law, provisions governing appeals from the State Corporation Commission are found in the old Constitution, in Titles 8, 12, and 56 of the Code, and in the Rules of the Supreme Court of Appeals. Further, under present § 8-1.2, the Rules of the Supreme Court "supersede all statutory provisions in conflict therewith." The result is that present law relating to appeals from the State Corporation Commission is not all together clear. In this area a thoroughgoing statutory overhaul is desirable

and should be undertaken as part of the general code revision scheduled for 1971. However, because of the limited time available for completion of Project Code 70, the recommendations of this Commission are limited to preserving existing law except insofar as existing law may be changed by the new Constitution.

In granting an appeal of right from any final finding, order, or judgment of the Commission, the new Constitution does not change existing law. See present § 12-63. The provisions of the second paragraph of present § 12-63 relating to writs of supersedeas are dealt with in proposed § 12.1-41 below. The four-month time limit on appeals is covered by proposed § 12.1-40. The third paragraph of the present section, stating that appeals are taken in the same manner as appeals in equity causes, is now obsolete, having been superseded by the Rules of the Supreme Court of Appeals. The fourth paragraph of the present section is no longer necessary and has been deleted.

Section 12.1-40, which relates to the method of taking and prosecuting appeals, preserves the four-month time limit contained in present § 12-63. See also present § 8-463. Further, the section is intended to make clear that the method of taking and prosecuting an appeal is governed by the Rules of the Supreme Court. See present Rules of the Supreme Court of Appeals of Virginia, especially Rule 5:1, § 13. Present § 8-489 implicitly requires the clerk of the Commission to transmit the record within four months. See also present § 8-480. The proposed section removes any doubt about the matter.

Concerning the preparation and certification of the record on appeal, Rule 5:1, § 13, of the Rules of the Supreme Court of Appeals provides that "the record shall be prepared and certified in the manner required by § 156(f) of the Constitution." Section 156(f) states in substance that the record shall be prepared and certified by the chairman of the Commission under the seal of the Commission. With repeal of the Constitution of 1902, appropriate amendment of Rule 5:1, § 13, may be desirable.

Section 12.1-41, which relates to petitions for writs of supersedeas, preserves the substance of the second paragraph of present § 12-63. See also §§ 8-462 and 8-463. Supersedeas bonds are dealt with in present §§ 8-477 through 8-480. See also present § 56-239 and this Committee's recommended amendment thereto below.

Section 12.1-42, which relates to suspension by the Commission, replaces present § 12-64. The provision in the present section allowing the Commission to require a bond for costs is covered by proposed § 12.1-32.

Section 12.1-43, which relates to appeal from any order or decision, reenacts present § 12-63.1 without change, except that "Supreme Court of Appeals" is changed to "Supreme Court." The present section has been construed to permit interlocutory appeals of right from certain actions of the State Corporation Commission. See *Board of Supervisors of Fairfax County* v. *Alexandria Water Co.*, 204 Va. 434 (1963); *Jones* v. *Rhea*, 130 Va. 345 (1921) (dictum). The scope of the present section is very unclear, and the General Assembly may desire that the section should simply be repealed, even though this would eliminate all interlocutory appeals from the State Corporation Commission. On the other hand, the existing law of interlocutory appeals can be preserved by reenacting the section as set forth above.

Sections 12-68 through 12-83, all of which relate to the Industrialized Building Unit and Mobile Home Safety Law, which is Chapter 7 of Title 12, should be transferred without change into the more appropriate context

of Title 36. Therefore, the Commission recommends that these provisions be added to Title 36 as a new Chapter 4 therein, consisting of §§ 36-70 through 36-85.

Title 13.1—Corporations

Section 13.1-11.1, should be added to the Code to create a presumption of delivery with respect to tax assessments, report forms and correspondence mailed by the Commission and to provide for the resignation of registered agents. Although the provisions of this section are not required by the new Constitution, they appear to be generally desirable, if not mandatory, for effective application of existing law.

Section 13.1-57, which relates to class voting on amendments, should be amended to delete subsection (j) which specially authorizes shareholders of any class to vote on a proposed amendment which would "authorize the entry into partnership agreements with other companies or individuals." This is a housekeeping change, rather than a change required by the new Constitution. Prior to 1968, § 13.1-3 provided that a corporation shall have power to enter partnership agreements "but only where authorized by the articles of incorporation or by the affirmative vote of the holders of more than two-thirds of the outstanding shares of each class, whether or not entitled to vote thereon by the provisions of the articles of incorporation." In 1968, the General Assembly eliminated the quoted language, but neglected to make a corresponding change to § 13.1-57.

Section 13.1-204, which relates to corporate purposes, should be amended to correct what is believed to have been an inadvertence in prior legislation. The present section prevents all public service companies except sewer companies, motor carriers, and air carriers from organizing as non-stock corporations. The General Assembly may well have felt that air carriers and motor carriers were excluded by the term "transportation company." In any event, no air carriers or motor carriers are organized as non-stock corporations now, and the Commission believes that § 13.1-204 should exclude all public service companies other than sewer companies. In 1960, the General Assembly deleted the words "or sewer service" appearing at the end of the present section thereby indicating that sewer companies should be allowed to organize as non-stock corporations.

Section 13.1-290.1, which relates to certain social, patriotic and benevolent societies incorporated before the year 1900, should be amended to conform to Article IX, § 6, which provides that all corporations will hold their charters subject to the Constitution and general law.

Section 13.1-400.6, which relates to injunctions and contempt proceedings, should be amended to refer to § 12.1-34 instead of to § 12-21.

Section 13.1-519, which relates to injunctions, should be amended to substitute reference to Article IX, § 3, for the reference to § 156(c) of the old Constitution, and also to substitute reference to § 12.1-34 for the present reference to § 12-21.

Section 13.1-535, which relates to injunctions, should be amended in the same manner and for the same reasons as § 13.1-519.

Title 14.1—Costs, Fees, Salaries & Allowances

Sections 14.1-29, 14.1-30, 14.1-31, 14.1-32, 14.1-52, 14.1-120, 14.1-181 and 14.1-182 should be amended to delete the words "of Appeals" to conform with the language of Article VI, § 1.

Sections 14.1-68, 14.1-69, 14.1-70, 14.1-72, 14.1-73, 14.1-75, 14.1-76, 14.1-77, 14.1-78, 14.1-79, 14.1-80, 14.1-85, 14.1-86, 14.1-87, 14.1-89, 14.1-96, 14.1-101, 14.1-105, 14.1-111, 14.1-125, should be amended to delete the reference to "sergeant" or "city sergeant" and substitute therefor where appropriate the word "sheriff." This is in conformity with the new Constitution's deletion of any reference to a "city sergeant" and of its inclusion of a "city sheriff." See Article VII, § 4 of Constitution.

Section 14.1-136, which relates to statements required of clerks of courts of record, sheriff of City of Richmond and certain city sergeants, should be amended to delete reference to "sergeants." This section also should be amended to delete the words "of Appeals," after the words "Supreme Court," to conform with Article VI, § 1.

Title 15.1—Counties, Cities and Towns

Sections 15.1-37.4 through 15.1-37.8 are recommended for adoption as a new chapter, numbered 1.1 in Title 15.1 to provide general legislative authority for the election of the governing bodies of counties, cities and towns pursuant to Article VII, § 5, which provides:

> "The governing body of each county, city, or town shall be elected by the qualified voters of such county, city, or town in the manner provided by law.
>
> "If the members are elected by district, the district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as practicable, representation in proportion to the population of the district. When members are so elected by district, the governing body of any county, city, or town may, in a manner provided by law, increase or diminish the number, and change the boundaries, of districts, and shall in 1971 and every ten years thereafter, and also whenever the boundaries of such districts are changed, reapportion the representation in the governing body among the districts in a manner provided by law. Whenever the governing body of any such unit shall fail to perform the duties so prescribed in the manner herein directed, a suit shall lie on behalf of any citizen thereof to compel performance by the governing body.
>
> "Unless otherwise provided by law, the governing body of each city or town shall be elected on the second Tuesday in June and take office on the first day of the following September. Unless otherwise provided by law, the governing body of each county shall be elected on the Tuesday after the first Monday in November and take office on the first day of the following January."

In addition to suggested new Chapter 1.1, several other changes are recommended to further implement the provisions of the Constitution quoted above. A new section, numbered 15.1-571.1, dealing generally with counties, and a new section, numbered 15.1-788.1, dealing with counties having the Urban Form of government, should be added. Sections 15.1-803 and 15.1-806, dealing with cities, should be amended to accommodate the new mandate for reapportionment. Also §§ 15.1-572 and 15.1-575 through 15.1-581, providing for judicial action in re-districting counties, should be repealed.

The provision in § 15.1-37.4 that the governing body of any county be composed of not less than three nor more than eleven members is not required by the Constitution. However, the Commission suggests the inclusion of this provision to permit the broadest limits deemed advisable

for an effective, responsive governing body. The last sentence of § 15.1-37.4 is merely a statutory reminder that the Constitution does not prohibit dual representation from a single large district, so long as representation is in proportion to population.

Section 15.1-37.5 provides statutory authorization for reapportionment of representation and also requires reapportionment each ten years beginning in 1971. The Commission considered many aspects of the problem posed by reapportionment in 1971, including timely action with respect to the effective date of the new Constitution on July 1, 1971, June and July local elections, primaries, special elections and the general election. Serious consideration was given to adding a third paragraph to this section which would either (1) require reapportionment prior to the first Tuesday in July 1971 or (2) reapportionment not later than ninety days before the date of the general election for the members of the governing body.

However, because of the multiplicity of local problems which might thereby be created, in view of the effective date of the new Constitution, the Commission recommends that the constitutional requirement of reapportionment during the calendar year 1971 be permitted to stand.

Section 15.1-37.6 would provide general authorization for local governing bodies to implement the statutory requirements for reapportionment under the provisions of this new chapter.

Section 15.1-37.7 would require appropriate recordation of reapportionments.

Section 15.1-37.8 provides a remedy for any citizen of a county, city or town which fails to reapportion as required by the Constitution and its new chapter. This section provides that the governing body, if it fails to act, can be required to do so by petitioning for a writ of mandamus. It also provides that if the governing body does act but fails to apportion to provide representation proportional to population a bill of complaint may be filed in a court of equity having jurisdiction within the governmental unit affected. This section also provides for appeals. Of course, this section, as are the preceding sections in the chapter, is designed to implement the provisions of Article VII, § 5, of the new Constitution.

Section 15.1-40.1, relates to those county and city officers required by the Constitution. The first two sentences are taken directly from the first paragraph of Article VII, § 4. The last sentence of this new section is taken from the last sentence of the third paragraph of Article VII, § 4. Particular attention is invited to the new Constitution's deletion of any reference to a city sergeant and of its inclusion of a city sheriff. Also see §§ 15.1-796 and 15.1-796.1 in this report.

Section 15.1-41, which relates to bonds of county and city officers, should be amended to delete the reference to a "city sergeant."

Section 15.1-42, which relates to penalties for the bonds mentioned in § 15.1-41, should be amended to delete the reference to "city sergeant".

Section 15.1-48, which relates to deputies of sheriffs and sergeants, should be amended to delete the reference to a city sergeant.

Section 15.1-51, which relates to residence of officers, should be amended to delete the reference to sergeants and substitute therefor sheriffs.

Section 15.1-53, which relates to the appointment or election of joint county officers, should be amended to substitute "Article VII, § 4" for "section one hundred and ten."

Section 15.1-63, which relates to the removal of county and city officers, should be amended to delete the constitutional references in the last paragraph.

Section 15.1-74, which relates to deputies for sheriffs and sergeants, should be amended to delete references to city sergeants.

Section 15.1-75, which also relates to such deputies, should be amended to delete references to city sergeant.

Section 15.1-77, which relates to criers and process servers, should be amended to delete references to a city sergeant.

Section 15.1-86, which relates to misconduct of deputies, should be amended to delete any reference to city sergeant.

Section 15.1-87, which relates to judgments against sheriffs and sergeants on account of the misconduct of the deputies, should be amended to delete any reference to a city sergeant.

Section 15.1-90.1, which relates to the Sheriffs and City Sergeants Standard Car Marking and Uniform Commission, should be amended to delete any reference to a city sergeant.

Section 15.1-134, which relates to allowances to injured officers and employees and their dependents, should be amended to delete any reference to a city sergeant.

Section 15.1-170 relates to the designation of the "Public Finance Act of 1958." This section should be amended to refer to "Public Finance Act."

Section 15.1-176, which relates to the limitation on the amount of outstanding city or town bonds, should be amended to delete the obsolete provision at the end of the section.

Section 15.1-177, which relates to indebtedness not to be included in determining the limitation imposed by § 15.1-176, should be completely rewritten to conform with Article VII, § 10.

Section 15.1-178, which relates to revenue bonds, should be amended to conform with the provisions of Article VII, § 10.

Section 15.1-179, which relates to ordinances, should be appropriately amended to correct the constitutional references and to conform with the provisions of Article VII, § 10.

Section 15.1-180, which relates to orders for bond elections, should be amended to make its provisions applicable to counties pursuant to clause (a) (2) of Article VII, § 10.

Section 15.1-185, which relates to the powers of counties generally, should be amended to conform with the provisions of Article VII, § 10.

Section 15.1-185.1 sets out the language of the last paragraph of Article VII, § 10, which basicly provides that any county may, upon approval by the affirmative vote of the qualified voters of the county voting in an election on the question, elect to be treated as a city for the purpose of issuing its bonds under the provisions of § 10.

Section 15.1-186, which relates to general obligation bond issues in counties, should be amended to conform with the new provisions of Article VII, § 10 of the Constitution.

Section 15.1-187, which relates to bond issues in certain counties, should be amended to take into account the possibility of voter approval not being required in certain instances under the provisions of Article VII, § 10, of the new Constitution.

Section 15.1-190, which relates to school district bonds, should be amended in substantially the same way as is recommended for § 15.1-187.

Section 15.1-190.1, which relates to validation of certain bonds, should be amended to apply to all bonds issued prior to July 1, 1971.

Section 15.1-225, which relates to investigations by the Governor in cases of alleged defaults, should be amended to delete the exception appearing in the second paragraph which is required by § 135 of the old Constitution.

Section 15.1-228, which relates to borrowing for school construction, should be amended to refer to Article VII, § 10, of the new Constitution rather than to § 115a of the old Constitution. This section also should be amended by substituting the words "capital projects for school purposes" in lieu of the words "the purposes of school construction."

Section 15.1-229, which relates Virginia Supplemental Retirement System loans to local boards of trustees, the words "capital projects for school purposes" should be substituted for the words "the purpose of school construction" to comply with the provisions of Article VII, § 4, subsection (b).

Section 15.1-239, which relates to assessments for local improvements, should be amended to conform with the provisions of Article X, § 3, which permits the General Assembly by general law to authorize any county, city, town, or regional government to impose taxes or assessments upon abutting property owners for such local public improvements as may be designated by the General Assembly. The effect of the revision of this section is to generalize for counties, cities and towns the authority vested by the prior provisions for cities and towns and some counties.

Section 15.1-276, which defines public uses, should be amended to substitute the words "Article I, § 11" for "§ 50-8".

Section 15.1-277, which relates to the acquisition by cities and towns of properties near parks and other public properties, should be amended to substitute "Article I, § 11" for "§ 50-8".

Section 15.1-307, which relates to restrictions on the granting of franchises and the selling of public property, should be amended to conform with the provisions of Article VII, § 9. This would require the first sentence of the second paragraph to be amended to change the maximum period for granting of franchises, leases and rights from thirty-nine years to forty years and adding the language "except for air rights together with easements for columns for support, which may be granted for a period not exceeding sixty years". The second sentence would be changed to require bids for the granting of franchises and privileges for terms in excess of five years.

Section 15.1-308, which relates to the advertising of ordinances proposing grants of franchise, should be amended to require bids before granting franchises, etc., for terms in excess of five years.

Section 15.1-322, which relates to bonds to finance sewage disposal systems, should be amended to substitute "Article VII, § 10" for "section one hundred twenty-seven" in each of the two places referring to the Constitution.

Section 15.1-323, which relates to ordinances authorizing sewage disposal system bonds, should be amended to reflect the language of Article VII, § 10 of the new Constitution which provides that such approval may not be required. Additionally, "Article VII, § 10" should be substituted for "section one hundred twenty-seven" in both subsections (d) and (e).

Section 15.1-324, which provides how such elections shall be called and held, should be amended to conform the internal section references with the current, appropriate sections of Title 15.1, i.e., §§ 15.1-180, 15.1-182 and 15.1-183 as to cities and towns, and §§ 15.1-187 and 15.1-188 as to counties.

Section 15.1-372, which relates to acquisitions in connection with street changes, should be amended to change the constitutional reference from "§ 50-8" to "Article I, § 11."

Section 15.1-545, which relates to loans to meet casual deficits or anticipate deficits that is or anticipate revenue, should be amended to strike out the words "meeting casual deficits in the revenue, or", so as to conform with the provisions of Article VII, § 10, which somewhat liberalizes borrowing by counties, but makes no specific provision for borrowing to meet the casual deficits in the revenue.

Section 15.1-571, which relates to the establishment of magisterial districts, should be amended to limit the concluding exception to the provisions of Title 15.1.

The effect of this change is made obvious by an examination of the proposed text for this section.

Section 15.1-571.1, which relates to changes in the boundaries of magisterial districts in counties after the effective date of the new Constitution, should be added to implement the provisions of Article VII, § 5.

Section 15.1-589, which relates to the powers of boards of supervisors, their elections and terms, should be amended to have the last paragraph to comply with the provisions of Article VI, § 12, which provides: "no judge shall be granted the power to make any appointment of any local governmental official elected by the voters except to fill a vacancy in office pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election."

Section 15.1-623, which relates to subject matter of the same nature as does § 15.1-589, should be amended in the same way and for the same reasons as should § 15.1-589.

Section 15.1-664, which relates to changing from one form of county government to another should be amended to accommodate the more flexible provisions of Article VII, § 2, to make it compatible with provisions of §§ 15.1-582, 15.1-587, and also to delete redundant wordage.

Section 15.1-667, which relates to the effect of a change from the county executive form or the county manager form to some other form of county organization and government, should be amended to reflect the more flexible provisions of Article VII, § 2.

Section 15.1-668, relating to limitation of the frequency of elections, should be amended to substitute "some other form" for the words "the other form" for the reasons stated above.

Section 15.1-670, which relates to the board of commissioners under the modified commission plan, should be amended to substitute "Article VII, § 4" for "§ one hundred and ten."

Section 15.1-674, which relates to county boards under the county manager plan, should be amended to substitute "Article VII, § 4" for "section one hundred and ten."

Section 15.1-677, which relates to the duties of the county manager, should be amended to substitute "Article VII, § 4" for "section one hundred and ten."

Section 15.1-685, which relates to the abolition of offices and distribution of duties under the county manager plan, should be amended to substitute "Article VII, § 4" for "section one hundred and ten."

Section 15.1-700, which relates to boards of county supervisors under the county board form, should be amended to have the provisions of subsection (f) comply with the provisions of Article VI, § 12 of the Constitution. This should be done by adding, in the second sentence, the words "or, if the vacancy occurs within one hundred twenty days prior to such election, the second ensuing general election."

Section 15.1-706, which relates to the constitutional officers of the county under the county board form, should be amended in subsection (b) to conform with Article VI, § 12, by adding "or, if the vacancy occurs within one hundred twenty days prior to such election, the second ensuing general election."

Section 15.1-720, which relates to officers not affected by adoption of the county board form, should be amended to provide that justices of the peace who are appointed by judges shall serve for periods not exceeding that prescribed in Article VI, § 12 of the Constitution. Also, to conform with the provisions of Title 16.1, the words "trial justice" should be replaced by the words "judge of county court".

Section 15.1-721, which relates to the procedure whereby the form of county organization and government may be changed, should be amended to broaden its language to conform with the provisions of Article VII, § 2.

Section 15.1-727, which relates to the effect of a change in the form of county government on other county officers, should be amended by deleting the words "the Constitution of Virginia" and substituting therefor "general law"; also by striking the words "the Constitution and in"; all in the third paragraph.

Section 15.1-729, which relates to urban county boards of supervisors, should be amended to have the last paragraph limit the terms of appointments to fill vacancies so as to conform with the provisions of Article VI, § 12.

Section 15.1-742, which basically provides that the powers of the county under the urban county executive form be vested in the board of supervisors, should be amended by striking the words, at the end of the last paragraph "his appointee shall hold office during the remainder of the term of his predecessor in office" and substituting therefore "pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election". See Article VI, § 12.

Section 15.1-757, which provides for changing from one form of county government to another, should be amended to broaden its provisions to conform with the provisions of Article VII, § 2.

Section 15.1-760, which relates to the effect of a change in the form of county organization and government, should be amended to broaden its language to conform with the provisions of Article VII, § 2.

Section 15.1-761, which limits the frequency of elections, should be changed in the same manner and for the same reason as are §§ 15.1-757 and 15.1-760. See Article VII, § 2.

Section 15.1-787, which relates to the division of counties in the districts, should be amended to comply with the requirements of Article VII, § 5, i.e., that a district "shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population in the district."

Section 15.1-788, which relates to changes in the boundaries of districts, should be amended to comply with the provisions of Article VII, § 5, i.e., that "in 1971 and every ten years thereafter, and also whenever the boundaries of such districts are changed, the board shall reapportion the representation in the governing body among the districts."

Section 15.1-788.1, should be added to provide that: "Whenever the governing body of any county changes the boundaries, or increases or diminishes the number of districts, or reapportions the representation in the governing body as prescribed hereinabove, such action shall not be subject to judicial review, except as otherwise provided in § 15.1-37.8 of the Code. Whenever the governing body of the county shall fail to perform the duty of reapportioning the representation among the districts of such county, or fail to change the boundaries of districts, mandamus shall lie on behalf of any citizen thereof to compel performance by the governing body." This section is a corollary of § 15.1-37.8.

Section 15.1-792, which defines "incorporated communities", should be amended to conform with the definitions found in Article VII, § 1.

Section 15.1-796, which relates to sergeants of cities and towns, should be amended to conform with the provisions of Article VII, § 4, paragraph 1, which provides "there shall be elected by the qualified voters of each county and city a treasurer, a sheriff, an attorney for the Commonwealth, a clerk, who shall be clerk of the court in the office of which deeds are recorded, and a commissioner of revenue. The duties and compensation of such officers shall be prescribed by general law or special act." City sergeants are not mentioned in the new Constitution.

Section 15.1-796.1 should be added to accommodate the deletion from the new Constitution of any mention of a city sergeant and the inclusion, in Article VII, § 4, of the requirement of a sheriff for every city. The suggested language for this section follows: "Notwithstanding any charter provision or special act, on and after July 1, 1971, the office of city sergeant is abolished. Any person holding office as city sergeant on July 1, 1971, shall continue in office as city sheriff until the expiration of the term for which he was elected, and his successor is elected and qualified, except that in any city having a city sheriff on or before July 1, 1971, the person holding the office of city sheriff shall continue in office until his successor is elected and qualified." The City of Richmond has both a city sergeant and a sheriff, the city sergeant being a Constitutional officer and the sheriff being a statutory officer.

Section 15.1-803, which relates to wards in cities, should be amended to comply with the mandate of Article VII, § 5, that districts, which are interpreted as including wards, "shall be composed of contiguous and compact territory and be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district." The last paragraph of § 15.1-803, which provides that "A mandamus shall lie on behalf of any citizen to compel the performance by the council of the

duty so prescribed" should be deleted as being redundant in view of the provisions of §§ 15.1-37.8 and 15.1-788.1.

Section 15.1-806, which relates to reapportionment among wards, should be amended to conform with the provisions of Article VII, § 5 of the new Constitution. It should be treated as a corollary of § 15.1-37.8.

Section 15.1-808, which relates to vacancies in council, should conform with the provisions of Article VI, § 12.

Section 15.1-819, which relates to appropriation ordinances, should be amended to conform with the provisions of Article VII, § 7, which provides, inter alia, that "no ordinance or resolution appropriating money exceeding the sum of five hundred dollars shall be passed, except by a recorded affirmative vote of the majority of all members elected to the governing body."

Section 15.1-821, which relates to Commonwealth's Attorneys for cities, should be amended to conform with the new definition of cities found in Article VII, § 1 of the new Constitution, as well as with Article VII, § 4, which requires the election of a Commonwealth's Attorney for every city. It is important to observe that attorneys for the Commonwealth are required by the Constitution to serve cities and not specific courts, although the latter concept has always been popular and has, from time to time, been given credence by statutory language such as that which the Commission recommends be stricken from § 15.1-821.

Section 15.1-824, which relates to city sergeants, should be amended to relate to city sheriffs to comply with the provisions of Article VII, § 4.

Section 15.1-825, which also relates to city sergeants, should be amended in the same manner as § 15.1-824 and for the same reason.

Section 15.1-850, which relates to the imposition and apportionment of assessments, should be amended to substitute "Article X, § 3" for "§ 170".

Section 15.1-894, which relates to franchises which may be granted by municipal corporations, should be amended by substituting "Article VII, § 9" for "§ 125".

Section 15.1-987, which relates to town treasurers, should be amended to conform with the provisions of Article VI, § 12, with respect to the period for which judges may make appointments to fill interim vacancies.

Section 15.1-988, which relates to commissioners of the revenue, should be amended in the same manner and for the same reason, as § 15.1-987. See Article VI, § 12.

Section 15.1-989, which relates to town sergeants continuing in office when a town becomes a city, should be amended to conform with the provisions of Article VII, § 4, which requires a sheriff for each city, but makes no mention of a city sergeant.

Section 15.1-991, which relates to the election and terms of certain city officers, should be amended by substituting "sheriff" for "sergeant" to conform with the provisions of Article VII, § 4.

Section 15.1-992, which relates to the qualification of officers, should be amended to conform with the provisions of Article VI, § 12, so as to add the language "pending the next ensuing general election or, if the vacancy occurs within 120 days prior to such election, pending the second ensuing general election."

Section 15.1-993, which relates to bonds, should be amended by substituting "sheriff" for "sergeant" to comply with Article VII, § 4.

Section 15.1-998, which relates to appointment of electoral boards, treasurers, commissioners of the revenue and sergeants, should be amended to substitute "sheriff" for "sergeant" to comply with the provisions of Article VII, § 4. The section should further be amended by adding the words after the word "qualify", "pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election", to comply with the provisions of Article VI, § 12.

Section 15.1-1020, which relates to publication of notice of special elections for the transition of cities of the second class to cities of the first class, should be amended to substitute "sheriff" for "sergeant" to comply with the provisions of Article VII, § 4.

Section 15.1-1021, which relates to the election and organization of a new council, should be amended to comply with the provisions of Article VI, § 12, with respect to the terms of persons appointed by judges to fill interim vacancies.

Section 15.1-1047.1, which relates to the reduction of taxes on land added to corporate limits, should be amended to conform with the provisions of Article X, § 1. The specific language of the last sentence of that section of the Constitution provides that "Such differences in the rate of taxation shall bear a reasonable relationship to differences between non-revenue producing governmental services giving land urban character which are furnished in one or several areas in contrast to the services furnished in other areas of such unit of government."

Section 15.1-1061, which relates to actions of the court in proceedings for the contraction of corporate limits, should be amended by substituting "Article VII, § 10" for "§ 127".

Section 15.1-1104, which relates to optional provisions of consolidation or annexation, should be amended to substitute "sheriff" for "sergeant" to comply with the provisions of Article VII, § 4.

Section 15.1-1135, which relates to consolidation agreements, should be amended to have subsection (2) thereof conform with the provisions of Article X, § 1.

Section 15.1-1349, which relates to officers of the Commission under the Transportation District Act of 1964, should be amended to substitute "Article II, § 7" for "§ 34".

Title 16.1—Courts Not of Record

Section 16.1-162, which relates to proceedings in juvenile and domestic relations courts, should be amended to delete the sentence "the presence of the child in court may be waived by the judge at any stage of the proceedings." It is the consensus of the Commission that due process, interpreted in the light of recent court decisions and the spirit of the new Constitution preclude the broad power of a judge to deny a juvenile the right of confrontation "at any stage of the proceedings." The Commission also considered, but decided against, the amendment of this section to provide that in prosecutions before a juvenile court for violation of criminal laws the accused, whether a child or an adult, shall have the right to a public trial. Although the old Constitution has no requirement for a public trial in criminal prosecutions, such a provision is found in Article I, § 8 of the new Constitution.

Section 17-3, which prohibits judges from practicing law in this State, would become obsolete with the enactment of a new section, 17-3.1, using the language of Article VI, § 11 of the new Constitution.

Section 17-3.1 should be added to the Code to replace the provisions of §§ 17-3 and 17-4 with the language of Article VI, § 11.

Section 17-4, which prohibits a judge from holding any other office or public trust, should be repealed for the reasons stated in the two preceding comments.

Section 17-5, which relates to the residence requirements of judges, should be amended to delete the present exception permitting certain judges to reside outside the jurisdiction of their courts and add conforming language with respect to a judge of a court whose jurisdiction has been changed by annexation or otherwise.

Section 17-17, which relates to places and times for holding sessions of the Supreme Court, should be amended to delete the words "of Appeals or a Special Court of Appeals" to conform with the language of Article VI, § 1.

Section 17-18, which relates to the place where circuit and corporation courts may hold sessions, should be amended to delete the language "of Appeals or Special Court of Appeals" to conform with the language of Article VI, § 1.

Section 17-93, which relates to the composition of Court; quorum and Chief Justice, should be amended to substitute the term "justice" for "judge" and to permit a justice of the Supreme Court who is eligible to be Chief Justice, either to decline to serve or, having served, to decline to continue to serve without resigning from the court. See Article VI, §§ 2 and 3.

Section 17-94, should be amended to simplify its provisions and to conform it to the provisions of Article VI, § 2 of the new Constitution. Section 8-494 would be repealed.

Section 17-99, which relates to terms and sessions of the Supreme Court, should be amended to delete references to sessions to be held in Staunton. Section 93 of the old Constitution required this provision, but there is no comparable requirement in the new Constitution.

Section 17-100, which relates to special sessions of the Supreme Court, should be amended to delete "of Appeals", and also to delete "at either of the places designated by law for holding a regular session and". See preceding comment.

Section 17-101, which also relates to special sessions of the Supreme Court, should be amended to delete from the first sentence the words "at either of the places referred to in the preceding section" and from the second sentence the words "and place" and also "at such place". See comment on § 17-99. The word "justice" also should be substituted for the word "judge".

Section 17-102, relating to what may be tried at special sessions, should be amended to delete the words "pending at either place of session" from the second sentence. See comment for § 17-99.

Section 17-112, which relates to the tipstaff and crier of the Supreme Court, should be amended to delete the words "of Appeals, at each place of session, and the Special Court of Appeals". See comment to § 17-99.

Section 17-116, which provides for the delivery of opinions to the Reporter, should be amended to substitute "Article VI, § 6" for "section ninety".

Section 17-118, which provides that the circuit court of certain counties constitute the circuit court of certain cities, should be amended to substitute "Constitution of nineteen hundred and two" for "present Constitution" to provide proper constitutional reference.

Section 17-120, which relates to vacancies in the office of judge, should be amended to provide that whenever a vacancy occurs in the office of judge of a circuit court, his successor shall be elected for a full term of eight years rather than for the unexpired term.

Section 17-139, which relates to jurisdiction of corporation courts, should be amended to delete the language "and for the appointment of electoral boards, as provided by section thirty-one of the Constitution" to conform with the provisions of Article II, § 8 of the new Constitution, which provides that members of electoral boards shall be "selected as provided by law" and not requiring that they be appointed by courts as heretofore.

Title 19.1—Criminal Procedure

Section 19.1-35, which prescribes the oath and bond for the Chief Medical Examiner, should be amended to substitute "§ 7 of Article II" for "section thirty-four".

Section 19.1-246, which provides for the exclusion of certain persons from trials, should be amended to provide that in criminal prosecutions the accused shall enjoy the right of a public trial to conform with the provisions of Article I, § 8.

Section 19.1-328, which relates to the effect of the failure to pay a fine when coupled with the jail sentence, should be amended to delete the words "and costs of prosecution". This, and also §§ 19.1-329, 330, 332, 333, 334, 338 and 339 should all be amended to delete the provisions for confinement for the nonpayment of costs in criminal cases.

Section 19.1-329, which prescribes when and how prisoners are to be hired out to pay fines, should be amended in the same manner and for the same reasons as is § 19.1-328.

Section 19.1-330, which relates to hirers of prisoners, should be amended in the same manner and for the same reason as is § 19.1-328.

Section 19.1-332, which relates to the confinement of persons to jail until their fines are paid, should be amended in the same manner and for the same reason as is § 19.1-328.

Section 19.1-333, which relates to admissions to bail in certain cases, should be amended in the same manner and for the same reason as is § 19.1-328.

Section 19.1-334, which relates to the confinement of persons to jail until their fines are paid, should be amended in the same manner and for the same reason as is § 19.1-328.

Section 19.1-338, which relates to fines imposed by courts not of record, should be amended in the same manner and for the same reason as is § 19.1-328.

Section 19.1-339, which relates to certain court actions permitted until fines are paid, should be amended in the same manner and for the same reason as is § 19.1-328.

Section 19.1-346, which relates to fines to be paid into the Literary Fund, should be amended to substitute "§ 8 of Article VIII" for "section one hundred and thirty-four".

Title 21—Drainage, Soil Conservation, Sanitation and Public Facilities Districts

Section 21-243, which relates to oaths and bonds of members of Commissions created under the Sanitary Districts Law of 1946, should be amended to substitute "Article II, § 7" for "section thirty-four".

Title 22—Education

Section 22-1, which requires an efficient system of public free schools, should be repealed and replaced by a new section (§ 22-1.1) to comply with the mandate of Article VIII, § 1 of the new Constitution that "The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth . . ."

Section 22-1.1 should be added to fulfill the mandate of Article VIII, § 1 as indicated above. See § 22-218 for persons who shall be admitted to schools.

Section 22-3 should be repealed and a new section (§ 22-3.1) enacted to replace it so as to provide for appropriate construction of the terms "county school board", "city school board" and "town school board", as well as "school board of any county, city or town operating as a separate special school district". The quoted terms appear too frequently throughout Title 22 for individual amendment.

Section 22-4, which relates to classification of cities, should be repealed as obsolete.

Section 22-8, which relates to preference in the establishment of graded schools, should be deleted as obsolete.

Section 22-10, which relates to the continuation and effect of certain laws, should be deleted as obsolete.

Section 22-11, which relates to the appointment of members of the State Board of Education, should be amended to increase the membership of the State Board of Education from seven to nine members as required by Article VIII, § 4 of the proposed Constitution.

Section 22-12, which relates to terms and vacancies of members of the State Board of Education, should be repealed and replaced by a new section (§ 22-12.1) to conform with the provisions of Article VIII, § 4.

Section 22-12.1 should be added to provide for the appointment, terms, and vacancies of members of the State Board of Education as required by Article VIII, § 4. The section should direct the appointment of two additional members to the State Board of Education on July 1, 1971. These two new appointments, together with the one regular appointment scheduled to be made in 1971, would increase the membership of the Board to nine members and would stagger terms so that no more than three regular appointments would be made in the same year, as required by the new Constitution.

Section 22-13, which relates to the president of the State Board of Education, should be amended to conform with the requirement of Article VIII, § 4 and at the same time provide for an orderly succession in due course of the presidency of the Board.

Section 22-19, which relates to bylaws and regulations of the State Board, should be technically amended to provide an exception in the second sentence to give proper effect to a new section 22-19.1.

Section 22-19.1 should be added to conform to the requirements of Article VIII, § 2, which provides that "Standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly." The same section of the new Constitution further provides that "the General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality, and shall provide for the apportionment of the cost of such program between the Commonwealth and the local units of government comprising such school divisions. Each unit of local government shall provide its portion of such cost by local taxes or from other available funds. A further discussion of this section may be found in the appendix to this report entitled "NOTES".

Sections 22-29.5, 22-29.10 and 22-29.15, which relate to The Virginia Public School Authority, should be amended to make appropriate references to the relevant provisions of the new Constitution. Section 22-29.15 should be further amended to conform to the requirements of Article VIII, § 8.

Section 22-30, which relates to the division of the State into appropriate school divisions, should be amended to set out three additional conditions on which the division of the State into school districts should be predicated. These three additional conditions in summary are as follows: (1) that adequate notice of any contemplated change in the composition of the school division be given the affected local school boards and the governing bodies of the counties and cities affected, (2) that no school district be subject to consolidation without the consent of the governing body of the county or city represented thereby unless the school age population of the affected district is five thousand or less, and (3) that all such changes be subject to veto by the General Assembly. In addition to such conditions, the Commission considers it desirable, although not mandatory, that the State Board of Education be required to consider the following criteria in determining appropriate school divisions:

(1) The potential of the proposed division to facilitate the offering of a comprehensive program for kindergarten throughout grade twelve at the level of the established standards of quality; (2) the potential of the proposed division to promote efficiency in the use of school facilities and school personnel and economy in operation; (3) anticipated increase or decrease in the number of children of school age in the proposed division, and (4) geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities.

Section 22-34, which relates to joint meetings of school boards to appoint superintendents, should be repealed as inconsistent with the provisions of Article VIII, § 5, which indicates a single school board for each school division.

Section 22-38, which relates to vacancies in office, should be amended by deleting the words "or boards" for the same reason as is indicated in the commentary on § 22-34.

Section 22-43, which relates to special school districts and special town school districts, should be amended to abolish all separate special town school districts, both for the purpose of separate operation and independent representation on the county school board, and the representation on county school boards now held by certain towns not constituting separate special school districts also should be abolished. This action is considered necessary by the Commission to achieve compliance with the mandate of the new Constitution that each school division be the basic unit of administration in the school system for all purposes and that it have only one school board.

Sections 22-43.1, 22-43.2 and 22-43.4, which also relate to special school districts, also should be repealed for the reasons given in the commentary to § 22-43.

Section 22-61, which relates to appointment of school boards, should be amended to comply with the requirements of Article VIII, §§ 5 and 7 of the new Constitution permitting only one school board in each school division.

Sections 22-72 and 22-97, both of which relate to the powers and duties of school boards, should be amended to conform to the language of Article VIII, § 3 of the new Constitution relating to free text books.

Section 22-100.1 should be amended to make its provisions mandatory so as to provide representation on a division school board of a division comprising one or more political subdivisions which would achieve "an equal number of members from each county or city of the division . . ."

Section 22-100.2, which relates to the establishment of school boards of divisions, comprising two or more political subdivisions, should be repealed for the reasons given in the preceding commentary.

Sections 22-100.6, 22-100.7 and 22-100.9 should be amended in the manner and for the reasons indicated in the comment on § 22-100.1.

Section 22-100.12, which relates to the dissolution of school boards of consolidated school divisions, should be repealed for the reasons stated in § 22-100.1.

Section 22-101, which relates to the Literary Fund, should be amended to reflect payment of the interest on the Literary Fund into the principal of the Literary Fund as required by Article VIII, § 8 of the new Constitution.

Sections 22-101.1, 22-101.1:1 and 22-101.2 should be repealed as obsolete.

Section 22-102, which relates to investment of the capital and unappropriated income of the Literary Fund, should be amended to delete reference to the unappropriated income to conform to the provisions of Article VIII, § 8 of the new Constitution.

Sections 22-115.29 through 22-115.35, which constitute Chapter 7.3 of Title 22 of the Code relating to grants for educational purposes, should be repealed as obsolete.

Section 22-116, which defines "school funds", should be amended to reflect the disposition of the interest on the Literary Fund under the new Constitution and the repeal of §§ 173 and 135 of the old Constitution relating to the imposition and disposition of the capitation tax.

Section 22-117, which relates to the payment of State funds for public schools in counties, should be amended to eliminate references to maximum tax rates for school purposes.

Section 22-126, which relates to local school taxes, should be repealed and replaced by a new section (§ 22-126.1) to require each county and

city to raise by taxation a sum by which, together with other available funds, would provide that portion of the cost allocated to such county or city by law for maintaining an approved educational program.

Section 22-126.1 should be added in substitution for § 22-126. See comment to § 22-126.

Section 22-127, which relates to local appropriations for public schools, should be amended to conform to the language of new § 22-126.1.

Section 22-128, which relates to special taxes for capital expenditures, should be amended in the same manner and for the same reasons as should § 22-127.

Section 22-130, which relates to charter tax limits, should be repealed as inconsistent with the three sections which precede it, as amended.

Section 22-138.1, which relates to unexpended school and educational funds, also should be repealed as inconsistent with the provisions of this revision.

Section 22-141, which relates to a town school district's share of school funds, should be repealed as inconsistent with the new Constitution and related statutes as recommended for amendment.

Section 22-141.1, which relates to a town's share of county funds, should be repealed for the same reasons given in the preceding comment.

Sections 22-146.1 through 22-146.11, which constitute Chapter 8.1 of Title 22, "State Aid in Construction of School Buildings", should be repealed as obsolete.

Section 22-151.1, which relates to the maintenance of school buildings and grounds and the operation and maintenance of school buses, should be amended to substitute appropriate references to the new Constitution.

Section 22-156, which relates to fire precautions at schools, should be amended to delete the references to town and also to delete reference to the old Constitution.

Sections 22-161.1 through 22-161.5, which relate to referenda for the sale of school property, should be repealed as obsolete.

Section 22-189, which relates to the establishment of high schools, should be amended to require the establishment and maintenance of such schools as secondary schools within the scope of Article VIII, § 1 of the new Constitution.

Section 22-193, which relates to tuition charges for attending high schools, should be amended to flatly state that no tuition shall be charged for pupils of school age attending high schools.

Section 22-195, which relates to tuition in high schools in Norfolk, Hampton and Lexington, should be repealed.

Section 22-197, which relates to laboratory and other special high school fees, should be amended to comply with the requirements of Article VIII, §§ 5 and 7 permitting only one school board in each school division.

Section 22-221, which relates to white and colored persons and implements § 140 of the old Constitution, should be repealed as obsolete.

Section 22-234, which relates to the study of Virginia history and the United States Constitution, should be amended to delete inappropriate references to provisions of the old Constitution.

Section 22-307, which relates to free text books, should be deleted as inconsistent with the provisions of the new Constitution and other sections of the Code recommended for amendment in this report.

Section 22-315, which relates to the distribution of free text books, should be amended in the same manner and for the same reasons as is § 22-307.

Title 23—Educational Institutions

Sections 23-10 through 23-13, comprising Chapter 2 of Title 23, "Aid to Persons Denied Admission", should be deleted as obsolete.

Title 24.1—Elections

Section 24.1-29, which constitutes the basic statutory authority for the organization of county and city electoral boards, should be amended to change the reference therein to the oath required to be taken by election officials to that which is prescribed in Article II, § 7.

Section 24.1-33, which provides that certain persons holding other offices shall not be appointed members of an electoral board or registrar or judge of election, should be amended to conform the language thereof with that of the last paragraph of Article II, § 8.

Section 24.1-41, relating to persons who are entitled to vote at all general elections, should be amended to incorporate those changes made necessary by Article II, § 1, which reduces the period of residence required for one to vote in Virginia from one year to six months and which eliminates the requirement that one must live in a county, city or town six months in order to vote there. In addition, the last two sentences of § 24.1-41, relating, respectively, to the thirty-day period of residence required for voting in a new precinct and to voting in intervening primaries and special elections by one who is qualified with respect to age to vote at a next general election, should be modified to conform with the language of the last two paragraphs of Article II, § 1.

Section 24.1-42, relating to persons disqualified from registering and voting, should be amended to conform the language of the second sentence with that of Article II, § 1, wherein the generic term "felony" was substituted for the list of crimes contained in § 23 of the old Constitution.

Section 24.1-47, which prescribes who shall be registered, should be amended to allow a member of the armed forces of the United States in active service and his spouse to register by absentee application, pursuant to the provisions of Article II, § 4.

Section 24.1-48, which relates to applications for registration, should be amended to add a provision which would require that the absentee application for registration accompany the serviceman's application for absentee ballot and to provide that the closing of registration books thirty days before an election as required by § 24.1-50 not apply to absentee applications for registration by servicemen and their spouses. Attention is invited to Article II, § 4 of the Constitution, particularly paragraph two, which permits the General Assembly to provide for registration and voting by absentee application and ballot by members of the armed forces of the United States in active service and their spouses who are otherwise qualified to vote.

Section 24.1-81, which provides how the election of the Governor and the Lieutenant Governor shall be determined, should be rewritten to conform with the provisions of Article V, § 2.

Section 24.1-82, relating to the discharge of their duties when the offices of Governor and Lieutenant Governor become vacant, should be amended to provide for the succession to the office of Governor as provided by Article V, § 15.

Section 24.1-83, which provides for filling vacancies in the offices of Governor and Lieutenant Governor, should be repealed as it would be superseded by the provision of amended § 24.1-82.

Section 24.1-86, which relates to elections of county and city constitutional officers, should be amended to delete the reference to "city sergeant" and should be further amended to accommodate transition provisions, appearing elsewhere in the Code. Here attention is invited to elimination of the city sergeant as a constitutional officer and the substitution therefor of a city sheriff under the provisions of Article VII, § 4.

Sections 24.1-127 and 24.1-128, which relate to servicemen voting without registering, should be repealed. It should be observed that Article II, § 2, requires "all persons", including servicemen, to register as a prerequisite to voting, but that Article II, § 4, paragraph two, permits the General Assembly to provide for the absentee registration of members of the armed forces of the United States in active service and their spouses.

Section 24.1-152, which requires the State Board of Elections to open and record returns, should be amended to conform the provision for determining the election of the Governor, Lieutenant Governor and Attorney General with the provisions of § 24.1-81, as amended.

Section 24.1-154, which requires the State Board of Elections to meet and make statements as to the number of votes, should be amended to include the offices of Governor, Lieutenant Governor and Attorney General in those provisions requiring the results of elections to be determined by the State Board of Elections so as to conform with the provisions of § 24.1-81, as amended.

Section 24.1-167, which prescribes those persons entitled to have their names printed on ballots, should be amended to include the requirement that for a person to be a candidate he must have been a resident of the Commonwealth for one year, pursuant to Article II, § 5.

Section 24.1-182, which prescribes who may vote in primary elections, should be amended to include a reference to § 24.1-41, which section also would be amended with respect to persons qualified to vote pursuant to the provisions of Article II, § 1.

Section 24.1-183, which relates to the qualification of candidates in primary elections, should be amended to require that a candidate in a primary election be a resident of the Commonwealth for one year pursuant to the provisions of Article II, § 5.

Section 24.1-227, which provides when an absentee voter may vote, should be amended to require that members of the armed forces be duly registered as required by Article II, § 2.

Section 24.1-228, relating to applications for absentee ballots, should be amended to delete the language which permits servicemen not to be registered. See Article II, § 2.

Section 24.1-229, which relates to certain duties of the registrar and of the electoral board, also should be amended to delete the language which indicates that servicemen are not required to register. See Article II, § 2.

Title 25—Eminent Domain

Section 25-46.33, which relates to sheriffs removing forcible resistance to entry, should be amended to delete the words "or sergeant" to conform with the provisions of Article VII, § 4.

Section 25-52, which relates to the time for holding the election if revenue bonds are to be issued, should be amended to include counties as

well as cities pursuant to Article VII, § 10 and also to substitute "Article VII, § 10" for "§ 127, subsection (b)".

Section 25-173, which relates to the preparation of notice for personal service by clerks of courts, should be amended to delete the words "the sergeant" to conform with the provisions of Article VII, § 4.

Section 25-202, which relates to the powers of special investigators and appraisers in condemnation proceedings, should be amended by deleting the words "or sergeant" to comply with the provisions of Article VII, § 4.

Title 28.1—Fish, Oysters, Shellfish and Other Marine Life

Section 28.1-6, which relates to the Marine Resources Commission, should be amended to substitute "Article II, § 7" for "§ 34".

Title 30—General Assembly

Section 30-1, which prescribes the time and place of meetings of the General Assembly, should be amended to require annual sessions of the General Assembly instead of biennial sessions, as prescribed by Article IV, § 6.

Section 30-10, which authorizes legislative orders to compel the attendance of witnesses and other acts, should be amended to delete the word "sergeant", pursuant to the provisions of Article VII, § 4.

Section 30-13, which relates to certain duties of the Clerk of the House of Delegates and to the publication of proposed amendments to the Constitution, should be amended to conform with the legislative intent expressed in the amended provisions of the Constitution relating to amendments of the Constitution, found in Article XII, § 1. It should be observed that although the old Constitution and the Constitution proposed by the Constitutional Revision Commission both required that amendments "be published for three months previous to the time of such election" that language was deleted by the General Assembly and does not appear in the new Constitution. The Virginia Code Commission has interpreted the General Assembly's action in this instance to imply the necessity for removing from § 30-13 the following language: "The compliance by the Clerk of the House of Delegates with the foregoing provisions of this paragraph shall be conclusive evidence that such proposed amendment or amendments to the Constitution have been published as required by the Constitution. The Clerk of the House of Delegates shall also cause to be published monthly for three consecutive months in one daily newspaper published in the City of Richmond all proposed amendments to the Constitution, the first publication to be made at the time fixed by the Constitution for the commencement of the publication of all proposed amendments thereto." However, the Code Commission did not interpret the action of the General Assembly to imply an intent to remove all notice to the electorate of proposed Constitutional amendments and therefore has not deleted from its recommended text of revision of § 30-13 the requirement that proposed amendments be posted throughout the Commonwealth not later than three months prior to the election.

Section 30-14.2, relating to the re-enrollment of bills amended in accordance with recommendations of the Governor, should be amended to refer to Article IV, § 11 of the Constitution instead of to § 50, which refers to the old Constitution.

Section 30-19, which relates to amendment of the Constitution, should be amended to delete the requirement of publication of amendments to the Constitution and the insertion of the restriction, found in Article XII, § 1,

that amendments shall be submitted to the people "not sooner than ninety days after final passage".

Section 30-44, which relates to hearings by the Committee on Offenses Against the Administration of Justice, should be amended by deleting the word "sergeant" from the second sentence of the first paragraph. See, Article VII, § 4.

Section 30-46, which relates to the filing of interrogatories by the Committee on Offenses Against the Administration of Justice, should be amended by deleting the words "or sergeant". See, Article VII, § 4.

Section 30-47, which relates to attachment of books, records, photographs and writings by the Committee on Offenses Against the Administration of Justice, should be amended by deleting the words "or sergeant" from the second sentence of the second paragraph. See, Article VII, § 4.

Title 33.1—Highways, Bridges and Ferries

Section 33.1-92, which declares the acquisition of residue parcels of land to be in the public interest, should be amended by substituting reference to Article I, § 11, of the new Constitution for the reference to old § 58.

Section 33.1-355, which relates to excepted signs, advertisements and advertising structures, should be amended in paragraph (6) to substitute "telephone company, telegraph company" for "or transmission" company to conform with the deletion from the Constitution of any definition for "transmission company", which definition is found in § 153 of the old Constitution. Also see § 56.1-1 in this report.

Title 35—Hotels, Restaurants and Camps

Section 35-31, which relates to the closing of restaurants, should be amended by deleting the words "or sergeant" to comply with the provisions of Article VII, § 4.

Title 36—Housing

Chapter 4. These sections, numbered 36-70 through 36-85, are the provisions of Chapter 7, Title 12, without change, transferred to this location in Title 36 for placement in better context.

Title 37.1—Institutions for the Mentally Ill; Mental Health Generally

Section 37.1-71, which relates to transportation of persons certified for admission to hospitals for the mentally ill, should be amended to strike the references to city sergeants to conform with the provisions of Article VII, § 4.

Section 37.1-73, which relates to the detention of mentally ill persons in jail after certification, should be amended in the same manner and for the same reason as is § 37.1-71.

Section 37.1-74, which relates to the confinement of mentally ill persons, should be amended in the same manner and for the same reason as is § 37.1-71.

Section 37.1-75, which relates to persons certified for admission to hospitals for the mentally ill while in custody, should be amended in the same manner and for the same reason as is § 37.1-71.

Section 37.1-78, which relates to persons admitted voluntarily to hospitals for the mentally ill, should be amended in the same manner and for the same reason as is § 37.1-71.

Section 37.1-125, which relates to the bonds of persons to whom mentally ill persons are committed for custody, should be amended in the same manner and for the same reason as is § 37.1-71.

Section 37.1-130, which relates to committees for legally incompetent persons, should be amended in the same manner and for the same reason as is § 37.1-71.

Section 37.1-137, which relates to fiduciaries of legally incompetent persons, should be amended in the same manner and for the same reason as is § 37.1-71.

Title 38.1—Insurance

Section 38.1-54, which relates to hearings, witnesses, appearances and procedures, should be amended to refer to Title 12.1 rather than to Title 12 in the last sentence.

Section 38.1-60, which relates to violations, procedures and cease and desist orders, should be amended to refer to Title 12.1 rather than to Title 12.

Section 38.1-104, which relates to appeal from orders suspending or revoking licenses, should be amended to refer to Title 12.1 rather than to Title 12.

Section 38.1-133, which relates to powers of the Commission when authorized to rehabilitate or liquidate companies, should be amended to refer to Article IX, § 3 of the new Constitution rather than to § 156(e) of the old Constitution. Also, the reference to § 12-21 should be changed to § 12.1-34.

Section 38.1-279, which relates to appeals from final orders or decisions of the Commission, should refer to § 12.1-39 through § 12.1-41 rather than to § 12-63.

Section 38.1-379.1, which relates to the supervision and control of the Uninsured Motorists Fund by the State Corporation Commission, should be transferred from Title 12, (§§ 12-65, 66, 67) to Title 38.1, in which context it is more appropriate. This section, renumbered § 38.1-379.1, with §§ 38.1-379.2 and 38.1-379.3, would constitute a new article in Title 38.1 to be designated Article 3.1, "Uninsured Motorists Fund." Ordinarily, the Commission would suggest that this article follow, rather than precede, the article on Liability Insurance, but in this instance recommends a new Article 3.1 rather than a new Article 4.1 because of the technical difficulty and possibility for confusion of beginning a numbering sequence to follow a number of new sections which already have been tacked on to the end of Article 4. The text of all three of these sections would remain unchanged.

Section 38.1-379.2, which relates to distribution by the State Corporation Commission of the Uninsured Motorists Fund to insurance companies, is § 12-66, which should be transferred as indicated in the text above.

Section 38.1-379.3, which relates to rules and regulations of the State Corporation Commission relating to the Uninsured Motorists Fund, is § 12-67, which should be transferred as indicated in the foregoing text.

Section 38.1-765, which relates to the duties and powers of the Commission and judicial review, should be amended to change the internal section reference from § 12-63 so as to refer to §§ 12.1-39 through 12.1-41.

Title 39.1—Justices of the Peace

Section 39.1-7, which relates to who may be appointed a justice of the peace, should be amended to substitute "§ 5 of Article II" for "§ 32".

Title 43—Mechanics' and Certain Other Liens

Section 43-14.1, which relates to service of notices, should be amended to delete the words "or sergeant" to comply with the provisions of Article VII, § 4.

Section 43-34, which relates to the enforcement of certain liens, should be amended to delete the words "or sergeant" to comply with the provisions of Article VII, § 4.

Title 46.1—Motor Vehicles

Section 46.1-351.1, which relates to the seizure of vehicles upon certain arrests, should be amended to delete the words "sergeant of the" as those words appear in the first paragraph, to comply with the provisions of Article VII, § 4.

Section 46.1-351.2, which relates to proceedings concerning certain seized vehicles, should be amended to delete references to sergeants as those references appear to conform with the provisions of Article VII, § 4.

Title 49—Oaths, Affirmations and Bonds

Section 49-1, which relates to the form of general oath required of officers, should be amended to substitute the word "Commonwealth" for "State" in two places.

Title 54—Professions and Occupations

Section 54-118, which relates to the oath of office of members of the State Registration Board for Contractors, should be amended to substitute an appropriate reference to the new Constitution, i.e., "seven of Article II" in lieu of "section thirty-four".

Section 54-563, which relates to appeals from actions of the State Corporation Commission, should be amended to substitute reference to "section 4 of Article IX" of the new Constitution for "section one hundred and fifty six" of the old Constitution. The section should be further amended by deleting the language "for appeals from actions of the Commission prescribing rates, charges for classifications of traffic affecting transportation and transmission companies", so as to conform to the provisions of the new Constitution and proposed Title 12.1 relating to appeals from the State Corporation Commission.

Title 56-1—Public Service Companies

Section 56-1, which relates to Definitions, should be amended in several respects. The section contains many definitions which were taken verbatim from § 153 of the old Constitution. The suggested amendment conforms the definitions for "the Commission" and for "corporation" or "company" to similar definitions found in proposed § 12.1-1. Also, the new Constitution excludes "other political subdivisions" from the definition of "corporation".

The definition for "officers" technically means every employee of the Commission and has no present utility. No special definition is needed for "charter". The definition of "public service corporation" has been modernized and broadened to include air carriers.

The artificial definition for "transmission company" no longer has any utility and should be deleted. A definition for "transportation company," although artificial, must be retained in order to make clear that certain sections of Title 56 apply to railroad, express, ship, and boat companies, but not to air carriers and motor carriers. See especially Chapter 6 of Title 56 dealing with "transportation companies generally". Since canal companies and street railways no longer exist, it is unnecessary to include them in the definition of "transportation company."

Section 56-8.1, should be added to prohibit free services to members of General Assembly and others. Section 161 of the old Constitution imposes similar prohibitions on "transportation or transmission companies." Section 161 provides that companies which violate that section shall be liable for such penalties as may be prescribed by law. Apparently, no penalties have ever been prescribed. Section 161 further provides that the recipient of any such privilege or benefit "shall thereby forfeit his office."

The proposed section expends the prohibitions of Section 161 to include all public service corporations. Violators are subjected to fines rather than forfeiture of office.

Section 56-8.2, should be added to provide appeals in rate cases. This section is identical to recommended § 56-239 except that the term "public service corporation" is substituted for the term "public utility." Section 156(e) of the old Constitution provides that in appeals by transportation or transmission companies, no action of the Commission shall be delayed or suspended until the appealing company shall have first filed a suspending bond. The requirements of § 156(e) are extended to all "public utilities" by § 56-239. However, § 56-239 does not apply to railroads and other common carriers.

With repeal of the old Constitution, a new Code Section is required in order to preserve the provisions of § 156(e) in appeals by railroads. Since public utilities are already covered by § 56-239, the Committee believes that the new section should not be limited to merely railroads, but should apply to appeals by all public service corporations. As a practical matter, the effect of the proposed new § 56-8.2 is to extend the provisions of § 156(e) of the Constitution to appeals by motor carriers and air carriers.

Section 56-35, which relates to the regulation of rates and charges, was copied from Section 156(b) of the old Constitution. The reviser's note to the Code of 1919 said that this section was included "to obviate any question as to whether or not the constitutional provisions are self-executing." The provisions then applicable only to "transportation and transmission companies" are now equally applicable to all public service companies.

Section 56-36, which relates to the inspection of records and requires reporting of transportation and transmission companies, now applies only to telephone, telegraph, and transportation companies. Compare similar but not identical provisions for other public service companies found in §§ 5.1-92, 56-249, 56-276, and 56-479. In the general revision of the Code scheduled for next year, the Commission believes that consideration should be given to consolidating all of these sections into one section applicable to all public service companies.

Section 56-37, relating to special franchises granted by cities, towns and counties, should be amended to delete the cross-reference to § 12-54 which provides that "the authority of the Commission to prescribe rates, charges and classifications of traffic for transportation and transmission companies shall be paramount." See also, Section 156(b) of the old Constitution. In light of proposed new Title 12.1, the cross-reference is no longer necessary.

Section 56-38, which relates to adjustment of claims and controversies, should properly be expanded to include all public service companies. Compare present § 12-2—which apparently gives the Commission power to to settle controversies *sua sponte*.

Sections 56-41 and 56-42 should be repealed. They deal generally with supervision of transportation and transmission companies by the Commission. They are unnecessary in that their provisions are adequately covered by other sections of the Code.

Section 56-43, which relates to examination of transportation or transmission lines, although technically applicable to railroad, telephone, and telegraph lines, is presently appropriate only with respect to railroads and should be so amended. The words "the Constitution and by" should be stricken because the new Constitution will impose no fines or penalties. Compare Section 156(c) of the old Constitution.

Section 56-64, which relates to compliance with the Constitution, should be amended to relate to compliance with § 13.1-16. Section 167 of the old Constitution deals with stock statements and bond statements. With repeal of the old Constitution, the appropriate reference becomes § 13.1-16.

Section 56-97, which relates to long and short hauls, should be amended to delete reference to the Constitution. The constitutional reference is to Section 160 of the old Constitution and is no longer necessary.

Section 56-107, which relates to when reduction in rates or free carriage may be given, should be amended to delete the reference to the Constitution.

The constitutional prohibition referred to is now found in § 161, prohibiting transportation or transmission companies from giving free passes or reduced rates to members of the General Assembly, or to any State, county, district, or municipal officer. The substance of this constitutional prohibition will be preserved by proposed § 56-8.1. See page 62 below. Note that since the last paragraph of this section permits free passes to be given to "any other person", the first two paragraphs are really unnecessary.

Section 56-129, which relates to compelling companies to make repairs, additions and improvements, should be amended to conform with revised constitutional provisions.

Section 156(b) of the old Constitution requires ten days' notice. Article IX, § 3, of the new Constitution requires "reasonable" notice. The term "evidence" seems more appropriate than the term "witnesses." The reference to fines imposed by the Constitution is to § 156(c) and is no longer appropriate.

Section 56-239, which relates to appeals from actions of the Commission, should be amended to preserve the substance of § 156(e) of the Constitution. Compare proposed § 12.1-42. Section 156(e) of the Constitution provides that if a transportation or transmission company appeals from the Commission, the action of the Commission shall not be suspended "until a

suspending bond shall first have been executed, and filed with, and approved by, the commission (or approved on review by the Supreme Court of Appeals). . . ." Present § 56-239 extends this provision to public utilities generally.

Note that Section 156(e) appears to require the terms of the bond to be fixed in the first instance by the Commission. If the appeal is taken by a party in interest other than the public utility, then no bond is required under § 156(e) or under present § 56-239. In this event, the Committee believes that the order of the Supreme Court should provide for prompt refunding of all charges collected by the public utility in excess of those authorized by the final decision on appeal.

Section 56-240, which relates to proposed rates, should be amended to conform with Article IX, § 4, of the new Constitution.

Section 56-320, which relates to free passes or reduced rates, should be amended to delete the references to the Constitution and to § 12-6, which are no longer appropriate. See proposed § 56-8.1, supra.

Section 56-338.7, which relates to certain applicable laws, should be amended to refer to appropriate sections of Title 12.1 instead of to Title 12.

Section 56-338.17, which relates to notice to carriers, should be amended to conform to provisions of the new Constitution. See § 56-129 above.

Section 56-338.18, which relates to notice of general orders, rules, regulations or requirements, should be amended.

The elaborate publication requirements are now required by § 156(b) of the Constitution. Under the new Constitution, these requirements will no longer be necessary or desirable. Compare Article IX, § 3, of the new Constitution and proposed § 12.1-28. See also, comment to proposed § 12.1-28.

Section 56-338.37, which relates to notice to carriers, should be amended to substitute "reasonable notice" for "at least ten days" to conform with Article IX, § 3.

§ 56-338.38, which relates to notice of general orders, rules and regulations, should be amended to conform to Article IX, § 3.

Section 56-338.71, which relates to application of other provisions of law, should be amended to have the internal section references refer to Title 12.1 instead of Title 12.

Section 56-338.83, which relates to notice of orders not directed against specific carriers, should be amended to conform to Article IX, § 3.

Section 56-338.84, which relates to notice and hearings on orders not directed against specific carriers, should be amended to conform to Article IX, § 3.

Section 56-374, which relates to certain passing tracks and public sidetracks which are not to be abandoned, should be amended to have the internal section references refer to Title 12.1.

Section 56-457, should be deleted. This section requires the owner of any steamboat wharf to provide suitable accommodations which "shall consist of separate and noncommunicating rooms for the white and colored races. . . ." Governmental discrimination on the basis of race is now

unconstitutional under the Federal Constitution. Such discrimination also will be unconstitutional under Article I, § 11, of the new Virginia Constitution. The remainder of § 56-457 is obsolete.

Section 56-462, which relates to compliance with certain conditions by cities and towns, should be amended to delete the reference to the Constitution.

Title 58—Taxation

Section 58-8.1, which relates to the collection of delinquent taxes and the correction of erroneous assessments, should be added to prevent an inequitable forgiveness of delinquencies under the capitation tax, repeal of which is recommended by the Virginia Code Commission in this report.

Section 58-9, which relates to subjects of local taxation, should be amended to include "all taxable coal and other mineral lands" and to delete the words "by steam" to conform to the provisions of Article X, § 4.

Section 58-37, which relates to writs, processes and orders of the State Tax Commissioner, should be amended to delete the word "sergeant" in two places to conform with the provisions of Article VII, § 4.

Section 58-41, which relates to warrants for collection of taxes, should be amended to delete the word "sergeant" to conform with the provisions of Article VII, § 4.

Section 58-43, which relates to procedures after levy in tax cases, should be amended to delete the word "sergeant" to conform to Article VII, § 4.

Section 58-49, which imposes a State capitation tax, should be repealed. Although repeal is not required by the new Constitution, the old Constitutional mandate for such a tax is deleted, and the Acting State Tax Commissioner recommends the repeal of this tax.

Section 58-50, which relates to the lien of the capitation tax, should be repealed. See the comment for § 58-49.

Section 58-69, which relates to estates committed to a sheriff or sergeant, should be amended to delete the words "or sergeant" to conform with Article VII, § 4.

Section 58-181, which relates to the collection of inheritance taxes by warrant, should be amended to delete references to city sergeants to conform to Article VII, § 4.

Section 58-404.1, should be amended to substitute "Article X, § 1" for "§ 168".

Section 58-465.2, which defines "exempt institution", should be amended to substitute "Article X, § 6" for "§ 183."

Section 58-503.1, should be added to designate the State Corporation Commission as the central state agency to assess for taxation the real estate and tangible personal property of all public service corporations upon which the Commonwealth shall levy a state franchise, license, or other similar tax based upon or measured by its gross receipts or gross earnings, or any part thereof to comply with the provisions of Article X, § 2, the last paragraph of which provides that such assessments must be "by a central state agency, as prescribed by law".

Section 58-519, which relates to the state franchise tax, should be amended to substitute "§ 58-450" for "section one hundred and fifty-seven of the Constitution".

Section 58-540, which relates to erroneous assessments, should be repealed. It provides for appeals from erroneous assessments by the State Corporation Commission of public utility property to the Circuit Court of the City of Richmond. Article IX, § 4 of the proposed Constitution provides that all appeals from the Commission shall be only to the Supreme Court.

Section 58-541, which relates to the same general subject as § 58-540, should be repealed for the same reason given above in the comment to that section.

Section 58-597, which relates to the State franchise tax, should be amended to substitute "§ 58-450" for "§ 157 of the Constitution".

Section 58-603, which relates to the annual State franchise tax, should be amended by substituting "§ 58-450" for "section one hundred and fifty-seven of the Constitution".

Section 58-616, which relates to relief from erroneous assessments, should be repealed for the reasons given in the comment to § 58-540 above.

§ 58-617, which relates to writs of error, should be repealed for the same reasons given in the comment to § 58-540 above.

Section 58-672, which relates to applications to the Commission for review, should be amended to delete the words "transmission company" to conform with the deletion of the same words from the Constitution. See § 153 of the old Constitution. Also see proposed § 56.1-1 in this report.

Section 58-676, which relates to assessment appeals to the Circuit Court of Richmond, should be repealed for the reason given in the comment to § 58-540 above.

Section 58-677, which relates to assessment appeals, should be repealed for the reason given in the comment to § 58-540 above.

Section 58-679, which relates to appeals to the Supreme Court of Appeals, should be amended by deleting the words "described and included in §§ 58-512, 58-518, 58-556, 58-565, 58-570, 58-579, 58-581, 58-588, 58-607, 58-618, 58-616 and 58-667 and any other person, firm, association, company or corporation, other than railway and canal companies," to conform with the provisions of Article IX, § 4.

Section 58-684, which defines "district" and "public service corporation", should be amended to substitute "§ 56-1" for "section one hundred and fifty-three of the Constitution of Virginia".

Section 58-772, which relates to assessments of lots in subdivisions, should be amended to delete the words "under the provisions of §§ 15-779 to 15-794 or" and the word "other" as superfluous and also to substitute the word "law" for "§§ 58-1145 to 58-1151" at the end of the section to conform with the provisions of Article IX, § 4.

Section 58-804 should be amended to delete the obsolete language in subsections (b), (d) and (h) and should be further amended to delete from subsection (e) "under the provisions of §§ 15-779 to 15-794 [§§ 15.1-465 to 15.1-485]or" and "other" which constitute superfluous language.

Section 58-822, which relates to tax credits, should be amended to substitute "Article X, § 6" for "§ 183."

Section 58-823, which relates to land lists, should be amended to substitute "Article X, § 6" for "§ 183."

Section 58-824, which relates to proration of taxes, should be amended to substitute "Article X, § 6" for "§ 183."

Section 58-844, which relates to city and town levies, should be amended to delete the words ", not exempt by law from the payment of the State capitation tax," and substitution therefor of the words "not pensioned by this State for military services,".

Section 58-851.1, which relates to county capitation taxes, should be amended to substitute "not pensioned by this State for military services" for "and not exempt by law from the payment of the State capitation tax".

Section 58-864, which relates to assessments by the commissioner of the revenue, should be amended by deleting the words "and he shall also assess all persons of full age residing therein, except those pensioned by this State for military service", which language is obsolete.

Section 58-881, which relates to the arrangement and contents of property books, should be amended to delete from the third paragraph the words "the name of each person, twenty-one years of age or over, not pensioned by this State for military services, and a State poll tax of one dollar and fifty cents shall be assessed thereon against each such person, and", which language is made obsolete by the repeal of the poll tax and by the general language of Article X, § 2.

Section 58-956, which relates to removal of officers, should be amended to substitute "15.1-63 to 15.1-66" for "15-500 to 15-502".

Section 58-953, which relates to ouster proceedings against treasurers, should be amended to substitute "15.1-63 to 15.1-66" for "15-500 to 15-502".

Section 58-963.1, which relates to the postponement of the due date for taxes, should be amended by deleting the last sentence thereof, which refers to the old Constitution and is obsolete.

Section 58-973, which prescribes when treasurers shall pay State revenues into the State treasury, should be amended by substituting "15.1-63" for "15-500".

Section 58-978, which relates to uncollectible and delinquent tax lists, should be amended to delete the references to State capitation taxes in paragraphs (4) and (5).

Section 58-987, which permits the destruction of tax tickets, should be amended to delete "and after the expiration of four years from the date he certifies the list mentioned in paragraph (5) of § 58-978", which would be made obsolete by the repeal of the State capitation tax.

Section 58-988, which requires the transmittal of delinquent tax list to the Department of Taxation, should be amended to delete the references to subparagraph (5) of § 58-978 as obsolete with the repeal of the State capitation tax.

Section 58-989, which relates to the collection of delinquent local levies, should be amended to delete the reference to the collection of delinquent State capitation taxes. See the comments on §§ 58-49 and 58-50.

Section 58-991, which relates to the collection of delinquent local levies, should be amended to delete the references to sergeant to conform with the provisions of Article VII, § 4.

Section 58-1001, which relates to distraint for taxes, should be amended to delete "sergeant" to conform to Article VII, § 4.

Section 58-1003, which relates to the lease of real estate for the collection of taxes, should be amended to delete the word "sergeant" to conform to Article VII, § 4.

Section 58-1004, which relates to notice prior to such leasing, should be amended to delete "sergeant" to conform to Article VII, § 4.

Section 58-1005, which relates to fees of officers, should be amended to delete "sergeant" to conform to Article VII, § 4.

Section 58-1021, which relates to the limitation on suits for local capitation and tangible personal property taxes, should be amended to delete the constitutional reference therein.

Section 58-1086, which relates to application for the sale of lands purchased in the name of the Commonwealth, should be amended to delete the reference to "sergeant".

Section 58-1118, which relates to applications for the correction of State taxes, should be amended to delete the reference to the capitation tax.

Section 58-1141, which relates to the correction of local assessments, should be amended to delete reference to the State capitation tax.

Section 58-1162, which relates to certain omitted State taxes, should be amended to delete reference to the State capitation tax.

Section 58-1163, which relates to State capitation taxes, should be deleted. See the comments for §§ 58-49 and 58-50.

Title 59.1—Trade and Commerce

Section 59.1-92, which relates to appeals from final action of the Commission, should be amended to substitute reference to §§ 12.1-39 through 12.1-41 for the reference therein to § 12-63.

Title 64.1—Wills and Decedents' Estates

Section 64.1-114, which relates to persons erroneously supposed dead in pending actions, should be amended to substitute "Supreme Court" for "Supreme Court of Appeals."

Section 64.1-131, which relates to estates committed to a sheriff or sergeant, should be amended to delete references to "sergeants" to conform with Article VII, § 4.

Section 64.1-132, which relates to the disposition of property by a sheriff, should be amended to delete references to "sergeant" to conform with Article VII, § 4.

Title 65.1—Workmen's Compensation

Section 65.1-4, which defines "employee", should be amended to delete the reference therein to city sergeants to conform to Article VII, § 4.

Section 65.1-10, which relates to the Industrial Commission of Virginia, should be amended to refer to regular sessions of the General Assembly "convened in an even-numbered year" to maintain the same method and terms of appointment as heretofore. This change is made necessary by the provision in the new Constitution for annual sessions.

Section 65.1-13, which relates to the powers and duties of bailiffs of the Industrial Commission, should be amended to delete the words "or sergeant" to conform to Article VII, § 4.

Section 65.1-19, which relates primarily to service of process, should be amended to delete the reference to a city sergeant.

Section 65.1-93, which relates to compensation agreements, should be amended to change "Supreme Court of Appeals" to "Supreme Court."

Section 65.1-98, which relates to awards of the Industrial Commission, should be amended to refer to the "Supreme Court" instead of to the "Supreme Court of Appeals."

IV. SECTION TEXTS

§ 1-12. Commencement of statutes.—~~Every act of~~ *All laws enacted by the General* Assembly, except a general appropriation act, shall take effect ~~ninety days after the~~ *on the first day of the fourth month following the month of* adjournment of the session of the General Assembly at which it was enacted, *unless a subsequent date is specified or* unless in case of emergency, which emergency shall be expressed in the body of the ~~act~~ *bill*, the General Assembly shall otherwise direct by a vote of four-fifths of the members voting in each house. Such vote shall be taken by the ayes and noes, and the names of the members voting for and against entered on the journal. A general appropriation act shall take effect from its passage, unless another day for the commencement thereof be particularly mentioned in the act itself, and the day on which every act was approved by the Governor, or became a law without his approval, shall be noted in the publication next after the title thereof; and next after the last act published in each volume of the Acts of Assembly there shall be printed a certificate of the Clerk of the House of Delegates stating the date of the adjournment of the session or sessions of the General Assembly at which the acts printed in such volumes were enacted.

§ 1-13.2 City.—~~The word "city" shall be construed to mean an incorporated community, having within defined boundaries a population of five thousand or more or any incorporated community containing less than five thousand inhabitants which had a city charter at the time of the adoption of the Constitution of 1902.~~ *The word "city" shall be construed to mean an independent incorporated community which has within defined boundaries a population of five thousand or more and which has become a city as provided by law.*

§ *1-13.5:1. Court of Record.—Trial courts of general jurisdiction, appellate courts, and such other courts as shall be so designated by law shall be known as "courts of record". The words "Courts of Record" shall be construed to embrace corporation courts, hustings courts, chancery courts, law and equity courts, law and chancery courts and circuit courts.*

§ 1-13.21. Personal Representative.—The words "personal representative" shall be construed to include the executor of a will or the administrator of the estate of a decedent, the administrator of such estate with the will annexed, the administrator of such estate unadministered by a former representative, whether there be a will or not, a sheriff~~, sergeant~~ or other officer who is under the order of a court of probate to take into his possession the estate of a decedent and administer the same, and every other curator or committee of a decedent's estate, for or against whom suits may be brought for causes of action which accrued to or against the decedent.

§ 1-13.26. State.—The word "state," when applied to a part of the United States, shall be construed to extend to and include *the several commonwealths therein,* the District of Columbia and the several territories so-called.

§ *1-13.27:1. The Supreme Court of Appeals.—The words "Supreme Court of Appeals" shall be construed to mean the Supreme Court as provided for in Article VI of the Constitution.*

§ 1-13.29. Town.—~~The word "town" shall be construed to mean an incorporated community not having a city charter at the time of adoption of the Constitution of 1902, containing within defined boundaries a population of less than five thousand.~~ *The word "Town" shall mean any existing town or an incorporated community within one or more counties which*

has within defined boundaries a population of one thousand or more and which has become a town as provided by law.

§ 1-13.38. Compliance with ~~Sec. 52~~ *Article IV, § 12,* of the Constitution in certain cases; ratification, etc., of certain references.—It shall be deemed a sufficient compliance with ~~Sec. 52~~ *Article IV, § 12,* of the Constitution if, in any bill introduced in the General Assembly or enacted by it, the title and other portions of such bills refer to the act, or to the section involved, by the section number given the same by the Code Commission pursuant to law and set forth in the appropriate volume, replacement volume or supplement of the Code of Virginia; provided, however, that this shall not apply if the title of any such bill or act is not otherwise in compliance with ~~Sec. 52~~ *Article IV, § 12,* of the Constitution. All references to such section numbers given by the Code Commission pursuant to law are hereby ratified, validated and confirmed.

§ 1-13.41. References to prior Constitution.—Whenever there appears in any statute in effect at noon on July one, nineteen hundred seventy-one a reference to any section, article or provision of the Constitution of Virginia in effect immediately prior to such time, such reference shall be construed to apply to the comparable section, article or provision, if such there be, of the Constitution of Virginia then in force; but such construction shall not apply if it clearly would be contrary to the legislative intent giving rise to such statute.

Chapter 4.1

Judicial Inquiry And Review

ARTICLE I

GENERAL PROVISIONS

§ 2.1-37.1. Definitions and application.—As used in this chapter, "Commission" means the Judicial Inquiry and Review Commission provided for in Section 10 of Article VI of the Constitution, "subordinate courts of record" means all courts of record except the Supreme Court, and "judge" means a justice of the Supreme Court, judge of a subordinate court of record, judge of a court not of record, member of the State Corporation Commission, or a member of the Industrial Commission of Virginia, all of whom shall be subject to investigations and proceedings under the provisions of this chapter.

§ 2.1-37.2. Jurisdiction of the Supreme Court.—In addition to the jurisdiction conferred on the Supreme Court by Section 1 and Section 10 of Article VI of the Constitution, to conduct hearings and impose sanctions upon the filing by the Commission of complaints against justices of the Supreme Court, judges of other courts of record, and members of the State Corporation Commission, the Supreme Court by virtue of this act shall have the same jurisdiction, to be exercised in the same manner, upon the filing by the Commission of complaints against all other judges as defined herein.

§ 2.1-37.3. Creation; membership and terms of office.—There is hereby created a Judicial Inquiry and Review Commission, composed of five persons who shall be citizens and residents of this Commonwealth. The members of the Commission shall be chosen by the vote of a majority of the members elected to each house of the General Assembly. The Commission, annually, shall elect one of its members to be Chairman of the Commission for the ensuing year.

The Commission shall consist of two judicial members, who shall be active judges of subordinate courts of record: two lawyer members, who shall be active members of the Virginia State Bar who are not judges and who have practiced law in this State for fifteen years immediately preceding their appointment; and one public member who shall not be an active or retired judge and shall never have been a licensed lawyer; provided that, after the Commission has been originally constituted, the public member to be chosen shall be one of three eligible persons who shall have been nominated for such office by the judicial and lawyer members of the Commission.

The term of office of each member shall be four years commencing on July first, except that the initial terms commencing on July first, nineteen hundred and seventy-one shall be as follows: the term of one lawyer member shall be one year; the term of the public member shall be two years; the term of one judicial member shall be two years; the term of one lawyer member shall be three years; and the term of one judicial member shall be four years. No member of the Commission shall be eligible to serve more than two consecutive terms.

Commission membership terminates whenever a member resigns or ceases to possess the qualifications that made him eligible for appointment. During any vacancy which may exist while the General Assembly is not in session, the Governor may appoint a successor to serve until thirty days after the commencement of the next session of the General Assembly. Upon election of a successor by the General Assembly, the new member of the Commission shall serve for the remainder of the term of office of his predecessor.

Any member of the Commission who is the subject of an investigation or hearing by it or is otherwise personally involved therein shall be disqualified by the Commission from acting in such proceedings. In such a case the Governor shall appoint a person possessing the original qualifications of such member as prescribed by this section to serve temporarily as a substitute member of the Commission in such proceedings.

§ 2.1-37.4. Powers and duties of Commission.—The Commission is hereby vested with the power, and it shall be its duty, to investigate charges which would be the basis for retirement, censure, or removal of a judge under Section 10 of Article VI of the Constitution and the provisions of this chapter.

The Commission, after such investigation as it deems necessary, may order and conduct hearings at such times and places in the State as it shall determine.

If the Commission finds the charges to be well-founded, and sufficient to constitute the basis for retirement, censure, or removal of a judge, it may file a formal complaint before the Supreme Court.

§ 2.1-37.5. Powers to make rules.—The Commission shall have the authority to make rules, not in conflict with the provisions of this chapter or of general law, to govern investigations and hearings conducted by it.

§ 2.1-37.6. Concurrence of majority in acts of Commission.—No act of the Commission shall be valid unless concurred in by a majority of its members.

§ 2.1-37.7. Officers and employees; experts and reporters; witnesses; legal counsel.—The Commission may employ such officers,

assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred upon it, may arrange for and compensate medical and other experts and reporters, may arrange for attendance of witnesses, including witnesses not subject to subpoena, and may pay from funds available to it all expenses reasonably necessary for effectuating the purposes of Section 10 of Article VI of the Constitution and the provisions of this chapter, whether or not specifically enumerated herein. The Attorney General shall, if requested by the Commission, act as its counsel generally or in any particular investigation or proceeding.

The Commission may employ special counsel from time to time when it deems such employment necessary, notwithstanding the provisions of Section 2.1-122 of the Code of Virginia, as amended.

§ 2.1-37.8. Expenses.—Each member of the Commission shall be allowed his necessary expenses for travel, board, and lodging incurred in the performance of his duties. The two judicial members shall not receive any compensation for their services, but the public member and the two lawyer members shall each receive compensation of fifty dollars per diem for each day of his attendance upon any meeting of the Commission. These and all other necessary expenses of the Commission shall be paid by the Commonwealth.

Article II

INVESTIGATIONS AND HEARINGS

§ 2.1-37.9. Oaths; inspection of books and of records; subpoenas. —In the conduct of investigations and formal hearings, the Commission may (a) administer oaths and affirmations; (b) order and otherwise provide for the inspection of books and records; and (c) issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and other records or tangible evidence relevant to any such investigation or formal hearing.

The power to administer oaths and affirmations, to issue subpoenas, or to make orders for or concerning the inspection of books and records may be exercised by any member of the Commission, unless the Commission shall otherwise determine.

§ 2.1-37.10. Scope of process of the Commission.—In any investigation or formal proceeding in any part of the State, any process issued pursuant to the provisions of Section 2.1-37.9 shall be effective throughout the Commonwealth.

§ 2.1-37.11. Order compelling witness to attend and testify.—If any person refuses to attend or testify or produce any writings or things required by any such subpoena, the Commission may petition any court of record in the Commonwealth for an order compelling such person to attend and testify or produce the writings or things required by the subpoena before the Commission. The court shall order such person to appear before it at a specified time and place and then and there show cause why he had not attended or testified or produced the writings or things as required. A copy of the order shall be served upon him. If it appears to the court that the subpoena was regularly issued, the court shall order such person to appear before the Commission at the time and place fixed in the order and testify or produce the required writings or things. Upon failure to obey the order, such person shall be dealt with as for contempt of court.

All process in any such case may be served in the manner prescribed by law for service of process in civil actions.

§ 2.1-37.12. Depositions.—In any pending investigation or formal hearing, the Commission may order the deposition of a person residing within or without the State to be taken in such form and subject to such limitations as may be prescribed in the order. If the subject judge and counsel for the Commission do not stipulate as to the manner of taking the deposition, either the judge or counsel for the Commission may file in a trial court of record a petition entitled "In the Matter of Proceeding of Judicial Inquiry and Review Commission No. ..... (state number)" and stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and directions, if any, of the Commission, asking that an order be made requiring such person to appear and testify before a designated officer. Upon the filing of the petition, the court may make an order requiring such person to appear and testify. A subpoena for such deposition shall be issued by the clerk of the court and the deposition shall be taken and returned, in the manner prescribed by law for depositions in civil actions. If the deposition is that of a person residing or present within this State, the petition shall be filed in the court of record of the county or corporation in which such person resides or is present; otherwise in the Circuit Court of the City of Richmond.

§ 2.1-37.13. Confidentiality.—All papers filed with and proceedings before the Commission, including all testimony and other evidence and any transcript thereof made by a reporter, shall be confidential and shall not be divulged by any person to anyone except the Commission, except that the record of any proceeding filed with the Supreme Court shall lose its confidential character. However, if the Commission shall find cause to believe that any witness under oath has wilfully and intentionally testified falsely, the Commission may direct the Chairman or one of its members to report such finding and the details leading thereto including any transcript thereof to the Commonwealth's Attorney of the city or county where such act occurred for such disposition as to a charge of perjury as the Commonwealth may be advised. In any subsequent prosecution for perjury based thereon, the proceedings before the Commission relevant thereto shall lose their confidential character.

All records of proceedings before the Commission which are not filed with the Supreme Court in connection with a formal complaint filed with that tribunal, shall be kept in the confidential files of the Commission.

Any person who shall divulge information in violation of the provisions of this section shall be guilty of a misdemeanor.

§ 2.1-37.14. Privilege.—The filing of papers with and the giving of testimony before the Commission shall be privileged, except where such filing of papers or giving of testimony is motivated or accompanied by actual malice. No other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the Commission with the Supreme Court, in support of a formal complaint filed therewith, continues to be privileged and (b) a writing which was privileged before its filing with the Commission does not lose such privilege by such filing.

§ 2.1-37.15. Witness fees; mileage.—Each witness, other than an officer or employee of the Commonwealth or a political subdivision thereof, or an officer or an employee of a court of this Commonwealth, shall receive for his attendance the same fees and all witnesses shall

receive the same mileage allowed by law to a witness in civil cases. The amount shall be paid by the Commission from funds appropriated for the use of the Commission.

§ 2.1-37.16. Costs.—No award of costs shall be made in any proceeding before the Commission or the Supreme Court.

ARTICLE III

CO-OPERATION OF PUBLIC OFFICERS AND AGENCIES

§ 2.1-37.17. Assistance and information.—State and local public bodies and departments, officers and employees thereof, and officials and attaches of the Courts of this Commonwealth shall co-operate with and give reasonable assistance and information to the Commission and any authorized representative thereof, in connection with any investigations or proceedings within the jurisdiction of the Commission.

§ 2.1-37.18. Service of process; execution of orders.—It shall be the duty of the sheriffs and constables in the several counties, cities, and towns, upon request of the Commission or its authorized representative, to serve process and execute all lawful orders of the Commission or entered by the court at its request without costs therefor.

§ 2.1-118. Official opinions of Attorney General.—The Attorney General shall give his advice and render official opinions in writing only when requested in writing so to do by one of the following: The Governor; a member of the General Assembly; a judge of a court of record or a justice of the peace or trial justice; the State Corporation Commission; an attorney for the Commonwealth; a county attorney in those counties in which such office has been created; a clerk of a court of record; a city or county sheriff ~~or city sergeant~~; a city or county treasurer or similar officer; a commissioner of the revenue or similar officer; a chairman or secretary of an electoral board; the head of a State department, division, bureau, institution or board. Except in cases where such opinion is requested by the Governor or a member of the General Assembly the Attorney General shall have no authority to render an official opinion unless the question dealt with is directly related to the discharge of the duties of the official requesting same.

§ 2.1-153. Election and Compensation.—The Auditor of Public Accounts shall be elected by the joint vote of the two houses of the General Assembly, *for the term of four years,* as provided in ~~Sec. 82~~ *Article IV, § 18* of the Constitution, and he shall receive such compensation as may be appropriated by law for the purpose.

§ 2.1-177. Department of the Treasury; State Treasurer.—The Department of the Treasury is continued with the same powers, functions and duties as existed immediately prior to ~~the repeal of Title two.~~ *Noon of July one, Nineteen hundred seventy-one.* The State Treasurer shall be in direct charge of the Department of the Treasury. *The State Treasurer shall be appointed by the Governor, subject to confirmation by the General Assembly, for a term coincident with that of the Governor.*

§ 2.1-257. Printing and distribution of Acts of Assembly.—The Director shall cause to be printed, as soon as approved by the Governor, not in excess of five thousand copies of the acts and joint resolutions of the General Assembly. As printing progresses a sufficient number, approximately nine hundred copies, shall be stapled in sections of approximately two hundred pages each for distribution as advance sheets of the Acts of Assembly and shall be distributed promptly as follows:

One copy to each member of the General Assembly;
Five copies to the clerk of each house;
One copy to each head of a department;
Six copies to the Division of Statutory Research and Drafting;
Six copies to the Attorney General;
One copy to each judge of a county or municipal court, and one copy to each judge, attorney for the Commonwealth, clerk of a court of record of this State, and clerk of the council of a city in this State, and
Five copies to the State Corporation Commission.

The remainder he shall have bound in ordinary half binding, with the index and tables required by law to be printed with the acts and joint resolutions of the General Assembly, and as soon as practicable after the close of each session of the General Assembly, shall deliver:

One copy to the Governor;
One copy to each head of department;
Ten copies for the use of the Division of Statutory Research and Drafting plus the number required for exchange with other states;

And he shall forward by mail, express, or otherwise:

One copy to each member of the General Assembly; however, each member of the General Assembly may obtain up to four additional copies upon application therefor to the Department of Purchases and Supply;
Two copies to each judge;
Five copies to the State Corporation Commission;
Six copies to the Attorney General;
One copy to each clerk of any court, attorney for the Commonwealth, sheriff, ~~sergeant,~~ treasurer, commissioner of the revenue, judge of a county or a municipal court, board of supervisors and school board, the Reporter of the Supreme Court of Appeals, the library of each educational institution in this State that maintains a library, each public library, each judge and clerk of any court held in this State under the laws of the United States and each attorney and marshal in this State holding office under the United States;
Five copies to the State Library;
Five copies to the State Law Library;
One copy to each university and college in this State;
One copy to each member of the State Hospital Board;
One copy to the School for the Deaf and the Blind;
Five copies to the Clerk of the Senate for the use of the Senate;
Five copies to the Clerk of the House of Delegates for the use of the House;
Three copies to the Auditor of Public Accounts;
Three additional copies to the Comptroller; and
One copy to the county attorney in those counties which have created the office of the county attorney.

§ 2.1-303. ~~Governor may effect temporary loans~~ *Governor may contract debts.*—~~The Governor shall have authority to raise, from time to time, by temporary loans, so much as may be needed to supply the wants at the State treasury, to be refunded by warrants of the Comptroller within twelve months from the time when such loans are made.~~ *The Governor shall have the authority to contract debts, and to issue obligations in evidence thereof upon such terms and conditions as the Governor shall determine, to meet casual deficits in the revenue or in anticipation of the collection of revenues of the Commonwealth for the then current fiscal year within the amount of authorized appropriations, subject to the limitations and conditions of Article X, § 9 (a) (2) of the Constitution.*

The Governor may sell such obligations in such manner, either at public or private sale, and for such price as he may determine to be for the best interests of the Commonwealth.

§ 2.1-316. Proceedings for seizure of forged or counterfeit obligations, bonds or coupons of State; indemnity to officers.—Whenever such officials, clerks or employees shall be informed, or shall have good reason to believe, that any person or corporation within the limits of the State, shall have in his possession or control any forged or counterfeit obligations, bonds or coupons, then upon a petition of the Comptroller to the Circuit Court of the city of Richmond, verified by the affidavit of any of the aforesaid officers, clerks or employees, setting forth such possession of such obligations, bonds or coupons, the court or judge thereof in vacation, shall direct the ~~sergeant or~~ sheriff of any city~~,~~ ~~town~~ or county of the Commonwealth to seize, attach and forthwith return such obligations, bonds or coupons to the court, which court shall, after the expiration of ninety days from the return, direct such obligations, bonds or coupons to be destroyed, unless within ninety days from the return thereof the claimant, holder or such person having the same in possession at the time of attachment and seizure, shall appear and take steps to establish the genuineness of the same.

Such officers, clerks or employees shall be exonerated and held harmless from all personal liability for any act or conduct done in good faith under the provisions of this section.

§ 2.1-345. Agencies to which chapter inapplicable.—The provisions of this chapter shall not be applicable to deliberations of standing and other committees of the General Assembly, provided that when bills or other legislative measures are considered in executive or closed meetings of such committees, final votes thereon shall be taken in open meetings; unless such action is in conflict with the rules of the body of the General Assembly considering such bills or other legislative matters, under the provisions of ~~Sec. 47~~ *Article IV, § 7,* of the Constitution of Virginia; legislative interim study commissions and committees, including the Virginia Code Commission; the Virginia Advisory Legislative Council and its committees; study committees or commissions appointed by the Governor; meetings of committees of the State Board of Education and committees appointed by the State Board of Education which are held for the purpose of making recommendations to the State Board of Education; boards of visitors or trustees of state-supported institutions of higher education; parole boards; petit juries; grand juries; and study commissions or committees appointed by the governing bodies of counties, cities and towns, provided that no committee or commission appointed by such governing bodies, the membership of which consists wholly of members of such governing body, shall be deemed to be study commissions or committees under the provisions of this section.

§ 3.1-8. Appointment, etc.—There shall be a Commissioner of Agriculture and ~~Immigration~~ *Commerce,* in this title hereinafter sometimes referred to as the Commissioner, who shall be appointed ~~for the term and in the manner provided in Sec. 145 of the Constitution of Virginia~~ *by the Governor, subject to confirmation by the General Assembly, for a term coincident with that of the Governor.* He shall be vested with such powers and duties as are herein set out, and such other powers and duties as may be prescribed by law. Any vacancy in the office of the Commissioner shall be filled by appointment by the Governor ~~for the unexpired term~~ *pursuant to the provisions of Article V, § 10, of the Constitution.*

§ 4-4. Members and officers of Control Board.—(a) The Board shall consist of three members appointed by the Governor, subject to

confirmation by the General Assembly, for a term of five years each, to run from the expiration of the respective terms of the present members, except appointments to fill vacancies which shall be for the unexpired terms. The Governor shall designate one of the members of the Board chairman thereof. The Board, under rules adopted by itself, may elect one of its members chairman pro tempore and another or some other person as secretary. Two members of the Board shall constitute a quorum.

(b) Each member of the Board shall receive a salary to be fixed by the Governor and not to exceed the sum of seventy-five hundred dollars per annum.

(c) Members of the Board may be suspended or removed by the Governor for cause, and shall also be subject to impeachment under the provisions of ~~section fifty-four~~ *Article IV, § 17,* of the Constitution of Virginia.

(d) Each member of the Board shall, before entering upon the discharge of his duties, take and subscribe the oath of office required by ~~section thirty-four~~ *Article II, § 7,* of the Constitution of Virginia, and give bond payable to the Commonwealth, in form approved by the Attorney General, in such penalty as shall be fixed from time to time by the Governor, with some surety or guaranty company duly authorized to do business in Virginia and approved by the Governor as security, conditioned upon the faithful discharge of his duties. The premium of such bonds shall be paid by the Commonwealth and the bonds shall be filed with and preserved by the Comptroller.

(e) Each member of the Board shall devote his full time to the performance of his official duties.

§ 4-56. Search, seizure and forfeiture of conveyances or vehicles used in violation of law; disposition of beverages; arrests.—(a) *Search, seizure and delivery to sheriff ~~or sergeant~~.*—Where any officer charged with the enforcement of the alcoholic beverage laws of this State shall have reason to believe that alcoholic beverages, illegally acquired, or that alcoholic beverages being illegally transported, are, in any conveyance or vehicle of any kind, either on land or on water (except a conveyance or vehicle owned or operated by a railroad, express, sleeping or parlor car or steamboat company, other than barges, tugs or small craft), it shall be the duty of such officer to obtain a legal search warrant and search such conveyance or vehicle, and if such illegally acquired alcoholic beverages or alcoholic beverages being illegally transported in amounts in excess of one quart be found therein, he shall seize the same, and shall also seize and take possession of such conveyance or vehicle and deliver the same and the alcoholic beverages so seized, to the sheriff of the county, or ~~the sergeant of the~~ city in which such seizure was made, taking his receipt therefor in duplicate.

(b) *Arrests.*—The officer making such seizure shall also arrest all persons found in charge of such conveyance or vehicle and shall forthwith report in writing, of such seizure and arrest, to the attorney for the Commonwealth for the county or city in which such seizure and arrest were made.

(c) *Notice to Commissioner of Division of Motor Vehicles; duties of Commissioner.*—If the conveyance so seized be a motor vehicle required by the motor vehicle laws of Virginia to be registered, the attorney for the Commonwealth shall forthwith notify the Commissioner of the Division of Motor Vehicles, by letter, of such seizure and the motor number of the

vehicle so seized, and the Commissioner shall promptly certify to such attorney for the Commonwealth the name and address of the person in whose name such vehicle is registered, together with the name and address of any person holding a lien thereon, and the amount thereof. The Commissioner shall also forthwith notify such registered owner and lienor, in writing, of the reported seizure and the county or city wherein such seizure was made.

The certificate of the Commissioner, concerning such registration and lien shall be received in evidence in any proceeding, either civil or criminal, under any provision of this chapter, in which such facts may be material to the issue involved.

(d) *Proceedings by attorney for the Commonwealth.*—Within thirty days after receiving notice of any such seizure, the attorney for the Commonwealth shall file, in the name of the Commonwealth, an information against the seized property, in the clerk's office of the circuit court of the county, or of the corporation court of the city, wherein the seizure was made. Should the attorney for the Commonwealth, for any reason, fail to file such information within such time, the same may, at any time within twelve months thereafter, be filed by the Attorney General, and the proceedings thereon shall be the same as if it had been filed by the attorney for the Commonwealth.

Such information shall allege the seizure, and set forth in general terms the grounds for forfeiture of the seized property, and shall pray that the same be condemned and sold and the proceeds disposed of according to law, and that all persons concerned or interested be cited to appear and show cause why such property should not be condemned and sold to enforce the forfeiture.

The owner of and all persons in any manner then indebted or liable for the purchase price of the property, and any person having a lien thereon, if they be known to the attorney who files the information, shall be made parties defendant thereto, and shall be served with the notice hereinafter provided for, in the manner provided by law for serving a notice, at least ten days before the day therein specified for the hearing on the information, if they be residents of this State; and if they be unknown or nonresidents, or cannot with reasonable diligence be found in this State, they shall be deemed sufficiently served by publication of the notice once a week for two successive weeks in some newspaper published in such county or city, or if none be published therein, then in some newspaper having general circulation therein, and a notice shall be sent by registered mail of such seizure to the last known address of the owner of such conveyance or vehicle.

(e) *Bond to secure possession.*—If the owner or lienor of the seized property shall desire to obtain possession thereof before the hearing on the information filed against the same, such property shall be appraised by the clerk of the court where such information is filed.

The sheriff of the county or ~~the sergeant of the~~ city in which the trial court is located shall promptly inspect and appraise the property, under oath, at its fair cash value, and forthwith make return thereof in writing, to the clerk's office of the court in which the proceedings are pending, upon the return of which the owner or lienor may give a bond payable to the Commonwealth, in a penalty of the amount equal to the appraised value of the conveyance or vehicle plus the court costs which may accrue, with security to be approved by the clerk, and conditioned for the performance of the final judgment of the court, on the trial of the

information, and with a further condition to the effect that, if upon the hearing on the information, the judgment of the court be that such property, or any part thereof, or such interest and equity as the owner or lienor may have therein, be forfeited, judgment may thereupon be entered against the obligors on such bond for the penalty thereof, without further or other proceedings against them thereon, to be discharged by the payment of the appraised value of the property so seized and forfeited and costs, upon which judgment, execution may issue, on which the clerk shall endorse, "no security to be taken." Upon giving of the bond, the property shall be delivered to the owner or lienor.

(f) *Appearance by claimant.*—Any person claiming to be the owner of such seized property, or to hold a lien thereon, may appear at any time before final judgment of the trial court, and be made a party defendant to the information so filed, which appearance shall be by answer, under oath, in which shall be clearly set forth the nature of such defendant's claim, whether as owner or as lienor, and if as owner, the right or title by which he claims to be such owner, and if lienor, the amount and character of his lien, and the evidence thereof; and in either case, such defendant shall set forth fully any reason or cause which he may have to show against the forfeiture of the property.

(g) *Jury trial finding for claimant.*—If such claimant shall deny that illegally acquired alcoholic beverages or alcoholic beverages being illegally transported in amounts in excess of one quart were in such conveyance or vehicle at the time of the seizure thereof, and shall demand a trial by jury of the issue thus made, the court shall, under proper instructions, submit the same to a jury of five, to be selected and empanelled as prescribed by law, and if such jury shall find on the issue in favor of such claimant, or if the court, trying such issue without a jury, shall so find, the judgment of the court shall be to entirely relieve the property from forfeiture, and no costs shall be taxed against such claimant.

(h) *Rights of innocent owner.*—If, on the other hand, the jury, or the court trying the issue without a jury, shall find against the claimant, or if it be admitted by the claimant that the conveyance or vehicle at the time of the seizure contained illegally acquired alcoholic beverages or alcoholic beverages being illegally transported in amounts in excess of one quart, nevertheless, if it shall appear to the satisfaction of the court that such claimant, if he claims to be the owner, was the actual bona fide owner of the conveyance or vehicle at the time of the seizure, that he was ignorant of such illegal use thereof, and that such illegal use was without his connivance or consent, express or implied, and that such innocent owner has perfected his title to the conveyance or vehicle, if it be a motor vehicle, if application for the title is made ten days prior to its seizure or within ten days from the time it was acquired, the court shall relieve the conveyance or vehicle from forfeiture and restore it to its innocent owner, and the costs of the proceedings shall be paid by the Commonwealth as now provided by law.

Where it is shown to the satisfaction of the court that the conveyance or vehicle for the forfeiture of which proceedings have been instituted was stolen from the person in possession, relief shall be granted the owner or lienor, either or both, and the costs of the proceedings shall be paid by the Commonwealth as now provided by law.

(i) *Rights of innocent lienor.*—If any such claimant be a lienor, and if it shall appear to the satisfaction of the court that the owner of the conveyance or vehicle has perfected his title to the conveyance or vehicle if it be a motor vehicle, prior to its seizure, or within ten days from the time it

was acquired, and that such lienor was ignorant of the fact that such conveyance or vehicle was being used for illegal purposes, when it was so seized, that such illegal use was without such lienor's connivance or consent, express or implied, and that he held a bona fide lien on such property and had perfected the same in the manner prescribed by law, prior to such seizure (if such conveyance or vehicle be an automobile the memorandum of lien on the certificate of title issued by the Commissioner of the Division of Motor Vehicles on the automobile shall make any other recordation of the same unnecessary), the court shall, by an order entered of record establish the lien, upon satisfactory proof of the amount thereof; and if, in the same proceeding, it shall be determined that the owner of the seized property was himself in possession of the same, at the time it was seized, and that such illegal use was with his knowledge or consent, the forfeiture hereinbefore in this section declared, shall become final as to any and all interest and equity which such owner, or any other person so illegally using the same, may have in such seized property, which forfeiture shall be entered of record. In the last mentioned event, if the lien established is equal to or more than the value of the conveyance or vehicle, such conveyance or vehicle shall be delivered to the lienor, and the costs of the proceedings shall be paid by the Commonwealth as now provided by law; if the lien is less than the value of the conveyance or vehicle, the lienor may have the conveyance or vehicle delivered to him upon the payment of the difference. Should the lienor not demand delivery as aforesaid, an order shall be made for the sale of the property by the sheriff of the county, or ~~sergeant of the~~ city, as the case may be, in the manner prescribed by law, out of the proceeds of which sale shall be paid, first, the lien, and second, the costs; and the residue, if any, shall be paid into the Literary Fund.

(j) *Sale of forfeited property.*—If, however, no valid lien is established against the seized property, and upon the trial of the information, it shall be determined that the owner thereof was himself using the same, at the time of the seizure, and that such illegal use was with his knowledge or consent, the property shall be completely forfeited to the Commonwealth, and an order shall be made for the sale of such property by the sheriff of the county or ~~sergeant of the~~ city, as the case may be, in the manner prescribed by law; provided, however, that failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the Board authorizing the transportation of alcoholic beverages within, into or through, the State when the regulations of the Board applicable to such transportation otherwise have been complied with shall not be cause for the forfeiture of such conveyance or vehicle. Out of the proceeds of such sale shall be paid the cost, and the residue shall be paid into the literary fund.

(k) *Contraband beverages.*—In every case, the alcoholic beverages so seized shall be deemed contraband as provided in § 4-53 and disposed of accordingly; provided, however, that failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the Board authorizing the transportation of alcoholic beverages within, into or through the State when the regulations of the Board applicable to such transportation otherwise have been complied with shall not be cause for deeming such alcoholic beverages contraband.

(l) *Expenses taxed as costs.*—In all cases, the actual expense incident to the custody of the seized property, and the expense incident to the sale thereof, including commissions, shall be taxed as costs.

(m) *Beverages not licensed under this chapter.*—The provisions of this section shall not apply to alcoholic beverages which may be manufactured and sold without any license under the provisions of this chapter.

§ 5.1-33. Public purpose declared.—Any lands, easements or privileges acquired, owned, controlled or occupied by any cities, incorporated towns and counties of the Commonwealth under the provisions of this article are hereby declared to be acquired, owned, controlled or occupied for a public purpose, and as a matter of public necessity; and such lands, easements and privileges so acquired, owned, controlled or occupied are hereby declared to be acquired, owned, controlled or occupied for public, governmental and municipal purposes, and to be within the definition of property acquired for a public ~~use~~ *uses* as such term is used in ~~Sec. 58~~ *Article I, § 11,* of the Constitution of Virginia.

§ 5.1-77. Air carriers to collect service fee from each emplaning passenger; when fee not to be collected.—Every person, firm or corporation engaged in this State, whether in interstate or intrastate operations, in the carrying of passengers by aircraft for hire, as defined in paragraphs (c), (d), (e) or (f) of § ~~56-142~~ *5.1-89* of the Code of Virginia, hereinafter in this chapter referred to as an air carrier, that uses in connection with such business an airport constructed, operated and maintained, for the commercial use of aircraft, shall collect a service fee of one dollar from each originating passenger emplaning upon its aircraft at any such airport. In the event the imposition of the fee pursuant to this section is held inapplicable to passengers emplaning for interstate travel, the fee herein imposed shall not be collected from any other passengers.

§ 5.1-125. Complaints; action of Commission thereon or on own initiative.—Any person, State board, organization, or body politic may make complaint in writing to the Commission that any rate, fare, charge, classification, rule, regulation, or practice of any common carrier or restricted common carrier by aircraft, in effect or proposed to be put into effect, is or will be in violation of §§ ~~56-176 to 56-179, or 56-188~~ *5.1-121 to 5.1-124, or 5.1-133*. Whenever after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of the opinion that any individual or joint rate, fare, or charge, demanded, charged, or collected by any common carrier or restricted common carrier by aircraft or by any common or restricted common carrier by aircraft in conjunction with any common carrier by railroad, motor vehicle, express and/or water, or any classification, rule, regulation or practice whatsoever of such carrier affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum rate, fare, or charge thereafter to be observed, or the lawful classification, rule, regulation, or practice thereafter to be made effective.

§ 5.1-136. Free passes or reduced rates.—No air carrier subject to the provisions of this chapter shall, directly or indirectly, issue or give any free ticket, free pass or free transportation for passengers, but nothing in this section shall apply (1) to the carriage, storage or handling of property free or at reduced rates, when such rates have been authorized or prescribed by the Commission for the United States, State or municipal governments, or for charitable purposes or to or from fairs and expositions for exhibition thereat, or (2) to the free carriage of homeless and destitute persons and the necessary agents employed in such transportation, or (3) to mileage, excursion or commutation passenger tickets.

Nor shall anything in this section be construed to prohibit any air carrier from giving reduced rates or free passage to ministers of religion,

or regular traveling secretaries of the Young Men's Christian Association or Young Women's Christian Association, whose duties require regular travel in supervising and directing Young Men's Christian or Young Women's Christian Association work, secretaries of duly organized religious work, or to indigent persons, or to inmates of the Confederate homes or State homes for disabled soldiers and sailors, or to disabled soldiers and sailors, including those about to enter, and those returning home after discharge; nor from giving free carriage to its own officers, employees, and members of their families, representatives of the press and members of the Department of State Police or to any other person or persons to whom the giving of such free carriage is not *otherwise* prohibited by the ~~Constitution of Virginia~~ *law*; nor to prevent the principal officers of any air carrier from exchanging passes or tickets with other air carriers of any rail, motor vehicle, steamship, or electric railway companies for their officers, employees and members of their families~~, nor from giving or furnishing free transportation to the members, officers and employees of the Commission as provided for in Sec. 12-6~~.

§ 8-1.2. Rules of Court to appear in Code and supersede conflicting statutes.—The Virginia Code Commission is directed to include the rules adopted by the Supreme Court ~~of Appeals~~, effective February one, nineteen hundred fifty, and all subsequent amendments, in the Code of Virginia, and cause them to be properly indexed and annotated.

The rules so adopted and as from time to time amended shall ~~supersede all statutory provisions in conflict therewith,~~ *be superseded by any general law that may be established from time to time by the General Assembly,* provided that no such rule shall operate to restrict or abridge any right provided by § 30-5 of the Code of Virginia.

No statutory provision which has been superseded by any rule adopted by the Supreme Court before July one, nineteen hundred seventy-one, shall be deemed to have been revived, nor shall any rule of the Supreme Court which was in effect on July one, nineteen hundred seventy-one, be deemed to have been rescinded, revoked, or repealed, solely by virtue of the provisions of Article VI, § 5 of the Constitution of Virginia.

§ 8-581.1. Commissioners to determine compensation for property taken or damaged.—Whenever it is determined in a declaratory judgment proceeding that a person's property has been taken or damaged within the meaning of ~~Sec. 58~~ *Article I, § 11* of the Virginia Constitution and compensation has not been paid or any action taken to determine the compensation within sixty days following the entry of such order or decree, the court which entered the order or decree may, upon petition of such person after reasonable notice to the adverse party, enter a further order appointing commissioners to determine the compensation. The appointment of commissioners and all proceedings thereafter shall be governed by the procedure prescribed for such condemning authority.

§ 8-653. Notice to be given cities and towns of claims for damages for negligence.—No action shall be maintained against any city or town for injury to any person or property or for wrongful death alleged to have been sustained by reason of the negligence of the city or town, or of any officer, agent or employee thereof, unless a written statement by the claimant, his agent, attorney or representative of the nature of the claim and of the time and place at which the injury is alleged to have occurred or been received shall have been filed with the city attorney or town attorney, or with the mayor, or chief executive, within sixty days after such cause of action shall have accrued, except that when the claimant is an infant or non compos mentis, or the injured party dies within such sixty days,

such statement may be filed within one hundred and twenty days, or if the complainant be compos mentis during the said sixty-day period but is able to establish by a clear and convincing evidence that due to the injury sustained for which a claim is asserted that he was physically or mentally unable to give such notice within the sixty-day period, then the time for giving notice shall be tolled until the claimant sufficiently recovers from said injury so as to be able to give such notice; and statements pursuant to this section shall be valid, notwithstanding any contrary charter provision of any city or town.

This section as amended shall take precedence over the provisions of all charters and amendments thereto of municipal corporations in conflict herewith heretofore granted. It is further declared that as to any such future charter or amendment thereto that any provision therein in conflict with this section as amended shall be deemed to be invalid as being in conflict with ~~Sec. 52~~ *Article IV, § 12* of the Constitution unless such conflict be stated in the title to such proposed charter or amendment thereto by the words "conflicting with § 8-653 of the Code" or substantially similar language.

§ 9-107. Commission established; membership; appointment; terms; vacancies; officers; members not disqualified from holding other offices; expenses; meetings; reports.—(a) There is hereby established a Law Enforcement Officers Training Standards Commission, hereinafter called "the Commission," in the Executive Department. The Commission shall be composed of sixteen members, as follows: One member from the Senate of Virginia appointed by the President of the Senate for a term of four years; two members from the House of Delegates appointed by the Speaker of the House for terms of two years; the following appointments by the Governor: ~~Three~~ *Four* sheriffs representing the Virginia State Sheriffs' and City Sergeants' Association from among names submitted by the Association; one ~~city sergeant~~ *such sheriff* representing ~~the Virginia State Sheriffs' and City Sergeants' Association from among names submitted by the Association~~ *a city and the balance from counties throughout the Commonwealth;* three representatives of the Chiefs of Police Association from among names submitted by the Association; the superintendent of Virginia State Police or another member of the Virginia State Police, whom the superintendent may designate; one member of the Federal Bureau of Investigation; one Commonwealth's attorney representing a political subdivision with a population of less than fifty thousand people; one Commonwealth's attorney representing a political subdivision with a population of more than fifty thousand people; the Attorney General or an Assistant Attorney General whom the Attorney General may designate; and one representative of higher education.

(b) The members of the Commission appointed by the Governor shall serve for terms of four years; provided that no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Notwithstanding anything in this chapter to the contrary, the terms of members initially appointed to the Commission by the Governor upon its establishment shall be: Seven for three years, and six for four years. The Governor, at the time of appointment shall designate which of the terms are respectively for three and four years. Any vacancy on the Commission shall be filled in the same manner as the original appointment, but for the unexpired term.

(c) The Governor annually shall designate the chairman of the Commission, and the Commission annually shall select its vice-chairman. The chairman and vice-chairman shall be designated and selected from among the members of the Commission.

(d) Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Commission shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

(e) Members of the Commission shall serve without compensation, but shall be entitled to receive reimbursement for any actual expenses incurred as a necessary incident to such service.

(f) The Commission shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Commission.

(g) The Commission shall report biennially to the Governor and General Assembly on its activities, and may make such other reports as it deems desirable.

§ 12.1-1. Definitions.—As used in this title, the term *"corporation"* or *"company"* shall mean all corporations created by acts of the General Assembly of Virginia, or under the general incorporation laws of this State, or doing business therein, and shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the State; and the term *"the Commission"* shall mean the State Corporation Commission.

§ 12.1-2. State Corporation Commission.—There shall be a permanent commission known as the State Corporation Commission which shall have the powers and duties prescribed by law and by Article IX of the Constitution.

§ 12.1-3. Seal of the Commission.—The Commission shall have and use a common seal, to consist of a circular die with the coat-of-arms of Virginia and the title "State Corporation Commission" stamped upon the face of the die, and shall have power to affix such seal to any paper, record, or document when necessary for the purpose of authentication, and such seal, when so affixed to any paper, record, or document emanating from the Commission or its clerk's office, shall have the same force and effect for authentication as the seal of any court of record in this State.

§ 12.1-4. Annual report of the Commission.—On or before the thirtieth day of June of each year, the Commission shall make an annual report to the Governor as of the thirty-first day of December of the preceding year and shall mail a copy to each member of the General Assembly at the time of the mailing. The Commission may from time to time include in such annual reports recommendations for new or additional legislation pertaining to matters within its jurisdiction.

§ 12.1-5. Offices; notice, writ or process; where public sessions may be held.—The offices of the Commission shall be located, and its public sessions held, in the city of Richmond, and all notices, writs and processes issued by the Commission shall be made returnable to, and command the corporation or person against whom directed to appear before the Commission and answer on a certain day to be named therein; but the Commission may, in its discretion, if public necessity or the convenience of the parties require, hold public sessions elsewhere in the State, and may order any notice, writ, or process to be made returnable to the place of any such session; and for the holding of any such session the Commission may occupy the courtroom of the courthouse of the city or county wherein such session may be held, if such courtroom shall not at the time be in use for the sessions of the court of any such city or county.

§ 12.1-6. Election or appointment of members; terms.—The Commission shall consist of three members. Members of the Commission shall be elected by the joint vote of the two houses of the General Assembly for regular staggered terms of six years. At the regular session of the General Assembly convened in each even-numbered year, one commissioner shall be elected for a regular six-year term to begin on the first day of February of such year.

Whenever a vacancy in the Commission shall occur or exist when the General Assembly is in session, the General Assembly shall elect a successor for such unexpired term. If the General Assembly is not in session, the Governor shall forthwith appoint pro tempore a qualified person to fill the vacancy for a term ending thirty days after the commencement of the next regular session of the General Assembly, and the General Assembly shall elect a successor for such unexpired term.

The Governor shall commission each of the members of the Commission and shall file his commission in the office of the clerk of the Commission.

§ 12.1-7. Chairman.—The Commission shall annually elect one of its members chairman for a one-year term commencing on the first day of February of each year.

§ 12.1-8. Quorum of members.—A majority of the commissioners shall constitute a quorum for the exercise of judicial, legislative, and discretionary functions of the Commission, whether there be a vacancy in the Commission or not, but a quorum shall not be necessary for the exercise of its administrative functions.

§ 12.1-9. Eligibility and qualification of members.—No person shall be eligible to serve as a member of the Commission unless at the time of his election or appointment he is a qualified voter under the Constitution and laws of this State. At least one member of the Commission shall have the qualifications prescribed for judges of courts of record.

§ 12.1-10. Prohibited conflicts of interests.—The members of the Commission and its subordinates and employees shall not, directly or indirectly, own any securities of, have any pecuniary interest in, or hold any position with any corporation whose rates, services, or financial ability to meet its obligations to the public are subject to supervision or regulation by the Commission; nor shall any such person engage in the private practice of law.

This section shall not prevent any such person from being a policyholder in any insurance company or from being a depositor in any bank, savings and loan association, or similar institution.

Any member of the Commission who violates this section may be censured or removed from office in the manner provided by Article VI, § 10, of the Constitution. Any subordinate or employee of the Commission who violates this section may be removed from office by the Commission.

§ 12.1-11. Failure to qualify.—Any person elected or appointed to be a member of the Commission shall qualify by taking and subscribing the oath required by Article II, § 7, of the Constitution. If any member shall fail to so qualify within thirty days after the commencement of his term of office, such office shall become vacant.

§ 12.1-12. Powers and duties of the Commission.—Subject to such requirements as may be prescribed by law, the Commission shall be the department of government through which shall be issued all charters, and amendments or extensions thereof, of domestic corporations and all

licenses of foreign corporations to do business in this State. Except as may be otherwise prescribed by law, the Commission shall be charged with the duty of administering the laws made for the regulation and control of corporations doing business in this State. Subject to such criteria and other requirements as may be prescribed by law, the Commission shall have the power and be charged with the duty of regulating the rates, charges, services, and facilities of all public service companies as defined in § 56-1 of this Code. The Commission shall in proceedings before it insure that the interests of the consumers of the Commonwealth are represented, unless the General Assembly otherwise provides for representation of such interests. The Commission shall have such other powers and duties as may be prescribed by law.

§ 12.1-13. Commission to have powers of a court of record.—In all matters within the jurisdiction of the Commission, it shall have the powers of a court of record to administer oaths, to compel the attendance of witnesses and the production of documents, to punish for contempt, and to enforce compliance with its lawful orders or requirements by adjudging and enforcing by its own appropriate process such fines or other penalties as may be prescribed or authorized by law.

In the administration and enforcement of all laws within its jurisdiction, the Commission shall have the power to promulgate rules and regulations, to impose and collect such fines or other penalties as are provided by law, to enter appropriate orders, and to issue temporary and permanent injunctions.

Whenever no fine or other penalty is specifically imposed by statute for the failure of any such person to comply with any provision of law or with any valid rule, regulation, or order of the Commission, the Commission may impose and collect from such person a fine in an amount not to exceed five hundred dollars in the case of an individual, and in the case of a corporation not to exceed five thousand dollars.

§ 12.1-14. Commission's power to impose penalties does not relieve from other penalties.—The penalties which the Commission is authorized by law to impose on any person shall not be construed to relieve such person from any other penalties which may be authorized by law.

§ 12.1-15. Power to compromise and settle.—The Commission shall have power and authority in any matter, claim, or charge within its jurisdiction, under any provision of law heretofore or hereafter enacted, to compromise or settle any matter, claim, or charge, either by or in a formal proceeding, or informally, whether any proceeding shall have been instituted or not, and the Commission shall have the power and authority to dismiss any proceeding which is pending and in which a compromise or settlement is effected without making a formal record of such compromise or settlement, in its sound judicial discretion.

The power and authority of the Commission to make compromises and settlements hereby conferred shall extend to its jurisdiction to impose fines and penalties under any provision of law heretofore or hereafter enacted.

Nothing herein contained, however, shall be construed to authorize or empower the Commission to effect any compromise or settlement involving the payment of money into the treasury without some record or memorandum of such compromise or settlement in the clerk's office of the Commission.

§ 12.1-16. Delegation to employees and agents; Commissioner of Banking and Commissioner of Insurance.—In the exercise of the powers

and in the performance of the duties imposed by law upon the Commission with respect to insurance and banking, the Commission may delegate to such employees and agents as it may deem proper such powers and require of them, or any of them, the performance of such duties as it may deem proper. The employee or agent who is placed by the Commission at the head of the bureau or division through which it administers the banking laws shall be designated "Commissioner of Banking", and the employee or agent who is placed by the Commission at the head of the bureau or division through which it administers the insurance laws shall be designated "Commissioner of Insurance", and they and all deputies, agents, and employees used in such bureau or division shall be appointed by the Commission.

§ 12.1-17. Deposits of money.—All moneys received by the Commission in the course of its duties shall be paid promptly to the State Treasurer or deposited promptly in banks designated by the State Treasurer to the credit of the State Treasurer.

Fees paid by domestic and foreign corporations shall be receipted for by the clerk of the Commission. The receipt of the clerk of the Commission for fees paid shall have the force and effect of a certificate by the State Treasurer that such fees have been paid into the treasury of Virginia.

§ 12.1-18. Subordinates and employees.—The Commission shall appoint a clerk, a first assistant clerk, a bailiff, all necessary heads and assistant heads of divisions and bureaus, and such other subordinates and employees as may be necessary to the proper discharge of its duties, all of whom shall serve at the pleasure of the Commission.

§ 12.1-19. Duties of the clerk; records; certified copies.—The clerk of the Commission shall:

(1) Keep a minute book in which shall be recorded all the proceedings, orders, findings, and judgments of the public sessions of the Commission, and the minutes of the proceedings of each day's public session shall be read and approved by the Commission and signed by its chairman, or acting chairman;

(2) Subject to the supervision and control of the Commission, have custody of and preserve all of the records, documents, papers, and files of the Commission, or which may be filed before it in any complaint, proceeding, contest, or controversy, and such records, documents, papers, and files shall be open to public examination in the office of the clerk to the same extent as the records and files of the courts of this Commonwealth;

(3) When requested, make and certify copies from any record, document, paper, or file in his office, and if required, affix the seal of the Commission thereto, and, except when made at the instance of the Commission or on behalf of the Commonwealth, he shall charge and collect the fees fixed by § 13.1-124; and any such copy, so certified, shall have the same faith, credit, and legal effect as copies made and certified by the clerks of the courts of this Commonwealth from the records and files thereof;

(4) Certify all allowances made by the Commission to be paid out of the public treasury for witness fees, service of process, or other expenses;

(5) Issue all notices, writs, processes or orders awarded by the Commission, or authorized by law, or by the rules of the Commission;

(6) Receive all fines and penalties imposed by the Commission, all moneys collected on judgments, all registration fees required by law to be paid by corporations, and all fees collected by the Commission, and shall keep an accurate account of the same and what disposition has been made thereof, together with all fees collected by him, and shall, at least once in every thirty days during his term of office, render a statement of all such receipts and collections to the Comptroller, and pay the same into the treasury of the Commonwealth, and shall keep all such other accounts of such collections and disbursements, and shall make all such other reports thereof as may be required by law or by the regulations prescribed by the Comptroller; and

(7) Generally have the powers, discharge the functions, and perform the duties of a clerk of a court of record in all matters within the jurisdiction of the Commission.

§ 12.1-20. Facts to be certified by clerk upon request; signing and sealing; fees.—The clerk of the Commission shall, when requested, certify any one or more of the following facts:

(1) That a named domestic corporation is organized and existing under and by virtue of the laws of Virginia and is in good standing. By "in good standing" is meant that the corporation has paid all registration fees and franchise taxes due from it and that an annual report delivered by it to the Commission has been filed by the Commission within the preceding fourteen months.

(2) That a named foreign corporation of a named state is authorized to do business in Virginia.

(3) That a named domestic corporation has been dissolved, together with the date of dissolution and the reason for the dissolution.

(4) That a named domestic corporation has filed a statement of intent to dissolve, together with the date thereof, and whether or not voluntary dissolution proceedings have been revoked.

(5) That a named domestic corporation that was automatically dissolved has been reinstated, together with the dates thereof.

(6) That a named foreign corporation of a named state is not authorized to do business in Virginia; and, if it was previously authorized to do business in Virginia, the date when it ceased to be so authorized, and the reason therefor.

(7) That a name alleged or supposed to be the name of a corporation is not the name of a domestic corporation or of a foreign corporation authorized to do business in Virginia.

(8) The names and addresses of the officers and directors of a corporation contained in its annual report of a particular date.

(9) The name and address of the registered agent and registered office of a corporation, together with the date of his appointment.

(10) The name and address of a former registered agent and registered office of a corporation, together with the date of his appointment and the date when the corporation filed a statement appointing a new registered agent.

(11) That a particular security has or has not been registered for sale in Virginia pursuant to the provisions of the Securities Act.

(12) That a statement or other document required or permitted by

law to be filed in the office of the clerk of the Commission has not been filed in his office.

(13) The existence or nonexistence of any other fact appearing from the official records of the Commission, unless the disclosure of such fact is forbidden by law.

The certificate shall be signed by the clerk or the first assistant clerk or an assistant clerk and shall be sealed with the seal of the Commission. When so sealed, the certificate shall be admitted in evidence in all cases, civil and criminal, as prima facie evidence of the facts contained in it.

Except as otherwise provided in § 12.1-21 below, the clerk shall charge and collect a fee of three dollars for each certificate. If a certificate requires more than two pages, there shall be an additional fee of one dollar for each page in excess of two.

§ 12.1-21. Fees to be charged by clerk for certain certificates.—When a request made under § 12.1-19(3) or 12.1-29 relates to the Uniform Commercial Code, the fees shall be:

(1) For making and certifying a copy of an original financing statement or a subsequent statement, the fee shall be three dollars for the certificate and one dollar for each page of the statement. All statements filed against the same debtor at a specified mailing address or addresses may be included in one certificate.

(2) For certifying that no statements are on file against a specified debtor, the fee shall be three dollars. Such certificate shall not be issued unless the person requesting it specifies the debtor by name and mailing address.

(3) For certifying a list of the file numbers of original financing statements on file against a specified debtor (specified by name and mailing address), the fee shall be three dollars, plus one dollar for each file number.

(4) Each request for a certificate under the three preceding paragraphs or for information that could be included in such a certificate shall be accompanied by a fee of three dollars for searching the records. If the clerk notifies the applicant that the requested certificate cannot be issued or that the records do not disclose the requested information, the fee shall not be returned. If a certificate is issued, the fee paid for searching the records shall be credited on the fee for the certificate.

If the seal of the Commission is required to be affixed, an additional fee of one dollar shall be charged and collected. If the seal is not to be affixed, the certificate may be signed with a rubber stamp bearing the facsimile signature of the clerk, and no fee shall be charged therefor.

No action shall be brought against the Commission or any member of its staff claiming damages for alleged errors or omissions in any certificate.

§ 12.1-22. Duties and powers of first assistant clerk.—The first assistant clerk of the Commission shall have the powers, discharge the functions, and perform the duties, in all matters within the jurisdiction of the Commission, of a deputy clerk of a court of record, and shall perform as well the duties of the clerk of the Commission during the absence of the clerk, and, in case of the death, resignation, incapacity, or removal from office of the clerk, he shall be the acting clerk of the Commission until the vacancy in the office of the clerk shall be filled.

§ 12.1-23. Duties and powers of bailiff.—The bailiff of the Commis-

sion shall, in all matters within the jurisdiction of the Commission, have the powers, discharge the functions, and perform the duties of a sheriff or sergeant under the law. He shall preserve order during the public sessions of the Commission, and may make arrests and serve and make return on any writ or process awarded by the Commission, and execute any writ, order, or process of execution awarded upon the findings or judgments of the Commission in any matter within its jurisdiction.

§ 12.1-24. Bonds of members of staff.—The Commission may obtain one or more blanket bonds covering members of its staff conditioned for the faithful and lawful performance of their official duties. The surety shall be a surety company authorized to transact business in Virginia. A member of the staff of the Commission who is covered by a blanket bond to the extent of twenty thousand dollars shall not be required to furnish a separate bond.

§ 12.1-25. Rules of practice and procedure.—The Commission shall prescribe its own rules of practice and procedure not inconsistent with those made by the General Assembly. Such rules shall be printed and entered upon the records of the Commission. Copies of such rules shall be furnished to county and city clerks and to any citizen of this State who makes application therefor.

§ 12.1-26. Public sessions.—The sessions of the Commission for the hearing of any complaint, proceeding, contest, or controversy instituted or pending before it, whether of its own motion or otherwise, shall be public, and its findings, decisions, and judgments shall be announced and rendered in public session. The Commission may, by its rules, provide for the number of its regular public sessions in each year, the time of their commencement, their duration, and for their adjournment; and may also provide for extra or special public sessions when, in its judgment, such extra or special public sessions may be necessary or required. The Commission shall hold at least one regular public session in every three months in each year.

§ 12.1-27. Commonwealth to be complainant, etc.—In all complaints, proceedings, contests, or controversies by or before the Commission instituted by the Commonwealth or by the Commission of its own motion, the Commonwealth shall be complainant, and the party against whom the complaint is preferred, or the proceeding instituted, shall be the defendant. Any party complainant or defendant in any complaint, proceeding, contest, or controversy shall be entitled to process, to convene parties, compel the attendance of witnesses, or the production of books, papers, and documents in any proceeding or hearing before the Commission.

§ 12.1-28. Notice and hearing.—Before promulgating any general order, rule, or regulation, the Commission shall give reasonable notice of its contents and shall afford interested persons having objections thereto an opportunity to present evidence and be heard. For so long as any such general order, rule, or regulation shall remain in force, it shall be published in each subsequent annual report of the Commission.

Before the Commission shall enter any finding, order, or judgment against any person, it shall afford such person reasonable notice of the time and place at which he shall be afforded an opportunity to introduce evidence and be heard.

§ 12.1-29. Writs and process.—All writs, processes, and orders of the Commission shall run in the name of the Commonwealth, and shall be attested by its clerk, and shall be directed to its bailiff, and may be served, executed, and returned by the said bailiff, in any city or county of this State,

or by the sheriff, or any constable, of any city or county in this State within his bailiwick. All writs, notices, processes, or orders of the Commission may be served, executed, and returned in like manner and upon like persons or property as the processes, writs, notices, or orders of the courts of record of this Commonwealth, and when so served, executed, and returned shall have the like legal effect.

§ 12.1-30. Rules of evidence to be as in courts of record.—The Commission, on hearing of all complaints, proceedings, contests or controversies, in which it shall be called upon to decide or render judgment in its capacity as a court of record, shall observe and administer the common and statute law rules of evidence as observed and administered by the courts of the Commonwealth.

§ 12.1-31. Hearing examiners.—The Commission may appoint by written order hearing examiners, whose duties shall be defined in such order and who shall have all the inquisitorial powers and the right to require the appearance of witnesses and parties now possessed by the Commission. Hearing examiners may make either special investigations and reports for the information of the Commission, or, if so directed in such order, may conduct the hearing of any complaint, taking testimony upon such notice as is required and subject to the rules for taking depositions in chancery causes, which testimony shall be reduced to writing. Hearing examiners shall report their findings to the Commission, and file the testimony taken by them therewith. The recommendations of such examiners shall be advisory only, and shall not preclude the Commission from taking further testimony.

§ 12.1-32. Costs, fees, and expenses.—The authority of the Commission with respect to costs, fees, and expenses shall be the same as that of courts of record of this State.

§ 12.1-33. Fine for disobedience of Commission orders.—Any person failing or refusing to obey any order or any temporary or permanent injunction of the Commission may be fined by the Commission such sum, not exceeding five hundred dollars, as the Commission may deem proper; and each day's continuance of such failure or refusal shall be a separate offense. Should the operation of such order be suspended pending an appeal therefrom, the period of such suspension shall not be computed against the person in the matter of his liability to fines or penalties.

§ 12.1-34. Punishment for contempt.—The Commission shall have the power to punish for contempt by fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both, any person duly summoned to appear and testify before the Commission who shall fail or refuse to appear and testify, without lawful excuse, or who shall refuse to answer any proper question propounded to him by the Commission in the discharge of its duty or who shall conduct himself in a rude, disrespectful, or disorderly manner before the Commission or any of the commissioners deliberating in the discharge of duty in public session. Any person punished for contempt by imprisonment may be committed by the Commission to the jail of any city or county of this State. The jailer thereof shall receive such person upon the commitment of the Commission attested by its clerk, and shall confine such person for the term of imprisonment specified in the commitment. The jailer shall receive for the board of any person so committed the same allowance made by law for other persons confined in such jail.

§ 12.1-35. Judgments to be in favor of Commonwealth.—All judgments of the Commission shall be entered in favor of the Commonwealth

and when collected shall be paid by the clerk of the Commission into the treasury of Virginia.

§ 12.1-36. Time judgment takes effect; interest.—The judgments of the Commission for fines or penalties, or for the recovery of money, shall take effect as of the date thereof, and when allowed by the Commission, the judgment shall bear interest from that date.

§ 12.1-37. Lien of judgment; docketing.—The judgments of the Commission for the recovery of money, fines, or penalties shall be a lien on the real estate of the judgment debtor when duly docketed and indexed in the judgment lien docket, as the judgments of courts of record are required by law to be docketed and indexed, in the county or city in which the real estate of the judgment debtor is located, and the lien of any such judgment may be enforced in equity before any court having jurisdiction. The clerks of the courts of the several cities and counties shall docket all such judgments on the lien docket of their respective courts when a copy thereof, certified by the clerk of the Commission, shall be presented for that purpose.

§ 12.1-38. Concurrent jurisdiction of Commission and courts.—Nothing in this title or in Title 56 of this Code shall be construed to take away or impair the jurisdiction of any court of this Commonwealth to hear and determine any proceeding, suit or motion of which it has jurisdiction, for the enforcement of any fine or penalty against any corporation under the laws of this State, but the powers and jurisdiction of the Commission to hear, determine and enforce such fines and penalties shall be construed to be concurrent.

§ 12.1-39. Appeals from actions of the Commission.—The Commonwealth, any party in interest, or any party aggrieved by any final finding, order, or judgment of the Commission shall have, of right, an appeal to the Supreme Court only.

No other court of the Commonwealth shall have jurisdiction to review, reverse, correct, or annul any action of the Commission or to enjoin or restrain it in the performance of its official duties, provided, however, that the writs of mandamus and prohibition shall lie from the Supreme Court to the Commission.

The Commission shall, whenever an appeal is taken therefrom, file in the record of the case a statement of the reasons upon which the action appealed from was based.

§ 12.1-40. Method of taking and prosecuting appeals.—All appeals from the State Corporation Commission shall be taken and perfected, and the clerk of the Commission shall make up and transmit the record on appeal, within four months from the date of the finding, order, or judgment appealed from. The method of taking and prosecuting any appeal from the Commission shall be as provided by the rules of the Supreme Court.

§ 12.1-41. Petitions for writs of supersedeas.—Upon petition of the Commonwealth, any party in interest, or any party aggrieved, the Supreme Court may award a writ of supersedeas to any final finding, order, or judgment of the Commission. Any such petition shall be presented within four months from the date of such final finding, order, or judgment.

§ 12.1-42. Suspension by Commission; bond.—If the Commission elects to suspend execution of a judgment, order, or decree pending an appeal, it may require a suspending bond payable to the Commonwealth with such conditions, in such penalty, and with such surety thereon as the Commission may deem sufficient. Any such suspending bond shall be enforced in the name of the Commonwealth before the Commission or

before any court having jurisdiction, and the process and proceedings thereon shall be as provided by law upon bonds of like character required to be taken by courts of record of this State.

§ 12.1-43. Appeal from any order or decision.—An appeal shall lie from any order or decision of the Commission to the Supreme Court at the instance of the applicant or any party in interest. The method of taking and prosecuting such appeal insofar as not fixed by law shall be prescribed by the rules of the Supreme Court.

§ 13.1-11.1. Tax assessment, report forms and correspondence mailed by Commission deemed delivered; resignation of registered agent.—Tax assessment, report forms and correspondence directed to a corporation and mailed by the Commission by first class mail addressed to the registered agent of the corporation at its registered office shall be deemed to have been delivered to the corporation.

The registered agent of a corporation who notifies it and the Commission in writing that he resigns effective as of a specified date shall not be liable to the corporation for damages resulting from his failure to forward process or other papers after said date. In the absence of acceptance in writing by the corporation, the effective date of such resignation shall not be less than thirty days from the date of the mailing by first class registered or certified mail, or delivery in person, of such notice to the president, vice president or secretary of the corporation and to the Commission. The names and addresses of such officers on record with the Commission shall be conclusive for the purposes of this section.

§ 13.1-57. Class voting on amendments.—The holders of the outstanding shares of any class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of such class.

(b) Effect an exchange, reclassification or cancellation of all or part of the shares of such class.

(c) Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of such class.

(d) Change in a way that might be adverse the designations, preferences, limitations, voting rights or relative or other rights of any nature of the shares of such class.

(e) Change the shares of such class, whether with or without par value, into a different number of shares of the same class or into the same or a different number of shares, either with or without par value, of other classes.

(f) Create a new class, or change a class with subordinate and inferior rights into a class, of shares having rights and preferences prior and superior to the shares of such class, or increase the rights and preferences of any class having rights and preferences prior or superior to the shares of such class.

(g) Limit or deny any existing pre-emptive rights of the shares of such class.

(h) Cancel or otherwise affect dividends on the shares of such class which have accrued but have not been declared (whenever accrued and whether or not earned).

(i) In the case of a preferred or special class of shares, divide the shares of such class into series and fix and determine the designations of such series and the variations in the relative rights and preferences between the shares of such series, or authorize the board of directors to divide the authorized and unissued shares of such class into series and fix and determine the designations and relative rights and preferences of authorized but unissued shares of such series where such authority was not conferred at the time the class was created.

~~(j) Authorize the entry into partnership agreements with other corporations or individuals.~~

Whenever any such amendment shall operate in any manner specified above upon shares of one or more but not all of the series of any preferred or special class at the time outstanding, the holders of the outstanding shares of each such series shall for the purposes of this section be deemed a separate class and entitled to vote as a class on such amendment.

§ 13.1-204. Purposes.—Corporations may be organized under this Act for any lawful purpose or purposes, unless a statute requires the corporation to issue shares or unless one of the purposes is to conduct the business of a ~~transportation or transmission company or of a gas, electric light, heat or power company or to furnish water~~ *public service company other than a sewer company.*

§ 13.1-290.1. Application to certain social, patriotic and benevolent societies incorporated before year nineteen hundred; reports by such societies.—The charter of every social, patriotic and benevolent society incorporated by an act of the General Assembly of Virginia prior to the year nineteen hundred for the purpose of perpetuating the memory of men in the military, naval and civil service of the colonies and the Continental Congress shall be deemed to have remained, and to be, in full force and effect notwithstanding the provisions of § 13.1-290 of the Code of Virginia or any other statute enacted after January one, nineteen hundred fifty, or regulation pursuant thereto requiring the filing of any report or reports with the State Corporation Commission or the clerk thereof; provided, however, that all such reports which under such statutes should have been so filed shall be filed with the clerk of the State Corporation Commission on or before August one, nineteen hundred and sixty-six; provided, further, that such corporation hereafter shall be deemed to hold its charter subject to the provisions of the Constitution of Virginia ~~now in effect~~, and the laws passed in pursuance thereof.

§ 13.1-400.6. Enjoining violations; contempt proceedings.—The Commission shall have the power and jurisdiction of a court of equity of this State to enjoin violations of this chapter and may enforce any injunction issued by it by contempt proceedings as provided in § ~~12-21~~ *12.1-34* of the Code of Virginia.

§ 13.1-519. Injunctions.—The Commission shall have all the power and authority of a court of record as provided in ~~Sec. 156 (o)~~ *Article IX, § 3,* of the Constitution to issue temporary and permanent injunctions against violations or attempted violations of this chapter or any order issued pursuant to this chapter. For the violation of any injunction or order issued under this chapter it shall have the same power to punish for contempt as a court of equity, and the procedure therein shall be as set forth in § ~~12-21~~ *12.1-34.*

§ 13.1-535. Injunctions.—The Commission shall have all the power and authority of a court of record as provided in ~~Sec. 156 (o)~~ *Article IX, § 3,* of the Constitution to issue temporary and permanent injunc-

tions against violations or attempted violations of this chapter or any order issued pursuant to this chapter. For the violation of any injunctions or order issued under this chapter it shall have the same power to punish for contempt as a court of equity, and the procedure therein shall be as set forth in § ~~12-21~~ *12.1-34*.

§ 14.1-29. Judges of Supreme Court ~~of Appeals~~.—The judges of the Supreme Court ~~of Appeals~~ shall receive such salaries as shall be fixed from time to time in the general appropriation acts.

§ 14.1-30. Clerk and deputy clerks of Supreme Court ~~of Appeals~~.—The Clerk of the Supreme Court ~~of Appeals~~ shall receive an annual salary in such amount as shall be provided by law. Each deputy clerk of the court shall receive an annual salary, the amount of which shall be fixed by the court at not to exceed the amount appropriated for such purpose. The salaries prescribed in this section for the Clerk and deputy clerks of the Supreme Court ~~of Appeals~~ shall be the entire compensation for all services rendered by them, respectively, and shall be in lieu of any and all fees and other emoluments of their offices, prescribed by any other statutes or acts; but the Clerk of the court may, with the consent of the court, act as secretary and treasurer of the Board of Law Examiners and receive the compensation allowed therefor. A reasonable sum, or sums, shall be allowed for the necessary expenses of maintaining the offices of the Clerk, which sum, or sums, shall be expended only upon the orders of the court.

§ 14.1-31. Disposition of fees of Clerk of Supreme Court ~~of Appeals~~.—The Clerk of the Supreme Court ~~of Appeals~~ shall keep an accurate account of all fees and costs collected by him and shall make monthly remittances thereof to the State Treasurer, transmitting with each remittance a detailed statement showing each and every item covered thereby. All such fees and costs shall be credited by the Comptroller to the general fund of the State treasury.

§ 14.1-32. Reporter of Supreme Court ~~of Appeals~~.—The reporter of the Supreme Court ~~of Appeals~~ shall receive an annual salary of thirty-five hundred dollars.

§ 14.1-52. Appeal from decision of Board.—Any officer whose salary, expenses or other allowances are affected by any decision of the Board under this article, or any county or city affected thereby, or the Attorney General as representative of the Commonwealth, shall have the right to appeal from any such decision of the Board, within forty-five days from the date of such decision. Such appeal shall lie to the circuit court of the county or corporation court of the city wherein the officer making the appeal resides. The court shall be presided over by the judge of the court to which the appeal is taken and two judges of circuit or corporation courts remote from that to which the appeal is taken, designated by the Chief Justice of the Supreme Court ~~of Appeals~~ and the clerk of the court to which the appeal is taken shall notify the Chief Justice of such appeal. Notice of such appeal shall be given within the time above specified by any such officer to the Compensation Board and the Attorney General. The appeal shall be heard within thirty days from the date the same is taken. At least fifteen days' notice of the time and place set for the hearing shall be given the officer noting such appeal, the Compensation Board and the Attorney General. On such appeal all questions involved in said decision shall be heard de novo by the court, and its decision on all questions shall be certified by the clerk thereof to the officer affected and to the chairman of the Compensation Board. From the decision of the court there shall be no right of further appeal.

§ 14.1-68. Sheriffs ~~and sergeants~~ to be paid salaries.—The sheriffs of the counties and ~~the sergeants of~~ the cities of the Commonwealth and their full-time deputies shall be paid salaries for their services and allowances for the necessary expenses incurred in the performance of their duties, to be determined as hereinafter provided.

§ 14.1-69. Fees and mileage allowances.—Every sheriff ~~and sergeant~~, and every *sheriff's* deputy ~~of either~~, shall, however, continue to collect all fees and mileage allowances provided by law for the services of such officer, other than such as he would have been entitled to receive from the Commonwealth or from the county or city for which he is elected or appointed and fees and mileage allowances provided for services in connection with the prosecution of any criminal matter. Such fees and mileage allowances accruing in connection with any criminal matter shall be collected by the clerk of the court in which the prosecution is had. Such fees as are collected by the clerk of the court shall be paid by him into the treasury of the county or city for which the sheriff ~~or sergeant~~, on account of whose services such fees are collected, is elected or appointed. All fees collected by or for every sheriff~~,~~ ~~sergeant~~ and deputy ~~of either~~ shall be paid into the treasury of the county or city for which he is elected or appointed, on or before the tenth day of the month next succeeding that in which the same are collected. The treasurer of each county and city shall credit one-third of such amounts to the general fund of his county or city and credit two-thirds thereof to the account of the Commonwealth to be remitted to the State Treasurer along with other funds due to the Commonwealth.

§ 14.1-70. Number of deputies.—The respective number of both full-time and part-time deputies appointed by the sheriff of a county or ~~the sergeant of a~~ city shall be fixed by the Compensation Board after receiving such recommendation of the board of supervisors of the county or the council of the city, as the case may be, as the board of supervisors or city council may desire to make. Such recommendation, if any, shall be made to the Compensation Board on or before the first day of October of each year.

From any such action of the Compensation Board, the sheriff ~~or sergeant~~, or the board of supervisors or city council, as the case may be, shall have the right to appeal to the circuit court of such county or the corporation court of such city, where the proceedings shall be the same, mutatis mutandis as are provided for appeals in § 14.1-52.

§ 14.1-72. Fees payable from State treasury.—There shall be paid out of the State treasury to sheriffs ~~and sergeants~~, after the same are duly certified to the Comptroller, the following fees: for attending any circuit court engaged in the trial of civil or criminal cases, or both, or for attending the Law and Equity Court, the Chancery Court, or the Circuit Court, all of the city of Richmond, six dollars for each day's attendance. And the judge of any such court may allow any deputy, whose attendance he deems advisable and requires as an assistant to the principal officer, such compensation as he may deem proper and just, not exceeding six dollars a day. Allowances to the sheriff and his deputies for attendance upon the courts of the city of Richmond may be made as follows: (1) each judge of the Law and Equity Court may make a separate allowance to the sheriff and an additional allowance for each deputy, (2) the judge of the Chancery Court may make an allowance to the sheriff and an additional allowance for each deputy, and (3) the Circuit Court may make an allowance to the sheriff and an additional allowance for each deputy. All allowances made under this section shall be authorized by the judges of the respective courts and

allowances may be made to the sheriff and his deputies for those days on which leave with pay has been granted by the judges of the respective courts.

§ 14.1-73. Salary schedule; factors to be considered in fixing salaries.—The annual salaries of the sheriffs of the several counties and cities ~~and of the sergeants~~ of the several cities of the Commonwealth shall be within the limits hereinafter prescribed, that is to say:

In counties or cities having a population of not more than ten thousand inhabitants, such salaries shall not be less than six thousand five hundred dollars nor more than eleven thousand eight hundred forty-four dollars.

In counties or cities having a population of more than ten thousand but not more than twenty thousand inhabitants, such salaries shall not be less than seven thousand six hundred dollars nor more than thirteen thousand two hundred thirty dollars.

In counties or cities having a population of more than twenty thousand but not more than forty thousand inhabitants, such salaries shall not be less than eight thousand four hundred dollars nor more than fourteen thousand four hundred ninety dollars.

In counties or cities having a population of more than forty thousand but not more than seventy thousand inhabitants, such salaries shall not be less than nine thousand nine hundred dollars nor more than fifteen thousand five hundred ninety-two dollars.

In counties or cities having a population of more than seventy thousand but not more than one hundred thousand inhabitants, such salaries shall not be less than ten thousand five hundred dollars nor more than seventeen thousand three hundred twenty-five dollars.

In counties or cities having a population of more than one hundred thousand but not more than two hundred fifty thousand inhabitants, such salaries shall not be less than twelve thousand three hundred dollars nor more than twenty thousand two hundred twelve dollars.

In counties or cities having a population of more than two hundred fifty thousand inhabitants, such salaries shall not be less than sixteen thousand dollars nor more than twenty-five thousand dollars.

In fixing the salary of each sheriff ~~and sergeant~~, and of each of ~~their~~ *his* full-time deputies, the Compensation Board shall take into consideration the length of service of such sheriff~~, sergeant,~~ or deputy, the population and area of the county or city for which he is elected or appointed, whether a sheriff also served a second-class city wholly within his county, the number of persons committed to the jail thereof, the aggregate number of days spent by prisoners in the jail thereof, the compensation previously received by the sheriff ~~or sergeant~~ and each of their full-time deputies, the amount of fees collected by such officers and such other factors as the Compensation Board deems proper. No salary shall be reduced by reason of a change of population during the term for which a sheriff ~~or sergeant~~ was elected.

§ 14.1-75. Records of expenses of sheriffs~~, sergeants~~ and full-time deputies.—Each sheriff and each ~~sergeant, and~~ such full-time deputy ~~of either,~~ shall keep a record of all expenses incurred by him including expenses for traveling, telephone, telegraph, clerical assistance, office facilities and supplies, bond premiums, cook hire, maintenance and repair cost of automobile police radio equipment including radio transmitter system and all accessories thereto, and any other expense incident to his office.

Each such full-time deputy shall file a monthly report with his principal showing in detail the expenses incurred by him.

§ 14.1-76. Submission of statement of expenses to Compensation Board; action thereon.—Each sheriff ~~and each sergeant~~ shall submit a statement of all expenses incurred by him, and by each of his full-time deputies, to the Compensation Board monthly on forms provided by the Board. Each officer shall at the same time transmit a copy of such statement to the board of supervisors or other governing body of the county or the council of the city for which he is elected or appointed. The Compensation Board shall examine the statement of expenses incurred, and in the event it is of opinion that the annual expense allowance which it has made to any such officer is greater or less than necessary to defray the proper expenses of such officer, then the annual expense allowance theretofore made to such officer shall be reduced or increased to conform to the findings of the Compensation Board. From any such reduction or increase in such allowances the board of supervisors, the city council or the officer affected shall, however, have the same right of appeal as is provided in the case of other salaried officers of the counties and cities by § 14.1-52.

§ 14.1-77. Agreements regarding traveling expenses.—Notwithstanding the provisions of the foregoing section (§ 14.1-76), the governing body of any county or city may, with the approval of the Compensation Board, enter into such agreement with the sheriff ~~or sergeant~~ of such county or city with respect to the traveling expenses, including the use of privately owned vehicles, of such sheriff ~~or sergeant~~ and his deputies as the governing body may deem proper. And with the consent of the Compensation Board, in any county having a regular police force authorized by law and in which the jail of another county or city has been adopted as the jail of such county, the police officers who transport any persons charged with violation of a State law under order of the trial justice of such county or the judge of the circuit court of such county, in place of the sheriff, to the jail so adopted as the jail of such county shall receive the same mileage as the sheriff of such county would have received had he so transported such persons. Any such police officer so transporting any such person shall make claim for mileage on the same forms the sheriff uses for such claims and in the same manner. When any such mileage is collected by any such police officer he shall pay the same into the county treasury and the payment of such mileage shall be made in the manner provided for the payment of mileage to sheriffs.

§ 14.1-78. Compensation of part-time deputies.—The part-time deputies of sheriffs ~~and sergeants~~ shall not receive fixed salaries, but shall be entitled to receive reasonable compensation for their services and allowances for their expenses, to be determined and paid as hereinafter provided. Each such part-time deputy shall keep a record of all services performed by him as such, which shall be reported to the sheriff ~~or sergeant~~ whose deputy he is. The sheriff ~~or sergeant~~ shall likewise keep a record of all services performed by each part-time deputy. Each sheriff ~~and sergeant~~ shall file a monthly report with the board of supervisors or other governing body of the county or city council, as the case may be, on or before the fifth day of the month next succeeding that in which such services are performed, showing in detail all services rendered by part-time deputies. The board of supervisors or other governing body or the city council shall recommend to the Compensation Board what in its judgment is a fair compensation to pay each individual part-time deputy of a sheriff ~~or of a sergeant~~ on the basis of such reports, except that in no case shall the allowance for compensation and expenses exceed the sum of ten dollars

and mileage for any one day. If in the judgment of the board of supervisors or other governing body or the city council such limit of ten dollars would work a hardship on a particular part-time deputy sheriff ~~or sergeant~~, each sum may be increased with the written approval of the judge of the circuit court or of the corporation or hustings court of the county or city for which such officer is appointed.

§ 14.1-79. Division of salaries and expense allowances between State and localities.—The Commonwealth shall pay two-thirds of the salaries and expense allowances of such sheriffs ~~and sergeants~~ and their full-time deputies, and of the compensation and expense allowances of their part-time deputies, fixed as hereinbefore provided. The other one-third of the salaries and expense allowances of such sheriffs ~~and sergeants~~ and full-time deputies, and of the compensation and expense allowances of their part-time deputies, shall be paid by the respective counties or cities for which they are elected or appointed. Such salaries shall be paid in equal monthly installments and the expense allowances shall be paid monthly when the amount thereof is established as hereinabove provided.

§ 14.1-80. Manner of payment of certain items in budgets of sheriffs ~~and sergeants~~.—Whenever a sheriff ~~or sergeant~~ purchases office furniture, office equipment, stationery, office supplies, telephone or telegraph service, or repairs to office furniture and equipment in conformity with and within the limits of allowances duly made and contained in the then current budget of any such officer under the provisions of this chapter, the invoices therefor, after examination as to their correctness, shall be paid by the county or city directly to the vendors, and the State shall monthly pay the county or city the State's proportionate part of the cost of such items on submission by such officer to the Compensation Board of duplicate invoices and such other information or evidence as the Compensation Board may deem necessary. This action shall also apply to the payment of the premiums on the official bonds of such officers, their deputies and employees, and to the premiums on burglary and other insurance. Duly authorized postage necessary for any such officer shall be purchased by the county or city for his official use on certification by him of his need therefor to the appropriate county or city authorities from time to time, and the State shall monthly reimburse the county or city for the State's proportionate part of the cost of such postage on submission of satisfactory evidence to the Compensation Board.

The Compensation Board may allow as an expense allowance to the sheriff of any county *or* ~~and to the sergeant of any~~ city the cost of operation, maintenance and repair of a closed circuit television system and all accessories thereto or of leasing electronic security equipment or making repairs to the same, which system and equipment are installed in any jail under his control for the surveillance of prisoners.

§ 14.1-85. Fees payable out of State treasury.—Fees prescribed by law for services of clerks of courts, and justices of the peace, and fees and mileage prescribed by law for game wardens and all other law enforcement officers, whether regular or special, other than sheriffs~~,~~ *and* deputy sheriffs, ~~sergeants and deputy sergeants,~~ in all cases of felony, and in every prosecution for a misdemeanor, if not paid by the prosecutor, or in cases of conviction by the defendant, and in cases in which there is no prosecutor and the defendant shall be acquitted, or convicted and unable to pay the costs, shall be paid out of the State treasury unless now or hereafter otherwise provided by law, when certified as prescribed by § 19.1-317, subject, however, to the following restrictions and limitations:

One half the fee prescribed by law to the officers heretofore mentioned, except the clerk of court and justice of the peace, who shall have the full fee; provided, however, in no case shall such fee be paid out of the State treasury, unless the judge of the court allowing the account shall certify to the Comptroller that the Auditor of Public Accounts has reported to him that he has actually examined through one of his auditors the papers upon which the account is founded and is satisfied that warrant was issued, trial had or examination made, as shown in the account; and provided, further, that in no case, either felony or misdemeanor, except it be a case in which the defendant was acquitted and no prosecutor was liable for payment of the costs, shall the account be allowed, or such fee paid unless the judge of the court allowing the account shall certify to the Comptroller that the Auditor of Public Accounts had reported to him that reasonable effort has been made to collect such costs. In so far as this section relates to game wardens and other law enforcement officers, regular and special, not enumerated herein, it shall apply only to fees for making arrests, summoning witnesses and mileage.

§ 14.1-86. Salaried officers not to receive fees from State in criminal cases; payment of fees taxed as costs to nonsalaried officers; allowance for serving criminal process in cities.—No justice of the peace, judge, constable, ~~sergeant,~~ or captain or sergeant of police who receives a salary or allowance for general service out of the treasury of his county or corporation shall receive any fees for services in a criminal case from the State, city or county, but all such fees to such officers shall be paid by the party against whom judgment is rendered, provided, however, that whenever any such fees accruing to any person mentioned in this section who does not receive such salary or allowance are taxed as part of the costs and are paid into court, the clerk of such court shall pay over such fees to such person entitled thereto. But the judge of any city or corporation court may make an allowance not exceeding six hundred dollars a year to each of two constables, sergeants or policemen of such city or corporation, to be paid in lieu of all fees for serving criminal process of any kind, which allowances shall be paid out of the treasury. When any incorporated community has become a city of the second class under chapter 22 (§ 15.1-978 et seq.) of Title 15.1, then the allowance above provided for shall be made by the circuit court of such city.

§ 14.1-87. Services rendered in Commonwealth's cases.—No clerk, sheriff, ~~sergeant~~ or other officer shall receive payment out of the State treasury for any services rendered in cases of the Commonwealth, except when it is allowed by statute.

§ 14.1-89. Services for which sheriff ~~or~~ ~~sergeant~~ may not charge.—No sheriff ~~or~~ ~~sergeant~~ shall charge for serving any public orders, nor for summoning and impaneling grand juries, nor for any services in elections except as provided under Title 24 of this Code.

§ 14.1-96. Fee for effort to serve when person cannot be found.—Whenever a sheriff, ~~sergeant~~ or constable shall be required to serve a declaration in ejectment or an order, notice, summons or other process in a civil case and make return thereon and shall after due effort and without fault be unable to locate such person or make service of such process in some method provided by law, there shall be paid to such officer the same fee provided by law for serving an order, notice or other process and making return thereof, to be taxed as other costs are, in any pending case. When such service is required in a proceeding not pending in a court then the service shall be paid for by the party at whose instance it is had. But no such fee shall be paid unless such officer when he returns such paper unexecuted shall make

and file therewith an affidavit setting forth the fact that he has made diligent effort to execute such paper and without avail.

§ 14.1-101. Deposit of money in bank.—Whenever any judge of a court not of record, clerk of a court, sheriff~~,~~ ~~sergeant~~ or constable shall receive or collect any money for or on account of the Commonwealth or any county, city, town or person, he shall, within a reasonable time, deposit the same, except so much thereof as may be necessary for the payment in cash of fees collected for other officers and for the payment of witnesses, in such bank or banks as may be selected by him, to the credit of an official account, and in the event of the failure or insolvency of such bank, he shall not be responsible for any loss of funds so deposited resulting from such failure or insolvency.

Any such officer who shall deposit any such money in his personal account or knowingly intermingle any of the same with his personal funds, or otherwise violate any of the provisions of this section shall be deemed guilty of a misdemeanor.

§ 14.1-105. Sheriffs~~,~~ ~~sergeants~~ and criers generally.—The fees of sheriffs~~,~~ ~~sergeants~~ and criers shall be as follows:

(1) For service on any person, firm or corporation, a declaration in ejectment, order, notice, summons or any other civil process, except as herein otherwise provided, and for serving on any person, firm, or corporation any process when the body is not taken and making a return thereof, the sum of one dollar twenty-five cents.

(2) For summoning a witness or garnishee on an attachment, one dollar.

(3) For serving on any person an attachment or other process under which the body is taken and making a return thereon, five dollars.

(4) For receiving and discharging a person in jail, one dollar.

(5) For carrying a prisoner to or from jail and every mile of necessary travel, an amount equivalent to the necessary toll and ferry charges incurred by the officer, if any, and eight cents per mile, which shall be charged and taxed as a part of the court cost.

(6) For serving any order of court not otherwise provided for, one dollar.

(7) For serving a writ of possession, two dollars.

(8) For levying an execution or distress warrant or an attachment, three dollars.

(9) For serving any papers returnable out of State, six dollars.

§ 14.1-111. Sheriffs~~,~~ ~~sergeants~~ and criers in criminal cases.—The fees and allowances of sheriffs~~,~~ ~~sergeants~~ and criers in criminal cases shall be as follows:

For serving a warrant or summons other than on a witness when no arrest is made, one dollar.

For an arrest in a case of a misdemeanor or felony, one dollar and fifty cents.

For executing a search warrant, two dollars.

For summoning a witness in a felony or misdemeanor case, one dollar.

But when two or more persons are arrested under one warrant, or are jointly charged or tried, the officer shall be entitled only to such fee for summoning witnesses as if only one person was arrested, charged or tried.

For carrying a prisoner to jail under the order of a justice, for each mile traveled of himself, going and returning, eight cents.

For each mile traveled of the prisoner in carrying him to jail, when the distance is over ten miles, eight cents.

For executing the first writ of venire facias at a term, ten dollars and five dollars for executing every other writ of venire facias at the same term, provided that when an officer goes out of his city or county to execute a writ of venire facias, he shall receive ten dollars for executing the writ, and his actual necessary expenses, to be set out in a sworn account to be approved by the court.

§ 14.1-120. Clerk of Supreme Court ~~of Appeals~~.—The Clerk of the Supreme Court ~~of Appeals~~ shall charge the following fees:

In every case in which a petition and record is presented one dollar and a half, which shall be collected at the time such petition and record is presented and which shall include all fees chargeable up to the time the petition is granted or refused.

In every case in which a writ of error or appeal is granted or docketed, three dollars and one-half, which shall be collected at the time the estimated cost of printing is collected and which shall include all fees chargeable from the time of granting or docketing the writ until the case is finally disposed of by the court.

For more than one copy of a writ, twenty-five cents each.

For making and certifying a copy of any record or document in the clerk's office, ten cents per one hundred words.

For verifying and certifying any record or document not actually copied by the clerk, one-half of the fee for copying and certifying, which shall not however be applied to the certification of a copy of the record which has already been printed.

For authentication of any record, document or paper under the seal of the court, fifty cents.

For copying and certifying any document or paper of less than two hundred and fifty words, twenty-five cents.

For administering an oath and entering an order qualifying an attorney to practice in the court, one dollar and a half.

For certificate of such qualification under seal of the court, one dollar.

For entering an order and licensing an attorney from another state, under the reciprocity statute, ten dollars.

For binding records and briefs as provided by § 8-501, fifty cents.

For all other services not specifically mentioned above, the same fee would be charged by a clerk of a circuit court in similar cases.

§ 14.1-125. Fees for services of judges and clerks of county and municipal courts and justices of peace in civil cases.

(1) For all court and justice of the peace services in each distress, detinue, interrogatory summons, unlawful detainer, civil warrant, notice

of motion, garnishment, attachment issued, or other civil proceeding, three dollars and twenty-five cents unless otherwise provided in this section, which shall include the fee prescribed by § 16.1-115. No such fee shall be collected in any tax case instituted by any county, city or town except in a case instituted by any city having a population of not less than three hundred thousand.

The judge or clerk shall collect the foregoing fee at the time of issuing process. Any justice of the peace or other issuing officer shall collect the foregoing fee at the time of issuing process. He may deduct therefrom a justice of the peace (or other issuing officer) fee of one dollar and fifty cents for his services in the case. He shall remit the remainder promptly to the court to which such process is returnable, or to its clerk. Any sheriff~~, city sergeant,~~ or other officer serving process shall collect the foregoing court fee before serving any notice of motion of judgment, which fee he shall remit on or before the return day of such motion to the court to which such motion is returnable, or to its clerk, except that no fee shall be collected in tax cases until after process has been served. When no service of process is had as to any defendant served by notice of motion for judgment, the officer serving process shall return such notice of motion and the court fee collected by him to the plaintiff or his counsel. The foregoing court fee shall not include the service fee of any sheriff~~, city sergeant,~~ or other officer serving process, but the person issuing process shall accept and forward any such service fees when tendered at the time of issuing process. When no service of process is had on a defendant named in any civil process other than a notice of motion for judgment, such process may be reissued once by the court or clerk at the court's direction by changing the return day of such process, for which service by the court or clerk there shall be no charge; provided, however, reissuance of such process shall be within three months after the original return day and regardless of whether the original process was issued before or after June twenty-seventh, nineteen hundred and sixty.

§ 14.1-136. Statements required of clerks of courts of record, ~~sheriff of city of Richmond~~ and certain city ~~sergeants~~ *sheriffs*.—Every clerk of a court of record except the clerk of the Supreme Court ~~of Appeals~~, the sheriff of ~~the city of Richmond, and the sergeant of~~ every city which does not operate a jail, except the ~~sergeants~~ *sheriffs* of the cities of Martinsville, Suffolk, and Winchester, shall annually, within fifteen days after the close of each anniversary of the beginning of the term of his office, file with the State Compensation Board a full and accurate statement showing all such fees, allowances, commissions, salaries or other emolument of office, derived from the State or any political subdivision thereof, or from any other source whatever, collected or received by him and a like statement of all such fees, allowances, commissions and salaries, chargeable under the law, but not collected by him, during the year ending December thirty-first next preceding. Such statements shall be verified by affidavit.

§ 14.1-181. Costs in Supreme Court ~~of Appeals~~.—In every case in the Supreme Court ~~of Appeals,~~ costs shall be recovered in such court by the party substantially prevailing.

§ 14.1-182. Same; printing brief may be taxed as cost.—Any party in whose favor costs are allowed in the Supreme Court ~~of Appeals~~ shall have taxed as part of the cost the actual cost of printing his brief or briefs, if filed by him, not to exceed two hundred dollars.

§ 15.1-37.4 Election of governing bodies of counties, cities and towns.—The governing body of every county, city, and town shall be elected

by the qualified voters of such county, city, and town. If the members, or any of the members, of the governing body of a county, city, or town are elected by districts or wards, each such district or ward shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district or ward. The governing body of any county shall be composed of not less than three nor more than eleven members. Nothing in this section shall preclude the apportionment of more than one member of the governing body of any county, city, or town to a single district or ward.

§ 15.1-37.5. Reapportionment of boundaries of districts or wards.—In a county, city, or town electing members of its governing body from districts or wards, the governing body may reapportion the representation in the governing body by altering the boundaries of districts or wards, including, if the governing body deems it appropriate, increasing or diminishing the number of such districts or wards, provided that such representation is based as nearly as is practicable, on population.

In a county, city, or town electing members of its governing body from districts or wards, the governing body in nineteen hundred and seventy-one and every ten years thereafter shall reapportion the representation in the governing body by altering the boundaries of the districts or wards, including, if the governing body deems it appropriate, increasing or diminishing the number of such districts or wards, in order to give, as nearly as is practicable, representation on the basis of population. For the purposes of reapportioning representation in nineteen hundred and seventy-one and every ten years thereafter, the governing body of a county, city, or town shall use population figures of the most recent decennial United States census for such county, city or town.

§ 15.1-37.6. Governing body of county, city or town to expend funds for reapportionment.—Effective in nineteen hundred and seventy-one, the governing body of a county, city, or town may, and it is hereby authorized to, expend such funds, and employ such persons and/or agencies, as it may deem necessary to carry out the responsibilities relating to reapportionment provided by this chapter.

§ 15.1-37.7. Recording resolution of reapportionment.—A copy of the ordinance or resolution reapportioning representation in the governing body of a county, city, or town, including a description of the boundaries and a map showing the boundaries of the districts or wards, shall be recorded in the official minutes of such governing body, and a certified copy of the ordinance or resolution, including a description of the boundaries and a map showing the boundaries of the districts or wards, shall be sent to the Division of State Planning and Community Affairs.

§ 15.1-37.8. Mandamus shall lie for failure to reapportion districts or wards.—Whenever the governing body of any county, city or town, shall fail to perform the duty of reapportioning the representation among the districts or wards of such county, city, or town, or fail to change the boundaries of districts or wards, as prescribed hereinabove, mandamus shall lie in favor of any citizen of such county, city, or town, to compel the performance of such duty.

Whenever the governing body of any county, city or town changes the boundaries, or increases or diminishes the number of districts or wards, or reapportions the representation in the governing body as prescribed hereinabove, such action shall not be subject to judicial review, unless it be alleged that the representation is not proportional to the population of the district or ward. If such allegation be made in a bill of

complaint filed in a court having equity jurisdiction within such governmental unit, such court shall determine whether such action of the governing body complies with the Constitutional requirements for redistricting and reapportionment. Appeals from such court shall be as in any other suit.

§ 15.1-40.1. Each county and city to have a treasurer, a sheriff, an attorney for the Commonwealth, a clerk and a Commissioner of Revenue. —There shall be elected by the qualified voters of each county and city a treasurer, a sheriff, an attorney for the Commonwealth, a clerk, who shall be clerk of the court in the office of which deeds are recorded, and a Commissioner of Revenue. The duties and compensation of such officers shall be prescribed by general law or special act. Any county or city not required to have or to elect such officers prior to July one, nineteen hundred and seventy-one shall not be so required by this section.

§ 15.1-41. Bonds of officers.—Every county treasurer, sheriff of a county~~,~~ *or* ~~sergeant of~~ a city, county clerk, clerk of a city court, clerk of a circuit court, commissioner of the revenue, superintendent of the poor, county surveyor and supervisor shall, at the time he qualifies, give such bond as is required by § 49-12. The penalty of the bond of each officer shall be determined by the court, judge or clerk before whom he qualifies, within the limits prescribed in § 15.1-42. Subject to the provisions of §§ 15.1-43 and 15.1-45, the board of supervisors of any county or the council of any city or town in this State may pay the costs of the premium of the surety on such bond when the surety is a surety or guaranty company. Notwithstanding the foregoing provisions of this section, no bond shall be required of a member of the governing body of a county in which such members do not handle county funds if the judge of the circuit court of the county, or if there be more than one, the senior judge, so provides by order entered of record.

§ 15.1-42. Penalties of bonds.—The penalty of the bond of a sheriff of a county, ~~or a city sergeant,~~ when he gives personal security, shall not be less than ten thousand nor more than sixty thousand dollars, but if the sheriff ~~or sergeant~~ shall elect to give as surety on his bond a guaranty or surety company, the penalty of such bond shall not be less than five thousand nor more than thirty thousand dollars. The bond of the county clerk or clerk of a city or circuit court shall not be less than three thousand dollars and the bond of such clerk shall bind him and his sureties, not only for the faithful discharge of his duties as clerk of the court, but also for the faithful discharge of such other duties as may be imposed upon him by law in like manner and with the same effect as if it were so expressed in the conditions of his bond. The bond of the commissioner of the revenue shall not be less than one thousand nor more than three thousand dollars. The bond of the superintendent of the poor shall not be less than one thousand nor more than four thousand dollars. The bond of the supervisor shall not be less than one thousand dollars nor more than two thousand five hundred dollars.

§ 15.1-48. Appointment of deputies; their powers; how removed.—The treasurer of any county or city, the sheriff of any county, ~~the sheriff~~ or ~~sergeant of any~~ city, any commissioner of the revenue, any county surveyor, any county clerk and the clerk of any circuit or city court may at the time he qualifies as provided in § 15.1-38 or thereafter appoint one or more deputies, who may discharge any of the official duties of their principal during his continuance in office, unless it be some duty the performance of which by a deputy is expressly forbidden by law. The officer making any such appointment shall certify the same to the court in the clerk's office of which the oath of the principal of such deputy is filed and a record

thereof shall be entered in the order book of such court. Any such deputy at the time his principal qualifies as provided in § 15.1-38 or thereafter, and before entering upon the duties of his office, shall take and prescribe the oath now provided for county officers. The oath shall be filed with the clerk of the court in whose office the oath of his principal is filed and such clerk shall properly label and file all such oaths in his office for preservation. Any such deputy may be removed from office by his principal. Such deputy may also be removed by the court as provided by § 15.1-63.

§ 15.1-51. Where officers shall reside.—Every district officer shall, at the time of his election or appointment, have resided in the district for which he is elected or appointed thirty days next preceding his election or appointment, and residence in any incorporated town within the district shall be regarded as residence in the district. Every county officer, except deputy clerks of courts of record, shall, at the time of his election or appointment, have resided six months next preceding his election or appointment, either in the county for which he is elected or appointed, or in the city wherein the courthouse of the county is or in a city wholly within the boundaries of such county, except that, if no practicing lawyer, who has resided in the county or in such city for the period aforesaid, offer for election or appointment, it shall be lawful to elect or appoint as attorney for the Commonwealth for such county a nonresident, or one who has not resided in the county, or in such city, for the period above mentioned, and except, further, that if no qualified surveyor, who has resided in the county the aforesaid period, offers for appointment, it shall be lawful to appoint, as county surveyor, a nonresident, or one who has not resided in the county for the requisite period, if the judge or the court making the appointment certifies that there is no qualified surveyor, having the requisite qualifications as to residence, who will serve as such. Every city and town officer except members of the police and fire departments, and town attorney shall, at the time of his election or appointment, have resided one year next preceding his election or appointment in such city or town unless otherwise specifically provided by charter.

Notwithstanding the preceding provisions of this section, deputy ~~sergeants~~ *sheriffs* and jailors for the city of Fredericksburg shall not be required to reside within the corporate limits of that city.

§ 15.1-53. Joint county officers may be appointed or elected.—Any two or more adjoining or adjacent counties may, as hereinafter provided and when deemed advisable by their respective boards of supervisors, except when such officer is to be elected by the people, when such consent on behalf of the board of supervisors shall not be necessary, conjointly employ, appoint or elect, in the manner provided by law, a county road manager, a county road engineer, a county health officer, a county superintendent of public welfare, and any other ministerial or executive officer permitted by ~~section one hundred and ten~~ *Article VII, § 4* of the Constitution of Virginia, or any one or more of such officers.

§ 15.1-63. Power of removal; grounds.—The circuit courts of counties and of cities having no corporation court and the corporation courts of cities may remove from office all State, county, city, town and district officers elected or appointed, except such officers as are by the Constitution removable only and exclusively by methods other than those provided by this and the following section (§ 15.1-64), for malfeasance, misfeasance, incompetency or gross neglect of official duty, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any law of this State, or who shall in any public place be in a state of intoxication produced by ardent spirits voluntarily taken, or who shall have been

convicted of engaging in any form of gambling or of any act constituting a violation of any penal statute involving moral turpitude, or who is convicted of failing to make a public disclosure of interests in violation of article 4 (§15.1-67 et seq.) of chapter 2 of this title.

The power to remove the clerk of a court shall be vested only in the court of which he is clerk.

Nothing in this section shall be construed to interfere with any power *which may otherwise be* vested in the mayor of any city ~~by Sec. 120 of the Constitution of the State~~ or to repeal any provision of the charter of any city or town or any ordinance in pursuance of such charter for the removal of any of the officers of such city or town.

§ 15.1-74. When deputy may act in place of sheriff ~~or sergeant~~.—When for any cause it is improper for the sheriff of any county or ~~the sergeant of any~~ city to serve any process or notice or to summon a jury, such process may be directed to any deputy of such sheriff ~~or sergeant~~ and such process or notice may be served and such jury summoned by any such deputy.

§ 15.1-75. Deputies of deceased sheriffs ~~and sergeants~~.—If any sheriff ~~or sergeant~~ die during his term of office, his personal representative shall have the same right to remove any deputy from office and to appoint another, that the sheriff ~~or sergeant~~ himself, if alive, would have had; or any such deputy may be removed by order of the circuit court of the county or corporation court of the city of which his principal was such sheriff ~~or sergeant~~; but unless so removed the deputies of such sheriff ~~or sergeant~~, in office at the time of his death, shall continue in office until the qualification of any new sheriff ~~or sergeant~~, and execute the office in the name of the deceased, in like manner as if the sheriff ~~or sergeant~~ had continued alive until such qualification. And any default or misfeasance in office of any such deputy shall be as much a breach of the condition of the bond of the sheriff ~~or sergeant~~, and of the bond of such deputy, as if the sheriff ~~or sergeant~~ had continued alive and in the exercise of his office.

§ 15.1-77. Appointment of criers and persons to serve process or summon jury; their bonds.—When there is no person acting in a county *or city* as sheriff or deputy sheriff thereof, ~~or in a city as sergeant or deputy sergeant thereof,~~ the circuit court of the county or the circuit or any corporation court of the city may appoint a crier for such court, who shall also be crier of any other court in the city served by such sheriff ~~or sergeant~~, and such crier shall perform all the duties pertaining to the office of sheriff ~~or sergeant~~ therein, except such as relate to the collection of militia fines and officers' fees. And though persons be acting ~~in any county~~ as sheriff or deputy sheriff, ~~or in any city as sergeant or deputy sergeant,~~ yet when it is unfit from any cause for the sheriff ~~or sergeant~~ to serve any process or to summon a jury, the court in which the case is pending may appoint some other person to perform the same. Such court shall take from any person so appointed, or from any person who has been appointed and is still acting as crier, a bond, with condition for the faithful discharge of his duties, in such penalty as it may deem sufficient; and the same proceedings may be had thereon as upon a bond given by a sheriff.

§ 15.1-86. Judgment for officer or sureties against deputy, etc., where officer liable for misconduct of deputy.—If any deputy of a sheriff, ~~sergeant~~ or other officer commit any default or misconduct in office for which his principal or the personal representative of such principal is liable, or for which a judgment or decree shall be recovered against either,

such principal or his personal representative may, on motion, obtain a judgment against such deputy and his sureties, and their personal representatives, for the full amount for which such principal or his personal representative may also be so liable or for which such judgment or decree may have been rendered. But no judgment shall be rendered by virtue of this section for money for which any other judgment or decree has been previously rendered against such deputy or his sureties or their personal representatives.

§ 15.1-87. Same; where judgment against officer or sureties has been obtained and paid.—If any judgment or decree be obtained against a sheriff, ~~sergeant~~ or other officer, or his sureties, or their personal representatives, for or on account of the default or misconduct of any such deputy and shall be paid in whole or in part by any defendant therein, he or his personal representative may, on motion, obtain a judgment or decree against such deputy and his sureties and their personal representatives for the amount so paid, with interest thereon from the time of such payment and five per cent damages on such amount.

§ 15.1-90.1. Sheriffs ~~and City Sergeants~~ Standard Car Marking and Uniform Commission.—(a) There is hereby established the Sheriffs ~~and City Sergeants~~ Standard Car Marking and Uniform Commission. It shall consist of three members, two of whom shall be elected by the Sheriffs ~~and City Sergeants~~ Association and shall be elected sheriffs ~~or city sergeants~~. One of the three members shall be appointed by the Governor and shall not be an elected sheriff ~~or city sergeant~~.

(b) The Commission shall elect one of its members as chairman, who shall call meetings, at least once each year, and shall preside over same. Bylaws of the Commission shall be made by it. Members of the Commission shall receive no compensation for their services.

(c) The Commission shall prescribe a uniform of standard design for all sheriffs, ~~city sergeants~~ and their deputies, and shall prescribe a standard color and design of car marking for motor vehicles used by them.

(d) On and after January one, nineteen hundred sixty-seven, the uniform, and motor vehicles prescribed by the Commission as set out in subsection (c), shall be used by all sheriffs, ~~city sergeants~~ and their deputies, while in the performance of their duties, if the office of the sheriff ~~or city sergeant~~ prescribes that uniforms be worn and marked motor vehicles be utilized.

§ 15.1-134. Allowances to injured officials and employees and their dependents.—The governing body of any county, city or town is authorized in its discretion to make allowances by appropriation of funds, payable in monthly or semimonthly installments, for the relief of any of its officials, employees, policemen, firemen, sheriffs or deputy sheriffs, town ~~and city~~ sergeants and town and ~~city~~ deputy sergeants, or their dependents, who suffer injury or death as defined in Title 65, whether such injury was suffered or death occurs before or after June twenty-ninth, nineteen hundred forty-eight. The allowance shall not exceed the salary or wage being paid such official, employee, policeman, fireman, sheriff or deputy sheriff, town ~~and city~~ sergeants and town ~~and city~~ deputy sergeants, at the time of such injury or death, and the payment of the allowance shall not extend beyond the period of disability resulting from such injury; provided, that the governing body of a county having a population of more than ninety-nine thousand but less than one hundred thousand and being contiguous to three cities of the first class may provide that the allowance being paid any such person who dies while entitled to receive the same may be continued to be paid the widow of such person. In case death results from

the injury, the allowance may be made for the dependents as defined in Title 65. In counties, cities and towns which have established retirement or pension systems for injured, retired or superannuated officials, employees, members of police or fire departments, sheriffs, deputy sheriffs, town ~~and city~~ sergeants and ~~town and city~~ deputy sergeants, or for the dependents of those killed in line of duty, the agencies provided for the administration of such systems shall determine the existence of such injury or cause of death before any appropriation to pay such allowance is made and shall determine the extent of and period of disability resulting from such injury and the cause in case of death. All sums paid to any such official, employee, policeman, fireman, sheriff or deputy sheriff, town ~~and city~~ sergeants and ~~town and city~~ deputy sergeants, as compensation under Title 65 and all sums paid to the dependents of such official, employee, policeman, fireman, sheriff or deputy sheriff, town ~~or city~~ sergeant and ~~town or city~~ deputy sergeant, if he is killed, and all sums paid under any retirement or pension system shall be deducted from the allowance made under this section in such installments as the agency determines. If the agency determines that any official, employee, policeman, fireman, sheriff or deputy sheriff, town ~~or city~~ sergeant and ~~town or city~~ deputy sergeant, who suffered injury in the line of duty is engaged or is able to engage in a gainful occupation, then the allowance shall be reduced by the agency to an amount which, together with the amount earnable by him, equals the allowance. Should the earning capacity of the official, employee, policeman, fireman, sheriff or deputy sheriff, town ~~or city~~ sergeant and ~~town or city~~ deputy sergeant, be later changed, such allowance may be further modified, up or down, provided the new allowance shall not exceed the amount of the allowance orginally made nor an amount which, when added to the amount earnable by him exceeds such allowance.

§ 15.1-170. Short title.—This chapter shall be known and may be cited as the "Public Finance Act ~~of 1958~~."

§ 15.1-176. Limitation on amount of outstanding bonds.—No city or town shall issue any bonds or other interest-bearing obligations ~~for any purpose, or in any manner, to an amount~~ which, including existing indebtedness, shall~~,~~ at any time~~,~~ exceed eighteen per centum of the assessed valuation of the real estate in ~~any~~ *the* city or town subject to taxation, as shown by the last preceding assessment for taxes.~~; provided, however, that nothing above contained in this section shall apply to those cities and towns whose charters existing at the time of the adoption of the present Constitution authorize a larger percentage of indebtedness than is authorized by this section.~~

§ 15.1-177. What indebtedness not included in determining limitation.—In determining the limitation ~~of the power of a city or town to incur indebtedness~~ *contained in § 15.1-176*, there shall not be included the following classes of indebtedness:

~~(a) Certificates of indebtedness, notes or other obligations issued in anticipation of the collection of the revenues of such city or town for the then current year; provided that such certificates, notes or other obligations mature within one year from the date of their issue, and be not past due, and do not exceed the revenue for such year.~~

~~(b) Bonds authorized by an ordinance enacted in accordance with section one hundred and twenty-three of the Constitution, and approved by the affirmative vote of the majority of the qualified voters of the city or town voting upon the question of their issuance, at the general election next succeeding the enactment of the ordinance, or at a special election held for that purpose, for a supply of water or other specific undertaking~~

~~from which the city or town may derive a revenue; but from and after a period to be determined by the governing body and set forth in such ordinance, not exceeding five years from the date of such election, whenever and for so long as such undertaking fails to produce sufficient revenue to pay for cost of operation and administration (including interest on bonds, issued therefor) and the cost of insurance against loss by injury to persons or property, and an annual amount to be covered into a sinking fund sufficient to pay, at or before maturity, all bonds issued on account of such undertaking, all such bonds outstanding shall be included in determining the limitation of the power to incur indebtedness, unless the principal and interest thereof be made payable exclusively from the receipts of the undertaking.~~

(1) Certificates of indebtedness, revenue bonds, or other obligations issued in anticipation of the collection of the revenues of such city or town for the then current year; provided that such certificates, bonds, or other obligations mature within one year from the date of their issue, be not past due, and do not exceed the revenue for such year.

(2) Bonds pledging the full faith and credit of such city or town authorized by an ordinance enacted in accordance with Article VII, § 7 of the Constitution and approved by the affirmative vote of the qualified voters of the city or town voting upon the question of their issuance, for a supply of water or other specific undertaking from which the city or town may derive a revenue; but from and after a period to be determined by the governing body not exceeding five years from the date of such election, whenever and for so long as such undertaking fails to produce sufficient revenue to pay for cost of operation and administration (including interest on bonds issued therefor), the cost of insurance against loss by injury to persons or property, and an annual amount to be placed into a sinking fund sufficient to pay the bonds at or before maturity, all outstanding bonds issued on account of such undertaking shall be included in determining such limitation.

(3) Bonds of a city or town the principal and interest on which are payable exclusively from the revenues and receipts of a water system or other specific undertaking or undertakings from which the city or town may derive a revenue or secured, solely or together with such revenues, by contributions of other units of government.

(4) Contract obligations of a city or town to provide payments over a period of more than one year to any publicly owned or controlled regional project, if the project has been authorized by an interstate compact or if the General Assembly by general law or special act has authorized an exclusion for such project purposes.

§ 15.1-178. Bonds for revenue producing undertakings.—The governing body of any ~~municipality~~ *city or town* may, in accordance with the provisions of ~~section one hundred and twenty-seven (b)~~ *Article VII, § 10* of the Constitution, issue bonds for acquiring, constructing, reconstructing, improving, extending or enlarging any revenue producing undertaking. The powers conferred by this section are hereby granted to all cities and towns in this Commonwealth, notwithstanding any special limitations other than debt limitations contained in special charters, or amendments thereto, granted to such cities or towns prior to June seventeenth, nineteen hundred and thirty, and such powers shall be deemed supplemental to, cumulative of and in addition to all other powers heretofore granted by general law or special act.

§ 15.1-179. Ordinance to provide for issue of such bonds.—Whenever it is proposed by any town or by any city to borrow money and

issue bonds under the provisions of ~~clause (b) of section one hundred twenty-seven~~ *Article VII, § 10 (a),* of the Constitution for any revenue producing undertaking, the governing body shall adopt an ordinance, reciting the expediency of borrowing money by the ~~municipality~~ *city or town* and the issuance of bonds therefor, the amount of such issue, the length of time for which they are to run, the maximum rate of interest to be paid thereon, and the purpose for which the money realized therefrom is to be used, and if for the purpose of borrowing money and issuing bonds under the provisions of said ~~clause (b)~~ *Article VII, § 10 (a),* and not to be included within the otherwise authorized indebtedness of such ~~municipality~~ *city or town,* the ordinance shall state that fact, as well as the specific undertaking for which the money is proposed to be borrowed and the bonds are to be issued. Any such ordinance must be passed upon the recorded affirmative vote of a majority of all the members elected to the governing body, or to each branch thereof when there are two branches; and if such ordinance be vetoed by the mayor, it may be adopted notwithstanding such veto in the manner prescribed by ~~section one hundred and twenty-three~~ *Article VII, § 7,* of the Constitution. After adoption of such ordinance a certified copy thereof shall be forthwith presented to the corporation or circuit court having jurisdiction over such city or town, or to the judge thereof in vacation.

If the proposed bond issue be pursuant to Article VII, § 10 (a) (3) of the Constitution, the governing body of such city or town shall thereupon authorize and issue such bonds in accordance with the provisions of this chapter applicable to the authorization and issuance of bonds by cities and towns, without submission of the question of such bond issue to the qualified voters for approval.

§ 15.1-180. Order for bond election; issuance of bonds after approval by voters.—*If the proposed bond issue be pursuant to Article VII, § 10 (a) (2), of the Constitution, the* ~~The~~ court or judge, on the receipt of the certified copy of such ordinance, shall, by an order entered in term time or vacation, direct the proper election officers of such ~~municipality~~ *city or town* to take such steps and prepare such means as may be necessary to submit to the qualified voters of such ~~municipality,~~ *city or town* either at the next succeeding general election or at a special election, the question of whether such bonds shall be issued and the court or judge shall make such order as may be proper to give due publicity to such election. If a majority of the qualified voters who vote thereon at such special election shall approve contracting the debt, borrowing the money and issuing the bonds, the governing body of such city or town shall thereupon authorize and issue such bonds in accordance with the provisions of this chapter applicable to the authorization and issuance of bonds by cities and towns.

§ 15.1-185. Powers of counties generally; approval of voters required.—Any county *or district thereof* shall have all the powers granted by § 15.1-175 to *cities and towns* ~~municipalities~~ except that no county *or district thereof* shall have power to contract any bonded debt for any project or to issue its general obligation bonds to finance any project, unless the qualified voters of such county *or district thereof* shall approve by a majority vote of the qualified voters voting in an election the contracting of any such debt, the borrowing of money and the issuance of the bonds. *Such voter approval shall not be required for the classes of debt described in Article VII, § 10 (a) (1) and (3), of the Constitution, refunding bonds, and bonds issued, with the consent of the School Board and the governing body of the county, for capital projects for school purposes and sold to the Literary Fund, the Virginia Supplemental Retirement System, or other state agency prescribed by law.*

§ 15.1-185.1. County may elect to be treated as city for issuing bonds.—Any county may, upon approval by the affirmative vote of the qualified voters of the county voting in an election on the question, elect to be treated as a city for the purpose of issuing its bonds under this chapter. If a county so elects, it shall thereafter be subject to all of the benefits and limitations of Article VII, § 10, of the Constitution and all provisions of this Code relating to bonded indebtedness applicable to cities, but in determining the limitation for a county there shall be included, unless otherwise excluded under Article VII, § 10, of the Constitution, indebtedness of any town or district in that county empowered to levy taxes on real estate.

§ 15.1-186. Initial resolution for bond issue; contents; request for bonds for school purposes.—Whenever the governing body of any county shall determine that it is advisable to contract a debt and issue general obligation bonds of the county to finance any project, it shall adopt a resolution (herein sometimes called the "initial resolution") setting forth

(a) In brief and general terms the purpose or purposes for which the bonds are to be issued, and

(b) The maximum amount of such bonds and, if bonds are to be issued for more than one purpose, the maximum amount for each purpose; provided, however, that with respect to bonds for school purposes a statement of the maximum amount of each separate purpose is not required, and provided further that with respect to bonds for the purchase of land for diversified public purposes, a statement of the maximum amount of each separate purpose is not required. *Where voter approval is required by the Constitution of Virginia and this chapter, such* ~~Such~~ resolution shall request the circuit court, or any judge thereof, to order an election upon the question of contracting the debt and issuing the proposed bonds.

Prior to the adoption under the provisions of this section of a resolution by the governing body of any county requesting the ordering of an election upon the question of contracting a debt and issuing bonds for school purposes, the county board of education or school board of such county shall first request, by resolution, such governing body to take such action.

If voter approval is not required by the Constitution of Virginia or the provisions of this chapter, the governing body of the county shall have, with reference to contracting the debt and issuing the bonds for such project, all the powers granted by this chapter to the governing bodies of cities and towns.

§ 15.1-187. Initial resolution filed with court; order for election; notice.—Upon the adoption by the governing body of any county of an initial resolution under the provisions of this article, *where voter approval is required by the Constitution of Virginia and this chapter,* a copy thereof, certified by the clerk of such governing body, shall be filed with the judge of the circuit court of such county who shall thereupon make an order requiring the judges of election on the day fixed in such order, not less than thirty days nor more than sixty days from the date of such order, to open a poll and take the sense of the qualified voters of the county on the question of contracting the debt and issuing bonds for the purpose or purposes set forth in the initial resolution. Notice of said election in the form prescribed by the judge of the circuit court shall be published at least once before the election in a newspaper of general circulation in the county, at least ten days before the election.

§ 15.1-190. School district bonds.—(a) The governing body of any county, acting for and on behalf of any school district, or acting for and on behalf of two or more school districts jointly in such county, may provide for the issuance of general obligation bonds of such school district or districts for school purposes. *Where voter approval is required by the Constitution of Virginia or the provisions of this chapter, the* ~~The~~ bonds shall not be issued unless a majority of the qualified voters voting in the election in such district, or so voting in each of such districts separately, shall approve the contracting of the debt and the issuing of the bonds. The bonds of two or more school districts shall be issued as joint obligations of such school districts. Any such school district, or any such school districts jointly, shall constitute a unit. For the purpose of this section, each magisterial district in each county shall constitute a school district, but any such school district shall not include a town constituting a separate school district. In any county where an incorporated town constitutes both a school district and an entire magisterial district, the remaining magisterial districts shall, upon the adoption of resolutions by the governing body and the school board, constitute a single school district which may thereafter issue general obligation bonds for school purposes after approval by a majority of all the qualified voters of such district voting in an election therein. The issuance of such bonds shall be governed by the provisions of this chapter.

(b) All such bonds heretofore issued and proceedings had in connection therewith which conform to this section as amended are hereby ratified, validated and confirmed and declared to be legal and as fully binding obligations as if issued under this section as hereby amended.

§ 15.1-190.1. Certain bonds validated.—All bonds issued prior to ~~February nineteenth, nineteen hundred and sixty-two,~~ *July one, nineteen hundred and seventy-one* for school purposes by or on behalf of any magisterial district or districts, or by or on behalf of any school district or districts, are hereby ratified, validated and confirmed, and all proceedings taken prior to such date to authorize the issuance of bonds for school purposes by or on behalf of any magisterial district or districts, by or on behalf of any school district or districts, are hereby ratified, validated and confirmed, and all such bonds may be issued as bonds of a school district or districts pursuant to the provisions of § 15.1-190 of the Code of Virginia as amended by chapter 76 of the Acts of 1962.

§ 15.1-225. Investigation by Governor of alleged defaults; withholding State funds from defaulting unit; payment of funds withheld; receipts, reports, etc.; magisterial and school district defaults included. —Whenever it shall be made to appear to the Governor from any petition filed with him by or on behalf of the holder of any general obligation bonds of any unit, verified by the holder, hereinafter referred to as the petitioner, or by his or its duly authorized agent, that such unit has defaulted for over sixty days in the payment of the principal of or interest on any of its outstanding general obligation bonds held by such petitioner, the Governor shall make a summary investigation into the facts disclosed in the petition and for that purpose may administer oaths and take testimony thereunder, issue subpoenas, and compel the attendance of witnesses and the production of books, memoranda, papers and other documents, articles, instruments and data.

If it be established to the satisfaction of the Governor that the bonds held by the petitioner are genuine and are the bonds of the unit and that the unit is and has been for a period of at least sixty days in default in the payment of such bonds or the interest thereon, the Governor shall make an

order directing the Comptroller to withhold on and after sixty days from the issuance of such order all further payment to the unit of all funds or of any part thereof, ~~except the amount required by section one hundred and thirty-five of the Constitution to be applied to the schools of the primary and grammar grades in the unit and the amount payable to the unit from the collection of the State capitation tax,~~ appropriated and payable by the Commonwealth to the unit for any and all purposes until such default shall be paid. When the Governor finds that a unit is in default upon its general obligation bonds he shall give notice thereof in a newspaper of general circulation published in the city of Richmond and the cost thereof shall be a charge against the funds in the hands of the Comptroller payable to such unit. The Governor shall, within sixty days following such publication, notify the Comptroller of all petitions for payment filed with him by the holders of bonds of such unit. The Governor shall, within ninety days after such notification and while such default continues, direct in writing the payment of all sums so withheld by the Comptroller, or so much thereof as shall be necessary, to the holders of the bonds of the class or series so in default, so as to cover, or cover insofar as possible, the default as to such bonds or interest thereon. Any payment so made by the Comptroller to the holders of the bonds of the class or series so in default shall be credited by them as if made direct by the unit and shall be charged by the Comptroller against the unit as if paid to the unit.

The holders of the bonds of the class or series so in default at the time of such payment, or at the time of each payment, shall receipt therefor and deliver to the Comptroller all bonds and interest coupons satisfied by such payment, and the Comptroller shall thereupon report each payment so made to the governing body of the unit affected and deliver or send by registered mail to the governing body all bonds and interest coupons received by the Comptroller under the provisions of this section.

If all of the holders of the bonds of the class or series so in default cannot be found, the Comptroller shall hold for the benefit of those not so found their pro rata share of the sums so withheld and pay same when such holders are found.

For the purpose of this section bonds of any magisterial district or school district of any county shall be treated as bonds of the county in which such magisterial district or school district is located.

§ 15.1-228. Borrowing for school construction authorized.—In conformity with ~~Sec. 115a~~ *Article VII, § 10,* of the Constitution of Virginia, ~~as amended by an amendment ratified in the general election in November, nineteen hundred and fifty-eight,~~ the school board of any county is hereby authorized to contract to borrow money from the Virginia Supplemental Retirement System for ~~the purpose of school construction,~~ *capital projects for school purposes,* with the approval of the governing body of the county, and the Board of Trustees of the Virginia Supplemental Retirement System is hereby authorized to lend the money if it be available for investment, subject to and in conformity with the provisions of this chapter.

§ 15.1-229. Resolution by school board; approval or rejection by governing body of county; indebtedness evidenced by bonds.—Whenever the school board of any county desires to contract with the Board of Trustees of the Virginia Supplemental Retirement System to borrow money for ~~the purpose of school construction,~~ *capital projects for school purposes,* it shall adopt a resolution setting forth the purpose for which it is desired to borrow the money and the amount of such proposed borrowing. Such resolution shall be entered in the minutes of the school board, and a copy of the same, certified by the clerk of the school board, shall be sub-

mitted by the school board to the governing body of the county for its approval or rejection. If the governing body of the county approves the resolution, it shall enter its approval in its minutes, and the school board may then endeavor to negotiate an agreement with the Board of Trustees of the Virginia Supplemental Retirement System for the borrowing of such money. If agreement be reached, the question of borrowing such money on the terms agreed upon by the school board and the Board of Trustees of the Virginia Supplemental Retirement System shall again be submitted to the governing body of the county for its approval or rejection. If the governing body approves the terms of such agreement, it shall enter its approval in its minutes, and the school board may then, by resolution entered in its minutes, provide for the issuance of negotiable bonds evidencing the indebtedness for sale to the Virginia Supplemental Retirement System. Such bonds shall be issued in conformity with the provisions of this chapter.

§ 15.1-239. Where assessments for local improvements may be imposed; purposes.—~~Except in cities and towns, and in counties having a population greater than five hundred inhabitants per square mile, no taxes or assessments for local improvements shall be imposed on abutting landowners, and no city or town, and no such county as is above mentioned, shall impose any tax or assessments upon abutting landowners for street or other public local improvements, except for making and improving the walkway upon then existing streets and improving and paving then existing alleys and for either the construction or the use of sanitary or storm water sewers, and the same when imposed shall not be in excess of the peculiar benefits resulting therefrom to such abutting landowners.~~ *The governing body of any county, city or town may impose taxes or assessments upon abutting property owners for making or improving the walkways upon then existing streets, for improving and paving then existing alleys, and for either the construction or the use of sanitary or storm water sewers; however, such taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owners.*

§ 15.1-276. Definition of public uses.—The term "public uses" mentioned in ~~section fifty-eight~~ *Article I, § 11* of the Constitution of Virginia is hereby defined to embrace all uses which are necessary for public purposes.

§ 15.1-277. Acquisition of property near parks or other public property.—Any city or town may acquire by purchase, gift or condemnation property adjoining its parks or plats on which its monuments are located, or other city or town property used for public purposes, or property in the vicinity of such parks, plats and public property, which is used in such manner as to impair the beauty, usefulness or efficiency of such parks, plats or public property and any acquisition of any such property is hereby declared to be for a public use as the term public uses is used in ~~section fifty-eight~~ *Article I, § 11,* of the Constitution of Virginia. The city or town so acquiring any such property may subsequently dispose of the same, in whole or in part, making such limitations as to the uses thereof as it may see fit. But nothing in this section shall be construed to give any city or town any power to condemn the property of any railroad company or public service corporation which it does not otherwise possess under existing law.

§ 15.1-307. Restrictions on granting franchises and selling public property.—The rights of no city or town in and to its water front, wharf property, public landings, wharves, docks, streets, avenues, parks, bridges and other public places and its gas, water and electric works shall be sold,

except by an ordinance passed by a recorded affirmative vote of three-fourths of all the members elected to the council or to each branch thereof, when there are two, and under such other restrictions as may be imposed by law; and in case of the veto by the mayor of such an ordinance, it shall require a recorded affirmative vote of three-fourths of all the members elected to the council or to each branch thereof, when there are two, had in the manner heretofore provided for in § 15.1-817 to pass the same over the veto.

No franchise, lease or right of any kind to use any such public property or any other public property or easement of any description, in a manner not permitted to the general public, shall be granted for a longer period than ~~thirty years.~~ *forty years, except for air rights together with easements for columns for support, which may be granted for a period not exceeding sixty years.*

Before granting any such franchise or privilege for a term ~~of~~ *in excess of five years,* except for a trunk railway, the ~~municipality~~ *city or town* shall first, after due advertisement, receive bids therefor publicly, in such manner as is provided by § 15.1-310, and shall then act as may be required by law.

Such grant, and any contract in pursuance thereof, may provide that upon the termination of the grant the plant as well as the property, if any, of the grantee in the streets, avenues and other public places shall thereupon, without compensation to the grantee, or upon the payment of a fair valuation thereof, be and become the property of the city or town; but the grantee shall be entitled to no payment by reason of the value of the franchise; and any such plant or property acquired by a city or town may be sold or leased or, if authorized by law, maintained, controlled and operated by such city or town. Every such grant shall specify the mode of determining any valuation therein provided for and shall make adequate provision by way of forfeiture of the grant or otherwise to secure efficiency of public service at reasonable rates and the maintenance of the property in good order throughout the term of the grant.

Nothing herein contained shall be construed as repealing any additional restriction now required in any existing municipal charter in relating to the powers of cities and towns in granting franchises or in selling or leasing any of their property.

§ 15.1-308. Ordinance proposing grant of franchise, etc., to be advertised.—Before granting any franchise, privilege, lease or right of any kind to use any public property or easement of any description, *for a term in excess of five years,* except in the case of and for a trunk railway, the city or town proposing to make the grant shall advertise the ordinance proposing to make the grant, after its term shall have been approved by the mayor, or the ordinance passed over the mayor's veto, as in case of other ordinances, once a week for four successive weeks in a newspaper published in the city or town; or, if no newspaper be published therein, then in some newspaper having general circulation therein; and the ordinance may be also advertised as many times in such other newspaper or newspapers, published in or out of the city or State, as the council may select and determine upon.

§ 15.1-322. Bonds to finance such sewage disposal systems.—Bonds of the county, city or town, the principal and interest of which shall be payable from ad valorem taxes, which shall be levied upon all the taxable property of said county, city or town without limitation of rate or amount, in the event that the revenue hereinafter referred to is insufficient for the

payment of the principal and interest thereof, may be issued from time to time in the manner prescribed by the Constitution of Virginia to establish, construct, improve and enlarge a sewage disposal system with all the necessary sewers, conduits, pipe lines, pumping and ventilating stations, treatment plants and works and other property, real and personal, necessary for the operation thereof, from which the county, city or town may derive a revenue to reimburse the general fund or any other fund of the county, city or town for moneys paid from said fund or funds for such purposes, and to fund or refund any existing indebtedness incurred for such purposes, and such bonds shall not be included in determining the power to incur indebtedness within the limitation prescribed by ~~section one hundred twenty-seven~~ *Article VII, § 10,* of the Constitution of Virginia, but from and after a period to be determined by the governing body, not exceeding five years from the date of the election authorizing such bonds, whenever and for so long as such sewage disposal system fails to produce sufficient revenue to pay for cost of operation and administration, including the interest on such bonds, and the cost of insurance against loss by injury to persons or property, and an annual amount to be covered into a sinking fund sufficient to pay at or before maturity, all such bonds, then all such bonds outstanding shall be included in determining the limitation of the power to incur indebtedness; provided, however, that bonds may be issued from time to time for any or all of such purposes, including reimbursement of funds and the funding or refunding of existing indebtedness, in the manner prescribed by the Constitution of Virginia, the principal and interest of which bonds shall be payable solely from the revenue of such sewage disposal system, which bonds shall never be included in determining the power to incur indebtedness within the limitations prescribed by ~~section one hundred twenty-seven~~ *Article VII, § 10,* of the Constitution of Virginia.

§ 15.1-323. Ordinance authorizing issuance of such bonds and calling election thereon.—The ordinance authorizing the issuance of any of such bonds and the calling of an election on the question of the issuance thereof *if such voter approval be required by Article VII, § 10, of the Constitution* shall state:

(a) The maximum amount of bonds to be issued;

(b) The purpose or purposes for which such bonds are to be issued;

(c) That the principal and interest of said bonds shall be payable from ad valorem taxes without limitation of rate or amount, if the revenue of the sewage disposal system is insufficient for that purpose, or that the principal or interest of such bonds shall be payable solely from the revenue of such sewage disposal system;

(d) If the bonds are to be payable from ad valorem taxes without limitation of rate or amount in the event that the revenue of the sewage disposal plant is insufficient for that purpose, that the bonds are to be issued pursuant to the provisions of the Constitution of Virginia and are not to be included in determining the power to incur indebtedness within the limitation prescribed by ~~section one hundred twenty-seven~~ *Article VII, § 10,* of the Constitution of Virginia; provided, however, that from and after a period specified in such ordinance not exceeding five years from the date of the election authorizing the bonds, whenever and for so long as such sewage disposal system fails to produce sufficient revenue to pay for cost of operation and administration, including the interest on such bonds, and the cost of insurance against loss by injury to persons or property, and an annual amount to be covered into a sinking fund sufficient to pay at or before maturity, all such bonds, then all such bonds outstanding shall be included in determining the limitation of the power to incur indebtedness;

(e) If the bonds are to be payable solely from the revenue of such sewage disposal system, that the bonds are to be issued pursuant to the provisions of the Constitution of Virginia and are never to be included in determining the power to incur indebtedness within the limitation prescribed by ~~section one hundred twenty-seven~~ *Article VII, § 10,* of the Constitution of Virginia;

(f) The maximum rate of interest to be borne by the bonds, not exceeding six per centum per annum;

(g) The maximum period within which such bonds shall mature, not exceeding thirty-five years from the date of issue;

(h) Such other details as the governing body may, in its sole discretion, deem necessary, including but without limiting the generality of the foregoing, a pledge of the net revenue of the sewage disposal system to the payment of the principal and interest of any such bonds and a covenant to maintain fees, rents or other charges for the use of such sewage disposal system, authorized by §§ 15.1-320 and 15.1-321, at a level which will produce net revenue sufficient for the payment of the principal and interest thereof, and any reserve funds deemed necessary for the efficient administration of such sewage disposal system and for the protection of the holders of the bonds.

§ 15.1-324. How election called and held; notice of sale.—The calling and holding of the election on the question of the issuance of such bonds shall be governed by the provisions of §§ ~~15.1-666.23, 15.1-666.25 and 15.1-666.26~~ *15.1-180, 15.1-182 and 15.1-183* as to cities and towns, and of §§ ~~15.1-666.30 and 15.1-666.31~~ *15.1-187 and 15.1-188* as to counties. If such bonds are sold at public sale, the notice of sale may provide that the bidders shall name the rate or rates of interest to be borne by such bonds, not exceeding the maximum rate prescribed by the ordinance calling the election, to be expressed in a multiple or multiples of one fourth or one tenth of one per centum per annum.

§ 15.1-372. Acquisitions in connection with street changes.—Any city or town of the Commonwealth proposing to open or widen a street by taking a part of any lot or other subdivision of property in such manner that remnant thereof would, in the opinion of the council of the city or town, be so small or of such shape as to be unsuited for the erection of appropriate buildings thereon may, in its discretion, acquire by purchase, gift or condemnation the whole of such lot or other subdivision of property of the owner whose property is sought to be acquired in the proceedings and any such acquisition thereof is hereby declared to be for a public use, as the term public uses is used in ~~section fifty-eight~~ *Article I, § 11,* of the Constitution of Virginia. Any such city or town may subsequently replat and dispose of the remnant of such property so acquired not used for street purposes in whole or in part, making such limitations as to the uses thereof as it may see fit. Nothing in this section shall be construed to give any city or town any power to condemn the property of any railroad company or public service corporation which they do not otherwise possess under existing law.

§ 15.1-545. Loans to meet casual deficits or anticipate revenue. - For the purpose of ~~meeting casual deficits in the revenue, or~~ creating a debt in anticipation of the collection of the revenue of the county, the board is hereby authorized to borrow not earlier than February first of any year a sum of money not to exceed one half of the amount reasonably anticipated to be produced by the county levy laid in such county for the year in which the loan is negotiated.

§ 15.1-571. Magisterial districts established.—The several magisterial districts in the different counties of this State, with the boundary lines and names thereof respectively as constituted and known on the day before this Code takes effect, are declared to be the magisterial districts in such counties respectively and shall so continue unless and until the same shall be changed as ~~hereinafter~~ provided *in this Title.*

§ *15.1-571.1 Boundaries of magisterial districts.—On and after July one, nineteen hundred and seventy-one, the several magisterial districts in the different counties of the State, with the boundary lines and names thereof respectively shall be as the governing body of such counties may establish. The districts shall be composed of contiguous and compact territory and be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. Whenever in the opinion of the governing body it is necessary, or whenever it becomes necessary to maintain districts which meet the test of equitable population distribution, or because the boundaries of such county have been altered, the governing body shall redistrict the county in magisterial districts, change the boundaries of existing districts, change the name of any district, or increase or diminish the number of districts.*

§ 15.1-589. Powers vested in board of supervisors; election and terms of members; vacancies.—The powers of the county as a body politic and corporate shall be vested in a board of county supervisors, to consist of not less than three nor more than seven members to be elected by the qualified voters of the county at large, or solely by the qualified voters of the respective magisterial district of which each member is a qualified voter, depending upon the result of the election held upon the questions submitted to the voters pursuant to § 15.1-589.1 of the Code. There shall be on the board for each magisterial district one member, and no more, who shall be a qualified voter of such district.

If any county having more than seven or less than three magisterial districts adopts this form of government, the said board shall consist of five members elected from the county at large. But if at least sixty days prior to any election of such board the number of such districts be reduced to not more than seven nor less than three, the members of such board shall be elected as prescribed in the foregoing paragraph.

The supervisors first elected shall hold office until the first day of January following the next regular election provided by general law for the election of supervisors. At such election their successors shall be elected for terms of four years each.

Any vacancy on the board of county supervisors shall be filled by the judge of the circuit court of the county; his appointee shall hold office ~~during the remainder of the term of his predecessor in office.~~ *pending the next general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.*

§ 15.1-623. Powers vested in board of supervisors; election and terms of members; vacancies.—The powers of the county as a body politic and corporate shall be vested in a board of county supervisors, to consist of not less than three nor more than seven members to be elected by the qualified voters of the county at large, or solely by the qualified voters of the respective magisterial district of which each member is a qualified voter, plus one additional member elected at large, depending upon the result of the election held upon the questions submitted to the voters pursuant to § 15.1-623.1 of the Code. There shall be on the board for each magisterial district one member, and no more, who shall be a qualified voter of such district; except as hereinabove provided.

If any county having more than seven or less than three magisterial districts adopts this form of government, the board shall consist of five members elected from the county at large. But if at least sixty days prior to any election of such board the number of such districts in any county having more than seven or less than three districts be reduced or increased, as the case may be, to not more than seven nor less than three, the members of such board shall be elected as prescribed in the foregoing paragraph.

The supervisors first elected shall hold office until the first day of January following the next regular election provided by general law for the election of supervisors. At such election their successors shall be elected for terms of four years each.

Any vacancy on the board of county supervisors shall be filled by the judge of the circuit court of the county; his appointee shall hold office ~~during the remainder of the term of his predecessor in office.~~ *pending the next general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.*

§ 15.1-664. Changing from one form to another.—Any county which adopts either form of organization and government provided for by this chapter may change to the other form of organization and government therein provided for, or ~~change back to the~~ *some other* form of county organization and government provided for by ~~Article VII of the Constitution and~~ the general law of the State. The procedure shall be the same, in so far as applicable, as that herein provided in §§ 15.1-582 to 15.1-587. ~~except that the question two in the ballot to be used shall be printed to read as follows:~~

~~Question two. In the event of such change, which form of organization and government shall be adopted?~~

- ~~County Manager Form (or County Executive Form, as the case may be)~~
- ~~The Form of County Organization and Government Provided for by Article VII of the Constitution of Virginia~~

~~If the petition or resolution shall ask for a referendum on the single question as to whether the county shall adopt the county manager form, or the county executive form, as the case may be, the ballot shall read:~~

~~Shall the county adopt the county manager form (or the county executive form, as the case may be)?~~

- ~~For~~
- ~~Against~~

~~If the petition or the resolution shall ask for a referendum on the single question as to whether the county shall give up the county executive form, or the county manager form, as the case may be, and adopt the form of county organization and government provided for in Article VII of the Constitution of Virginia, the ballot shall read:~~

~~Shall the county adopt the form of county organization and government provided for in Article VII of the Constitution of Virginia?~~

- ~~For~~
- ~~Against~~

Voting shall be in accordance with the provisions of § ~~24-141~~ *24.1-165*.

§ 15.1-667. Effect of change to old form.—If in accordance with the provisions of § 15.1-664 the form of the county organization and government be changed from either the county executive form or the county manager form to ~~that~~ *some other* form of county organization and government provided for by ~~Article VII of the Constitution and~~ the provisions of general law ~~enacted pursuant thereto~~, all officers of the county and the district whose election is provided for by ~~Article VII of the Constitution and the~~ general law shall be elected at the next succeeding regular November election, held at least sixty days after such change shall have been voted upon; all appointive officers shall be appointed by the appointing power provided for by general law; the terms of the officers so elected or appointed shall begin on the first day of January next succeeding, at which time the change of county organization and government shall become effective, and such officers shall hold office until their successors have been elected at the next regular election provided for such officers or have been appointed, as provided by general law, and have qualified.

§ 15.1-668. Limitation as to frequency of elections.—If any election has been or is held in any county to determine whether such county shall adopt either of the two forms of county organization and government provided for in articles 2 (§ 15.1-588 et seq.) and 3 (§ 15.1-622 et seq.) of this chapter, or if any election has been or is held in any county which has adopted either of such optional forms of county organization and government to determine whether such county shall change to the other optional form of county organization and government or to determine whether such county shall change ~~back~~ to ~~the other~~ *some other* form of county organization and government provided for by Article VII of the Constitution and the other provisions of general law of the State, no further election of the nature referred to in this section shall be held in the county within three years thereafter.

§ 15.1-670. Board of commissioners; election; terms; officers; powers and duties generally.—In every county adopting this plan, the legislative, executive and administrative powers theretofore exercised by the board of supervisors of such county and such as may be thereafter conferred by law shall be exercised by a board constituted of five members, to be known as the board of commissioners and hereinafter referred to as the board, elected for a term of four years; provided, however, that the county officers whose election by popular vote is provided for by ~~section one hundred and ten~~ *Article VII, § 4,* of the Constitution, the trial justice, or county judge, and the school superintendent and school board of such county shall continue as provided by law with all the power, authority and duties conferred by law upon such officers, court and school board. With the exception of the officers hereinbefore mentioned, all other officers of such county shall be appointed by the board of commissioners. The board shall elect one of its members, who shall be designated as chairman, to preside over the meetings of the board. He shall possess all the rights and duties of a member of the board but shall have no veto power. The board shall be elected at large or by districts as may be determined by the voters of such county in the election provided for in this chapter. The board shall divide the administration of the county into departments and determine and prescribe the jurisdiction and duties of each department and the powers and duties of the officers and employees therein and make such rules and regulations for the conduct of each department as it may deem desirable for the purpose of securing efficiency and economy in administration.

§ 15.1-674. County board; membership, terms, chairman, etc.; board to appoint county manager.—Under the county manager plan all of the

legislative powers of the county, however conferred or possessed by it, shall be vested in a board of five members to be known as the county board. The members of the board shall be elected in the manner hereinafter provided and for terms of four years. The county board shall appoint the county manager, who need not be a resident of the county or of the State. The county board shall elect one of its members as chairman, who shall preside over its meetings. The chairman shall be elected by the board annually and any vacancy in the office shall be filled by the board for the unexpired term. The chairman shall have the same powers and duties as other members of the board with a vote but no veto and shall be official head of the county. With the exception of those officers whose election is provided for by popular vote in ~~section one hundred and ten~~ *Article VII, § 4,* of the Constitution and the trial justice or county judge, members of the board shall be the only elective county officials. The county board shall be a body corporate and as such shall have the right to sue and be sued in the same manner as is now provided by law for boards of supervisors.

§ 15.1-677. Duties of county manager; compensation; appointment of officers and employees.—The administrative and executive powers of the county, including the power of appointment of all officers and employees whose appointment or election is not otherwise provided by law, are vested in an official known as the county manager, who shall be appointed by the county board at its first meeting or as soon thereafter as practicable. He shall receive such compensation as shall be fixed by the board. The officers whose election by popular vote is provided for in ~~section one hundred and ten~~ *Article VII, § 4,* of the Constitution and the trial justice or county judge, the school board and the superintendent of schools shall not be subject to appointment but shall be selected in the manner prescribed by law. The heads of all departments other than those hereinbefore referred to and excepted from the provisions of this section shall be selected by the county board; provided that if a majority of the qualified voters voting in the election required by § 15.1-668 vote in favor thereof, then the heads of the several county departments, other than those hereinbefore referred to and excepted from the provisions of this section shall be appointed by the county manager.

§ 15.1-685. Abolition of offices and distribution of duties.—The board, by a majority vote of all the members elected, may abolish any board, commission, or office of such county except the school board, school superintendent and trial justice, and the officers elected by popular vote provided for in ~~section one hundred and ten~~ *Article VII, § 4,* of the Constitution, and may delegate and distribute the duties, authority and powers of the boards, commissions, or offices abolished to the county manager or to any other officer of the county it may think proper. In the event of the abolition of any such board, commission, or office, those to whom the duties thereof may be delegated or distributed shall discharge all of the duties and exercise all of the powers and authorities of, and both they and the county for which they were appointed, or by whom they were employed, shall enjoy the immunities and exemptions from liability or otherwise that were enjoyed by the abolished boards, commissions, or offices, prior to the adoption of the county manager plan of government, except in so far as such duties, powers, authority, immunities and exemptions have been or hereafter may be changed according to law.

§ 15.1-700. Board of county supervisors; election; terms; chairman; vacancies.—(a) The powers and duties of the county as a body politic and corporate shall be vested in a board of county supervisors.

(b) The board of county supervisors shall consist of one member elected from the county at large by the qualified voters of the county and

one member from each magisterial district in the county elected by the qualified voters of such magisterial district. The members of the board shall be elected at the same time and for the same term as provided by general law for the election of boards of supervisors of counties. The board shall elect its chairman from its membership.

(c) Members of the board of supervisors of the county in office immediately prior to the day upon which the county board form becomes effective in the county shall be and, unless sooner removed, continue as members of the board of county supervisors until the expiration of their respective terms and until their successors are qualified.

(d) If the change in the form of county organization and government becomes effective on the first day of January next succeeding the regular election of members of the board of supervisors in the county, such members-elect shall qualify and, as soon as possible after the county board form becomes effective in the county, succeed the then incumbents as members of the board of county supervisors and as such continue until the expiration of their respective terms and until their successors are qualified.

(e) At the regular November election next succeeding the approval of the county board form, one member of the board shall be elected from the county at large by the qualified voters of the county; his term of office shall begin on the first day of January next succeeding such election and shall run for a term coincident with that of the other members of the board of county supervisors. Pending his election and taking office, the office of member from the county at large shall remain vacant.

(f) Except as otherwise provided in paragraph (e) of this section, when any vacancy shall occur in the membership of the board of county supervisors, the judge of the circuit court of the county shall issue a writ of election to fill such vacancy. Such election shall be held at the next regular November election *or, if the vacancy occurs within one hundred and twenty days prior to such election, the second ensuing general election.* The person so elected shall hold office for the unexpired term of the member whom such person is elected to succeed. The judge may make a temporary appointment to fill such vacancy until the people fill the same by election as herein provided.

§ 15.1-706. Attorney for the Commonwealth, county clerk, sheriff, commissioner of the revenue and treasurer of the county.—(a) The attorney for the Commonwealth, the county clerk, the sheriff, the commissioner of the revenue and the treasurer of the county, in office immediately prior to the day upon which the county board form becomes effective in the county shall continue, unless sooner removed, as attorney for the Commonwealth, county clerk, sheriff, commissioner of the revenue and treasurer, respectively, of the county until the expiration of their respective terms of office and until their successors have qualified. Thereafter such officers shall be elected in such manner and for such terms as provided by general law.

(b) When any vacancy shall occur in any office named in the foregoing paragraph, the judge of the circuit court of the county shall issue a writ of election to fill such vacancy. The election shall be held in the next succeeding November election *or, if the vacancy occurs within one hundred and twenty days prior to such election, the second ensuing general election.* The person so elected shall hold office for the unexpired term of the officer whom such person is elected to succeed. The judge of the circuit court of the county may make a temporary appointment to fill such vacancy until the people fill the same by election as herein provided.

(c) Each officer named in paragraph (a) of this section, may appoint such deputies, assistants and employees as he may require in the exercise of the powers conferred and in the performance of the duties imposed upon him by law.

(d) Each officer named in paragraph (a) of this section shall, except as otherwise provided in the county board form of county organization and government, exercise all the powers conferred and perform all the duties imposed upon such officer by general law. He shall be accountable to the board of county supervisors in all matters affecting the county and shall perform such duties, not inconsistent with his office, as the board of county supervisors shall direct.

§ 15.1-720. Certain officers not affected; exception as to justices of the peace.—(a) The following officers shall not, except as herein otherwise provided, be affected by the adoption of the county board form:

(1) Jury commissioners;

(2) Notaries public;

(3) County electoral boards;

(4) Registrars;

(5) Judges and clerks of election;

(6) County coroners;

(7) ~~Trial justice;~~ *Judge of county court;* and

(8) Justices of the peace, except as provided in paragraph (b) of this section.

(b) In any county which adopts the county board form there shall be appointed or elected in the manner provided by law not to exceed one justice of the peace in each magisterial district; provided that in any magisterial district in which there is located a beach resort there shall be so elected or appointed two justices of the peace; in any magisterial district in which at the time this form of organization and government is adopted there is more than one justice of the peace or no justice of the peace, the judge of the circuit court of the county shall appoint one such justice, who shall hold office until his successor is elected or appointed and qualified; the terms of the other justices of the peace in such magisterial district shall expire when the appointee takes office~~.~~*; provided, no such elective justice of the peace shall be appointed by such judge for a period exceeding that prescribed in Article VI, § 12 of the Constitution.* The term "justice of the peace" as used in this paragraph does not embrace or mean the office of trial justice or substitute trial justice. Provided, however, that the judge of the circuit court of any county adopting the county board form of organization and government may appoint additional justices of the peace in said districts if it appears to the judge that such additional justices of the peace in any or all of said magisterial districts are necessary to serve the public interests. Such additional justices of the peace when appointed shall be appointed for a term to run concurrently with the term of those justices of the peace elected by law and to expire at the same time.

§ 15.1-721. Procedure whereby form of county organization and government may be changed.—(a) Any county which adopts the county board form of organization and government provided for by §§ 15.1-699 to 15.1-721, both inclusive, may change ~~back~~ to ~~the~~ *some other* form of organization and government prescribed by Article VII of the

Constitution of Virginia and the general law of the State. The procedure shall be the same, in so far as applicable, as that herein provided in § 15.1-698,. ~~except that the ballot to be used shall be printed to read as follows:~~

~~Do you approve changing the organization and government of the county from the county board form to the form of county organization and government prescribed by Article VII of the Constitution of Virginia and the general law of the State?~~

☐ ~~Yes~~

☐ ~~No~~

(b) If in accordance with the provisions of the foregoing paragraph of this section the voters approve changing the form of county organization and government from the county board form to ~~that~~ *some other* form of county organization and government prescribed by Article VII of the Constitution of Virginia and the provisions of general law enacted pursuant thereto, the change shall become effective on the first day of January next succeeding the election wherein the change is approved.

(c) The term of the member of the board of county supervisors elected from the county at large shall terminate and his office be abolished at the same time that the change in the form of county organization and government becomes effective. The other members of the board of county supervisors in office immediately prior to the change shall constitute and continue as, unless sooner revoked, the board of supervisors of the county until the expiration of their respective terms and until their successors are qualified.

(d) The clerk, Commonwealth's attorney, sheriff, commissioner of the revenue and treasurer of the county immediately prior to the change in the form of county organization and government shall continue, unless sooner removed, as clerk, Commonwealth's attorney, sheriff, commissioner of the revenue and treasurer, respectively, until the expiration of their respective terms of office and until their respective successors are qualified.

(e) If the change in the form of county organization and government becomes effective on the first day of January next succeeding the regular election of the successors to the officers mentioned in paragraphs (c) and (d) of this section, such newly elected successors shall qualify and, as soon as possible after the change becomes effective, succeed the officers mentioned in paragraphs (c) and (d) of this section.

(f) All other county and district officers provided for by general law, but abolished by the county board form of organization and government, shall, upon the change provided for in this section becoming effective, be filled by appointment or election as provided by law.

§ 15.1-727. Effect of change on other county officers, etc.; application of other laws; meaning of "county board of supervisors" or "board of supervisors."—All other county and district officers of such county shall continue to hold office until their successors are elected or appointed and shall have qualified; but the term of office of any person who holds an office abolished by the form of organization and government adopted shall terminate as soon as his powers and duties shall have been transferred to some other officer or employee, or done away with.

If any county which adopts one of the forms of organization and government provided by this chapter and which has heretofore been without some officer, board, agency or function provided for in the Constitution,

the fact that such county adopts one of the forms of organization and government provided for in this chapter shall not thereby establish in such county such officer, board, agency, or function unless the same be specifically created or provided for in this chapter.

Except where inconsistent with this chapter, all provisions of law relating to boards of supervisors or governing bodies of counties shall refer to the urban county board of supervisors, to the extent that the term "urban county board of supervisors" shall be synonymous with and equivalent to the board of supervisors referred to in ~~the Constitution of Virginia~~ *general law* insofar as the powers, duties and functions of such board are used ~~in the Constitution and in~~ general law and all provisions of law relating to supervisors or members of the board of supervisors or governing bodies of counties shall refer to the members of the urban county board of supervisors to the end that the term "supervisors" shall be synonymous with and equivalent to the members of the urban county board of supervisors. The provisions of this chapter as to the form of organization and government and the powers of the governing body thereof shall, as to any county adopting any of the forms of government herein provided, be controlling within such county.

Hereafter in this chapter the terms "county board of supervisors" or "board of supervisors," if used, shall mean the urban county board of supervisors.

§ 15.1-729. Powers of county vested in board of supervisors; membership, election, terms, etc., of board; vacancies.—The powers of the county as a body politic and corporate shall be vested in an urban county board of supervisors, to consist of one member from each district of such county to be known as the board of supervisors. Each member shall be a qualified voter of his district and shall be elected by the qualified voters thereof. In addition to the above members of the board of supervisors, there shall be elected a county chairman who shall be a qualified voter of the county and shall be elected by the qualified voters thereof. The county chairman shall be the chairman of the board of supervisors and preside at the meetings thereof. The chairman shall represent the county at official functions and ceremonial events. The chairman shall vote only in case of a tie but shall have all other rights, privileges, and duties of other members of the board and such other, not in conflict with this article, as the board may prescribe. No person may be a candidate for county chairman at the same time he is a candidate for membership on the county board from any district of the county. A quorum shall consist of a majority of the board of supervisors and the chairman shall be included and counted.

At the first meeting at the beginning of its term and any time thereafter when necessary, the board of supervisors shall elect a vice-chairman from its membership who shall perform the duties of the chairman in his absence, except that he shall retain his right to vote when so acting.

The supervisors and chairman first elected under the provisions of this chapter shall hold office until the first day of January following the next regular election provided by general law for the election of supervisors. At such election their successors shall be elected for terms of four years each.

In the event that the number of districts in any such county shall be increased by redistricting or otherwise subsequent to a general election for supervisors under such form of government, and such supervisors shall have taken office, then, in such event, the urban county board of supervisors shall adopt a resolution requesting a judge of the circuit court

of such county to call a special election for an additional supervisor or supervisors in accordance with the increase in the number of districts, such additional supervisor or supervisors to be elected, from the county at large and such election shall be held within forty-five days from the date of such request. The qualifications of candidates and the election shall be as at general law applying to special elections. Any supervisor or supervisors thereby elected shall hold office until the first day of January following the next regular election provided by general law for the election of members of the board of supervisors, and at the next regular election all supervisors of any such county shall be elected from districts as provided by law.

Any vacancy on the urban county board of supervisors shall be filled by the judge of the circuit court of the county. His appointee shall hold office until the thirty-first day of December following the ~~first general election occurring at least six months after such vacancy occurs~~ *next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election,* at which election a supervisor shall be elected from such district for the unexpired term, if any.

§ 15.1-742. Powers of county vested in board of supervisors; membership, election and terms of board; vacancies.—The powers of the county as a body politic and corporate shall be vested in an urban county board of supervisors, to consist of not less than five nor more than eleven members to be elected by the qualified voters of the county. There shall be on the urban county board of supervisors for each district one member, and no more, who shall be a qualified voter of such district.

The members of the board first elected under the provisions of this chapter shall hold office until the first day of January following the next regular election provided by general law for the election of boards of supervisors. At such election their successors shall be elected for terms of four years each.

Any vacancy on the urban county board of supervisors shall be filled by the judge of the circuit court of the county~~; his appointee shall hold office during the remainder of the term of his predecessor in office.~~ *pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.*

§ 15.1-757. Changing from one form to another.—(a) Any county which adopts either form of organization and government provided for by this chapter may change to the other form of organization and government therein provided for, or change ~~back~~ to the form of county organization and government provided for by Title 15.1, chapter 13 (§ 15.1-582 et seq.) of this Code of Virginia as amended, or change ~~back~~ to ~~the~~ *some other* form of county organization and government provided for by Article VII of the Constitution and the general law of the State. The procedure for initiating, conducting and determining the results of a referendum thereon, shall be the same, insofar as applicable, as that herein provided in article 1 (§ 15.1-722 et seq.) of this chapter~~, provided that the question or questions to be submitted to the voters shall be contained in the resolution adopted by the urban county board of supervisors or in the petition filed with the court and which question or questions shall be on the adoption of one of the forms of county organization and government named in paragraph (b) and set forth in the question hereinafter provided for in paragraph (c).~~

~~(b) Forms of county organization and government which may be adopted:~~

~~Urban County Manager Form (or~~

~~Urban County Executive Form as the case may be)~~

~~The County Executive Form~~

~~The County Manager Form~~

~~The Form of County Organization and Government Provided for by Article VII of the Constitution of Virginia.~~

~~(c)~~ The ballot shall be printed to read as follows:

Question. Shall the county adopt (here insert name of form proposed in petition or resolution ~~and which form is set forth in paragraph (b) hereof~~)?

☐ For

☐ Against

§ 15.1-760. Effect of change to form provided by Article VII of Constitution.—If, in accordance with the provisions of § 15.1-757 the form of county organization and government be changed ~~from any other form~~ to ~~that~~ *some other* form of county organization and government provided for by Article VII of the Constitution and the provisions of general law enacted pursuant thereto, all officers of the county and the district whose election is provided for by Article VII of the Constitution and the general law shall be elected at the next succeeding regular November election, held at least sixty days after such change shall have been voted upon; all appointive officers shall be appointed by the appointing powers provided for by general law; the terms of the officers so elected or appointed shall begin on the first day of January next succeeding, at which time the change of county organization and government shall become effective, and such officers shall hold office until their successors have been elected at the next regular election provided for such officers or have been appointed, as provided by general law, and have qualified.

§ 15.1-761. Limitation as to frequency of elections.—If any election has been or is held in any county to determine whether such county shall adopt either of the two forms of county organization and government provided for in Articles 2(§15.1-728 et seq.) and 3 (§ 15.1-741 et seq.) of this chapter, or if any election has been or is held in any county which has adopted either of such optional forms of county organization and government to determine whether such county shall change to any other optional form of county organization and government or to determine whether such county shall change ~~back~~ to ~~the~~ *some* other form of county organization and government provided for by Article VII of the Constitution and the other provisions of general law of the State, no further election of the nature referred to in this section shall be held in the county within three years thereafter.

§ 15.1-787. Division of county into districts; functions of districts; appointees to planning commission and school board.—Within ninety days after the adoption of either of the forms of government set forth in this chapter, the county board of supervisors, after holding a public hearing thereon, shall divide the county into from five to eleven districts. ~~The division shall be based on considerations of size, community of interest and the need for services not required on a county-wide basis, and shall be as nearly equal as practicable in population. Under this form of county organization and government in accordance with the powers vested in the General Assembly in Sec. 110 of the Constitution of Virginia,~~

~~districts may be of any reasonable area and are not limited by the provisions of Sec. 111 of the Constitution.~~ *Each district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population in the district.*

These districts shall serve as (a) the electoral divisions for elections of members of the urban county board of supervisors and justices of the peace, (b) sanitary districts under the provisions of article 7 (§ 15.1-791), and (c) shall have such other functions as are specified herein.

Each district shall have at least one of its residents who is a qualified voter of the district appointed to the local planning commission of the county and to the county school board. Each member of the county school board shall be appointed for terms and serve in accordance with all the provisions of § 15.1-770 of the Code of Virginia.

§ 15.1-788. Changes in boundaries of districts.—Within ninety days after the publication of the official results of each United States decennial census, the urban county board of supervisors shall make such changes in district boundaries as are required to meet the tests of equitable population distribution among the districts with a minimum disruption of the then existing district pattern of service ~~and the board may redistrict not more than once in the interim between official decennial census, provided such redistricting is based upon a census taken by the Bureau of Census of the United States Department of Commerce.~~ *In 1971 and every ten years thereafter, and also whenever the boundaries of such districts are changed, the board shall reapportion the representation in the governing body among the districts.*

§ 15.1-788.1. Mandamus shall lie for failure to change boundaries. —Whenever the governing body of any county changes the boundaries, or increases or diminishes the number of districts, or reapportions the representation in the governing body as prescribed hereinabove, such action shall not be subject to judicial review, except as otherwise provided in § 15.1-37.8 of the Code. Whenever the governing body of the county shall fail to perform the duty of reapportioning the representation among the districts of such county, or fail to change the boundaries of districts, mandamus shall lie on behalf of any citizen thereof to compel performance by the governing body.

§ 15.1-792. Definition of "incorporated communities"; what are cities and towns.—As used in this chapter the words "incorporated communities" shall be construed to relate only to cities and towns; all incorporated communities having within defined boundaries a population of five thousand or more and which have been chartered as such by the General Assembly or have been declared to be such in the manner provided by law shall be known as cities, and ~~all other incorporated communities~~ *any existing town on July first, nineteen hundred seventy-one and all other incorporated communities within one or more counties which have within defined boundaries a population of one thousand or more and which have become towns as provided by law* shall be known as towns~~; but nothing in this section shall be construed to repeal the charter of any incorporated community of less than five thousand inhabitants having a city charter at the time this Code takes effect, or to prevent the abolition by such incorporated communities of the corporation or hustings court thereof~~.

§ 15.1-796. ~~Sergeants of cities and towns~~ *Sheriffs of cities and sergeants of towns.*—In every city ~~and~~, *unless otherwise provided in § 15.1-40.1 of the Code, there shall be elected a sheriff, and in every* town,

unless otherwise provided by its charter, there shall be elected by the qualified voters thereof a sergeant. The term of office of a city ~~sergeant~~ *sheriff* shall be four years and of a town sergeant two years and their duties shall be as prescribed by law. Sergeants of towns shall have the same powers and discharge the same duties as sheriffs within the corporate limits of the town and to a distance of one mile beyond the same. *City sheriffs shall have the same powers and discharge the same duties as were conferred by law upon city sergeants prior to July first, nineteen hundred seventy-one.*

§ *15.1-796.1. Office of city sergeant abolished.—Notwithstanding any charter provision or special act, on and after July one, nineteen hundred and seventy-one, the office of city sergeant is abolished. Any person holding office as city sergeant on July one, nineteen hundred and seventy-one, shall continue in office as city sheriff until the expiration of the term for which he was elected, and his successor is elected and qualified, except that in any city having a city sheriff on or before July one, nineteen hundred and seventy-one, the person holding the office of city sheriff shall continue in office until his successor is elected and qualified.*

§ 15.1-803. Number of wards in city; how changed.—In each city of this Commonwealth there shall be as many wards as the city council may establish. ~~; but whenever, by the last United States census or other enumeration made by authority of law, it shall appear that the population in any ward exceeds that of any other by so much as three thousand inhabitants, or whenever in the opinion of the council it is necessary, or whenever~~ *The wards shall be composed of contiguous and compact territory and be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the ward. Whenever* it becomes necessary because the corporate limits of the city have been extended or contracted, the city council shall redistrict the city into wards, change the boundaries of existing wards, or increase or diminish the number of wards. ~~; so that no one ward shall exceed any other ward in population by more than three thousand inhabitants.~~ But in no case shall the city council redistrict the city into wards or change the boundaries of existing wards, except in so far as it may be necessary *to maintain wards which meet the test of equitable population distribution, or* to change such boundaries for the purpose of attaching newly annexed territory of such existing ward or wards as may be contiguous thereto, oftener than once every five years, except upon a recorded vote of three-fourths of the members elected to the council or three-fourths of the members elected to each branch thereof when the council is composed of two branches; and in every such case the reason therefor shall be set forth in the ordinance providing for such redistricting.

~~A mandamus shall lie on behalf of any citizen to compel the performance by the council of the duty so prescribed.~~

§ 15.1-806. Council to reapportion representation among wards. —The council in every city shall, in the year nineteen hundred ~~and fifty-three~~ *seventy-one* and every tenth year thereafter, also whenever the boundaries of the wards of the city are changed, prescribe by ordinance the number of members of each branch of the council and reapportion the representation therein among the wards, so as to give, as far as practicable to each ward of such city, equal representation in the council and in each branch thereof in proportion to the population of each ward. In determining such population, the council shall be governed by the last United States census, or by an enumeration as provided for in § 15.1-17, or such other enumeration as may be provided for by law. If by any change of the boundaries of a ward, or by the increase or diminution of the

number of wards, any officer, who is required by law to be a resident of the ward from which he is elected or appointed, shall become a resident of a different ward, such officer shall, notwithstanding, serve as such to the end of his term.

Whenever the governing body of any city changes the boundaries, or increases or diminishes the number, of wards, or reapportions the representation in the governing body as prescribed in this article, such action shall not be subject to judicial review, except as otherwise provided in § 15.1-37.8 of the Code.

Whenever the governing body of any city shall fail to perform the duty of reapportioning the representation among the wards of such city, or fail to change the boundaries of wards, as prescribed in this article, mandamus shall lie on behalf of any citizen thereof to compel performance by the governing body.

§ 15.1-808. Vacancies in council.—When any vacancy shall occur in the council of a city having one branch, or in either branch of the council of any city having two branches, by death, resignation, removal from the ward, failure to qualify or from any other cause, the council, or the branch, as the case may be, in which such vacancy occurs, shall elect a qualified person to fill the vacancy for the unexpired term, except that if there should be vacancies of a majority of the council, or either branch thereof, for any reason, then the circuit court, or the judge thereof in vacation, or the corporation court of the city, or the judge thereof in vacation, shall *pending the next ensuing general election or, if the vacancy occurs within one hundred and twenty days prior to such election, pending the second ensuing general election,* fill such vacancies ~~for the unexpired term~~ of such members who have died, resigned or removed from the ward, from the persons qualified to hold such offices.

§ 15.1-819. Appropriation ordinances.—No ordinance or resolution appropriating money exceeding the sum of ~~one~~ *five* hundred dollars, imposing taxes or authorizing the borrowing of money shall be passed, except by a recorded affirmative vote of a majority of all the members elected to the council or to each branch thereof when there are two; and in case of the veto by the mayor of such ordinance or resolution, it shall require a recorded affirmative vote of two-thirds of all the members elected to the council, or to each branch thereof, when there are two, to pass the same over such veto in the manner provided in § 15.1-817. Nothing contained in this section shall operate to repeal or amend any provision in any existing city charter requiring a two-thirds vote for the passage of any ordinance as to the appropriation of money, imposing taxes, or authorizing the borrowing of money.

§ 15.1-821. Commonwealth's attorneys for cities.—In every city, ~~so long as it has a corporation court or a separate circuit court,~~ there shall be elected, for a term of four years, by the qualified voters of such city, an attorney for the Commonwealth~~, who shall also, in those cities having a separate circuit court, be the attorney for the Commonwealth for such circuit court~~. Assistant attorneys for the Commonwealth for cities having a population of more than two hundred thousand may be appointed by the attorney for the Commonwealth for such city after having first received approval of the governing body of such city and of the Compensation Board for a term of office coterminous with his own, who shall receive such compensation as shall be fixed in the manner provided by law. All assistant attorneys for the Commonwealth shall perform

such duties as are prescribed by their respective attorney for the Commonwealth. The office of assistant attorney for the Commonwealth heretofore created and provided for in the charters of such cities is hereby abolished.

§ 15.1-824. City ~~sergeant.~~ *sheriff.*—The ~~sergeant~~ *sheriff* of the city shall perform the duties, receive the compensation and be subject to the liabilities prescribed in the charter of his city or by law and shall also, within the jurisdiction of the court of his city, exercise the same powers, perform the same duties, and be subject to the same liabilities touching all process issued by the court of such city or by the clerk of such court, or otherwise lawfully directed to him, that the sheriff of a county exercises, performs and is subject to in his county.

§ 15.1-825. Allowances to ~~sergeant~~ *sheriff* by city court.—There shall be chargeable to each city such sum as the court thereof may allow to the ~~sergeant~~ *sheriff* attending it for services rendered to the city; provided, that no such allowance shall be made under this section for services rendered by such officer in criminal prosecutions on behalf of the Commonwealth; but the judge of the corporation court of any city may, with the consent of the city council, make allowance to the ~~sergeant~~ *sheriff* of the city for services in criminal cases, payable out of the city treasury.

§ 15.1-850. Imposition and apportionment of assessments; delegation of authority.—A municipal corporation may impose on abutting landowners the assessments for local improvements provided for in article 2 (§ 15.1-239 et seq.) of chapter 7 of Title 15.1 of this Code, subject to the limitations prescribed by ~~Sec. 170~~ *Article X, § 3,* of the Constitution; and all of the provisions of said article with respect to the imposition and apportionment of such assessments, notices, objections, appeals, and liens and judgments with respect thereto and the enforcement thereof, and docketing of instruments and documents, pertaining to such assessments shall be applicable thereto. A municipal corporation may delegate to its chief executive or administrative or other appropriate officer the authority to perform the powers, duties and functions of the council, committee, officer or board conferred and imposed by the provisions of said article 2 of chapter 7 of Title 15.1 of this Code.

§ 15.1-894. Franchises.—A municipal corporation may grant franchises to use public property and may exercise the powers granted in article 2 (§ 15.1-307 et seq.) of Chapter 9 of Title 15.1 of this Code, to the extent and in the manner therein prescribed, subject to the provision of ~~Sec. 125~~ *Article VII, § 9* of the Constitution.

§ 15.1-987. Treasurer of town to continue in office; appointment where town had no treasurer.—The treasurer of the town, if there be one, shall be and continue the city treasurer. If there be no treasurer of the town, then the vacancy shall be filled by appointment by the circuit court having jurisdiction over such ~~municipality~~ *city or town* or by the judge thereof in vacation~~.~~, *pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.*

The city treasurer, whether he be such by reason of having held the office of town treasurer or by appointment, shall not discharge any duties as city treasurer until he has given bond in a penalty to be fixed by the common council of the city and conditioned according to law to secure the faithful discharge of his duties in connection with the collection and disbursement of the city's revenues, and also the bond required by § 15.1-44 with reference to the collection and disbursement of the State revenues.

The officer so appointed shall qualify before the court or judge appointing him. The duties of the treasurer shall include the handling of the revenues of the city from all such sources as the council may direct. He shall serve until his successor is elected and qualified.

§ 15.1-988. Commissioner of revenue or assessor to continue in office; appointment where town had no commissioner or assessor.—The Commissioner of revenue or assessor of the town, if there be one, shall be and continue the commissioner of the revenue of the city and discharge all the duties imposed on him by the charter or by the general law.

If there be no commissioner of revenue or assessor of the town, then the circuit court having jurisdiction over such ~~municipality~~ *city or town* or the judge thereof in vacation shall, within thirty days after the town is declared to be a city, fill the vacancy by appointment~~.~~, *pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.* The officer so appointed shall forthwith qualify before the court or judge appointing him or before the clerk of the circuit court in his office. He shall serve until his successor is elected and qualified.

§ 15.1-989. Town sergeant to continue in office.—The sergeant of the town, if there be one, shall be and continue the ~~sergeant~~ *sheriff* of the city and discharge all the duties imposed on him by the charter or by the general law. The duties and compensation of the ~~sergeant~~ *sheriff* shall be such as are provided by law for the sergeants of towns. He shall serve until his successor is elected and qualified.

§ 15.1-991. Election and terms of other city officers.—At the next general election of State officers after the ~~municipality~~ *city or town* is declared to be a city of the second class, and succeeding the expiration of the regular term of office of the existing municipal officers, to be held on Tuesday after the first Monday in November, when similar officers are elected for other cities, there shall be elected in such city a city treasurer, commissioner of the revenue, if elected by the general law, a justice of the peace for each ward, a city ~~sergeant~~ *sheriff* and other officers elective by the qualified voters, whose election is not otherwise provided for by law, whose term of office shall begin on the first day of January next succeeding their election and continue for four years and until their respective successors have been elected and qualify; provided, however, that the commissioner of revenue shall be elected or appointed as the general law may direct.

§ 15.1-992. Qualification of officers; vacancies.—The officers for the election of whom provision is made by the preceding section (§ 15.1-991) whether elected at the first election for such officers held in the city, in pursuance of such section or at any subsequent election for such officers, held pursuant to §§ 24-160 to 24-167 shall qualify before the circuit court having jurisdiction in the city, or before the judge thereof in vacation, or before the clerk of such court in the clerk's office. And in the case of a vacancy in any such office the same shall be filled by appointment by the court or by the judge thereof in vacation, *pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.*

§ 15.1-993. Bonds.—The bond of the treasurer shall be conditioned for the faithful performance of his duties and in other respects as required by the general law and shall be in penalty not greater than one half the amount of State funds to be received by him annually, nor less than fifteen per centum thereof.

The bond of the commissioner of the revenue and the bond of the city ~~sergeant~~ *sheriff* shall likewise be conditioned for the faithful performance by such officers of their respective duties and otherwise comply with the provisions of the general law. The penalty of the bond of the commissioner of the revenue shall be not less than twenty-five hundred dollars and that of the city ~~sergeant~~ *sheriff* not less than one thousand dollars.

§ 15.1-998. Appointment of electoral board, treasurer, commissioner of revenue and ~~sergeant~~ *sheriff*.—The court or the judge in vacation shall, at or before the next term of his court, appoint for the city an electoral board of three members, the term of one of whom shall expire on the first day of March next succeeding, the term of another to expire one year later, and the term of the third to expire two years later than the term of the first mentioned. He shall at the same time, if necessary, appoint one city treasurer, one commissioner of the revenue and one ~~sergeant~~ *sheriff*. The terms of all officers appointed by the circuit court or judge thereof shall expire when their successors are elected or appointed and qualify, *pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.*

§ 15.1-1020. Publication of notice of such election.—The ~~sergeant~~ *sheriff* of such city shall promptly publish notice of such special election in accordance with the order of the court or judge by posting the same for not less than twenty days at each polling place in such city and at the door of the city hall and by publishing the same for at least two weeks in every issue during that period of some newspaper of general circulation published in such city, if there be any, the reasonable cost of which publication shall be certified by the ~~sergeant~~ *sheriff* of the city council, which shall provide for the payment thereof out of the city treasury.

§ 15.1-1021. Election and organization of new council.—Except as otherwise expressly provided therein such special election shall be held by the same officers and in the same manner and its results ascertained, certified, and recorded, and the expenses thereof borne and paid, in the same manner as in the case of regular municipal elections; and the persons elected thereat shall, within five days next after such special election, qualify before the mayor of such city or the judge of the corporation court, or of the circuit court, having jurisdiction over such city, and shall hold their respective offices until the next regular election for the members of the city council and until the city council elected at such next regular election shall go into office. Should any person elected at such special election fail to qualify within such period of five days, his office or seat shall thereupon become vacant and shall, at the first meeting of the chamber to which he was elected, be filled by those members thereof who shall have qualified within such period, whether such members constitute a majority of the membership of such chamber or not. Should all of the members of either chamber fail to qualify within the period of five days, then the entire membership of such chamber shall forthwith be filled by appointment of the judge of the corporation court of such city or, if there be no such court, then by the appointment of the judge of the circuit court having jurisdiction over such city , *pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.* The old council existing at the time of such transition shall cease to exist and shall become functus officio at the end of five days next succeeding such special election; and the new council shall then forthwith go into office and organize, and thereafter,

except as herein otherwise expressly provided, such new council shall have all the powers and be subject to all the provisions of law applicable to two-chambered councils elected at regular elections.

§ 15.1-1047.1. Reduced taxation on land added to corporate limits.—The council of any city or town to which land has been added at midnight, December thirty-one, nineteen hundred sixty-nine, and thereafter, may, by ordinance, allow a lower rate of taxation to be imposed for a period not to exceed five years upon land added to its corporate limits, than is imposed on similar property within its limits at the time such land was added.

Such differenece in the rate of taxation hereafter shall bear a reasonable relationship to differences between non-revenue producing governmental services giving land urban character which are furnished in the area added as compared to other areas in the city or town.

§ 15.1-1061. What court or judge may do.—If the court or the judge thereof, as the case may be, shall be satisfied that such contraction of the corporate limits will not leave the bonded debt of the city or town in excess of eighteen per centum of the assessed valuation of the real estate that will be left in the city or town after the contraction proposed, which shall be determined as is provided in ~~Sec. 127~~ *Article VII, § 10,* of the Constitution of Virginia, and if the court or judge shall be satisfied that less than three fourths of the freeholders in that territory oppose the contraction proposed and that no substantial injury to persons owning real estate in the territory proposed to be stricken off, or to the county of which it will become a part, will be caused thereby, but that the striking off of such territory will be for the interest of the city or town, the court or judge, as the case may be, shall render an order confirming the ordinance contracting the limits of the city or town and declaring the territory so stricken off to be a part of some contiguous county designated in the order. Such contraction shall thereupon become final and be taken cognizance of by all public officers and the territory so stricken off shall become a part of the county so designated. Whenever such an order is rendered, a copy of the order shall be certified to the Division of State Planning and Community Affairs.

§ 15.1-1104. Optional provisions of consolidation or annexation ordinance.—The consolidation or annexation ordinance may contain the following provisions, to-wit:

(1) Election.—It may provide that consolidation or annexation shall take effect only upon condition that the ordinance providing therefor is ratified by the duly registered and qualified voters at an election to be held for that purpose in either or both of the cities concerned; provided, however, that such ordinance must so provide for an election in the city having the smaller population or in any city in which one-fourth of the qualified voters petition the council asking that such an election be held.

(2) Public improvements.—It may provide for the erection of public buildings or other works of improvement, which shall be specified, in either of the cities, or, when the two cities are separated by water, for the construction of bridges between them. It may also provide for the setting apart of the taxes or revenues of either city, either in whole or in part, or of a stated sum in lieu thereof, for a fixed period, not, however, exceeding five years, for the improvement of streets or the providing of light, water or other public works or improvements, as may be agreed upon by the two cities or, in the absence of such agreement, as the council of the consolidated municipality shall determine.

(3) Courts.—It may provide for the abolition of the corporation or other courts of the city whose charter is surrendered upon securing the

payment of the salaries of the judge thereof and any other court official whose salary cannot be or is not designed to be cut off during the term of office for which he was elected or appointed, or it may provide that the corporation or other courts of the city whose charter is surrendered shall be continued and shall continue to exercise the same jurisdiction belonging to it or them under the statutes previous to annexation or consolidation. The clerk and ~~sergeant~~ *sheriff* of such court shall be continued in office for and during the term for which they shall have been elected, and thereafter until the election and qualification of their successors, and they shall be entitled to the same compensation and fees as if annexation or consolidation had not taken place; provided, however, that the courts thus retained shall be designated by the title of the corresponding courts of the united or consolidated municipality, with the added designation, part two; and the judges thereof, who shall serve to the end of the terms for which they were severally elected or appointed, and whose successors shall then be elected, appointed and commissioned in the manner prescribed by law and for the same term, as in the case of other judges of cities of the first class, shall receive the same compensation, which shall be paid in the same manner as in the case of other city judges. The amount of compensation for each judge so retained is hereby fixed at a sum equal to the salary fixed by law for the judge of the court of which the retained judge's court becomes a division; and provided that the court of the municipality, so far as they have concurrent jurisdiction, shall apportion and divide between them all cases coming up for trial.

(4) Civil and police justices.—It may provide for a police justice and a civil justice, if the combined population of the cities will be over forty-five thousand, or a civil and police justice, if such population will be less than forty-five thousand, to hold court within the former territory of either of the cities in which there was no police justice, civil justice or civil and police justice at the time of annexation or consolidation, notwithstanding the adopted charter may provide for only one such justice in the former territory of the city whose charter is adopted. Such civil justice, police justice or civil and police justice and their successors shall be appointed or elected in the manner and shall exercise the powers, duties and jurisdiction prescribed by the charter of the united or consolidated municipality. But if such charter makes no provision therefor, such justices and their successors shall be appointed in the manner and for the term, and shall be clothed with the powers, duties and jurisdiction prescribed by general law; provided, that such justice may be elected or appointed as soon as the annexation or consolidation has been declared effective, and his term of office shall begin as soon as he has qualified; and provided, that the salary of such justice, which shall be paid by the city, shall be fixed by its council according to the population contained in the former territory of the city in which he is to hold court, as provided in Title 16.1. If at the time of annexation or consolidation there is a civil or a police justice or a civil and police justice, in either or both of the cities, such justice or justices shall continue to exercise the duties of their offices and shall be clothed with the powers, duties and jurisdiction of such justices of the consolidated city as if originally elected or appointed therein. Their courts shall be designated as "the police court" or "the police court, part two," "the civil justice court" or "the civil justice court, part two," or "the civil and police justice court" or "the civil and police justice court, part two" of the municipality, according to the relative population contained within the territory of the former city in which they hold court, respectively, and their successors shall be elected or appointed as if such justices had always been justices of the consolidated municipality. All cases, civil and criminal, which arise within the former territory of either of the cities shall, upon motion of the accused

or of the defendant, be certified for trial to the justice whose court is held in the territory within which such case arose. If, however, at the time of annexation or consolidation the mayor of either city shall be clothed with the jurisdiction and powers of a police justice, the ordinance may provide that such mayor shall be and become the police justice designated for the trial of cases, civil and criminal, arising within the territory of his former city, and he shall thereupon be vested with all the powers, duties, and jurisdiction conferred by law or by the adopted charter upon a police justice to the same extent as if he had been selected or appointed in and for the consolidated municipality. His term of office shall begin on the day when annexation or consolidation is declared effective and end with the term for which he was elected mayor. His salary shall be determined and his successors shall be elected or appointed in the manner and for the term hereinbefore prescribed. The court of any police justice appointed or elected in the manner herein provided shall be designated as "part two" of the police court of the consolidated municipality, if either of the cities had a police justice at the time of annexation or consolidation.

(5) Assistant Commonwealth's attorney and city attorney.—It may provide for an assistant to the attorney for the Commonwealth and to the city attorney of the united or consolidated municipality and may continue in office as such assistant or assistants for the terms for which they were respectively elected or appointed the Commonwealth's attorney and city attorney of the city whose charter is surrendered.

(6) Transfer of police, boards, officials, etc.—It may transfer members of the police or fire department or of any other department of the city government whose charter is surrendered to the corresponding department of the government of the united or consolidated municipality and the several boards, commissioners and officials, respectively, and such boards, commissioners and officials, respectively, may fix and assign the rank, title, duties and powers of such transferred members, except that the place of service of transferred members of the police and fire departments shall remain in the territory of the city whose charter is surrendered as long as they remain members of the departments, unless in an emergency they are ordered to other territory; provided, however, that the rank, title, duties and powers of the transferred members of the police and fire departments shall remain the same until the governing authorities of such departments provide otherwise.

(7) Other provisions.—It may contain any other special provisions agreed upon by the cities which are not inconsistent with the Constitution and laws of the Commonwealth and which are permitted by the charter of either city.

§ 15.1-1135. Optional provisions of consolidation agreement or plan. —Any such consolidation agreement or plan may contain any of the following provisions:

(1) That in any territory a part of the consolidated city, or county proposed to be included therein there shall be no increase in assessments, except for permanent improvements made after the consolidation, for a period of not exceeding five years.

(2) That the rate of tax on real property in any such territory shall ~~not be increased for a period of five years.~~ *be lower than in other territory of the consolidated unit for a period of five years, provided that any difference between such rates of taxation shall bear a reasonable relationship to differences in nonrevenue-producing governmental services giving land urban character which are furnished in such territories.*

(3) That in any area specified in such agreement or plan there may, for the purpose of repaying existing indebtedness chargeable to such area prior to consolidation, be levied a special tax on real property for a period of not exceeding twenty years, which may be different from and in addition to the general tax rate throughout the entire consolidated city, or county, or counties, as the case may be.

(4) That geographical subdivisions of the consolidated city, to be known as boroughs, may be established, which may be the same as the existing cities, towns, counties or portions of counties included in the consolidated city, and may be the same as the temporary special debt districts referred to in subsection (3) of this section; the names of such boroughs shall be set forth in the consolidation agreement.

(5) That geographical subdivisions of the consolidated county or counties, to be known as shires, may be established, which shall be the same as and bear the names of the existing counties or portions of counties included in the consolidated county or counties, and may be the same as the temporary special debt districts referred to in subsection (3) of this section.

(6) That in the event of consolidation of such counties and cities into a single county, there may be established geographical subdivisions of such county, to be known as boroughs, which shall be the same as and bear the names of the existing cities and towns, and shires, which shall be the same as and bear the names of the existing counties.

(7) That in the event of the establishment of such shires or boroughs, it shall be the duty of the State Highway Commission and the Director of Conservation and Development to erect suitable monuments or markers indicating the limits of such geographical subdivisions and setting forth the history of each.

(8) That in the event of establishment of a consolidated city, there shall be a new election of officers therefor whose election and qualification shall terminate the terms of office of their predecessors; provision may be made for the exclusion from such new election of such elective officers as is deemed desirable.

(9) That in the event of the establishment of a consolidated city the tax rate on all property of the same class within the city shall be uniform; provided that the council shall have power to levy a higher tax in such areas of the city as desire additional or more complete services of government than are desired in the city as a whole and, in such case, the proceeds therefrom shall be so segregated as to enable the same to be expended in the areas in which raised. Provided further that such higher tax rate shall not be levied for school, police or general government services but only for those services which prior to consolidation were not offered in the whole of all the consolidated political subdivisions.

(10) The aforesaid agreement may incorporate any provisions of any charter heretofore granted by the General Assembly of Virginia for any of the cities proposing to consolidate or any proposed consolidated city. It is the intention of this subsection to permit the drafting by the governing bodies, or the committees acting for and in lieu of the governing bodies under § 15.1-1132, of a composite charter to be adopted as a part of the consolidation agreement or plan for the proposed consolidated city, which shall have the same force and effect as if granted ab initio by the General Assembly of Virginia. In such composite charter the name of the consolidated city, if agreed upon, shall be inserted in lieu of the name of the city which may be specified in the original charters from which the com-

posite charter provisions are taken, or if the name of the consolidated city be left to subsequent referendum, then the phrase "the consolidated city" shall be so substituted. Any such composite charter shall be published as provided in § 15.1-1137 as a part of the consolidation agreement.

§ 15.1-1349. Officers of commission.—Within thirty days after the appointment of the original members of the commission, the commission shall meet on the call of any member and shall elect one of its members as chairman and another as vice chairman, each to serve for a term of one year or until his successor is elected and qualified. The commission shall employ a secretary and treasurer (who may or may not be a member of the commission) and if not a member of the commission, fix his compensation and duties. All officers shall be eligible for reelection. Each member of the commission, before entering on the performance of his public duties, shall take and subscribe the oath or affirmation specified in ~~Sec. 34~~ *Article II, § 7,* of the Constitution of Virginia.

§ 16.1-162. Dockets and order books; hearings and records private; when name of offender, etc., made public.—Every juvenile court shall keep a separate docket, order book or file for the entries of its orders in cases arising under this law, and the trial of all such cases shall be held at a different time from the hearing of other cases in the court. The general public shall be excluded from all juvenile court hearings and only such persons admitted as the judge shall deem proper. ~~The presence of the child in court may be waived by the judge at any stage of the proceedings.~~ Except as hereinafter provided, the records of all such cases, excepting those involving adults, shall be withheld from public inspection but they shall be open to the child's parents and attorney and to such other persons as the judge or the judge of a court of record in his discretion decides have a proper interest therein; provided, however, that in cases involving criminal offenses by juveniles, the judge may make public the name of the offender, the names of the parents of the offender and the nature of the offense, if he deems it to be in the public interest.

§ 17-3.1.—Justices and judges not permitted to practice law.—No justice or judge of a court of record shall, during his continuance in office, engage in the practice of law within or without the Commonwealth, or seek or accept any non-judicial elective office, or hold any other office of public trust, or engage in any other incompatible activity.

§ 17-5. Residence requirements of judges.—Each judge of a ~~circuit, corporation or city~~ *trial* court *of record* shall, during his ~~continuance in~~ *term of* office, reside within the jurisdiction of *one of* the ~~court~~ *courts* ~~over which he presides~~ *to which he was appointed or elected* and his removal therefrom shall vacate his office, ~~except that a judge of a corporation court of any corporation having a city charter and less than five thousand inhabitants may reside outside the corporate limits of such city,~~ *but* whenever any such judge resides within the area in which his court has criminal jurisdiction he shall be deemed to be residing within ~~his circuit and in one of the counties or cities constituting the same~~ *the jurisdiction of such court;* ~~and provided that if the residence of any judge of a circuit court is situated in an area which, during the term for which he was elected, has been annexed by or merged with any city, such judge shall be deemed to be a resident of his circuit for the remainder of the term for which he was elected; and provided further, that if any such judge has removed himself from his residence in such annexed or merged area after such annexation or merger, but has not divested himself of ownership of such residence, he may resume his residence therein for the remainder of the term for which he was elected.;~~

provided, however, that where the boundary of the jurisdiction of a court is changed by annexation or otherwise, no judge thereof shall thereby become disqualified from office or ineligible for reelection if, except for such annexation or change, he would otherwise be qualified.

§ 17-17. Change of place or time for holding session of *Supreme* Court ~~of Appeals~~.—Whenever, by reason of the destruction of any building in which the Supreme Court ~~of Appeals or a Special Court of Appeals~~ is appointed to be held, or by reason of the place of session being in possession of a public enemy or infected with contagious disease, it shall seem to the Governor necessary, he shall, by proclamation, appoint a place at which such court shall be held, so long as such reason may continue, and when the circumstances require it, may postpone the time for holding the court. A copy of such proclamation shall be sent to the clerk and to each of the judges of such court and published in some newspaper at the seat of government and near the regular place of session of such court.

§ 17-18. Court must be held in its county or corporation; exceptions.—No such place of session for a circuit or corporation court shall be without the limits of the county or corporation of which it is the court, except as provided in §§ 17-14.1 and 17-15 of the Code of Virginia. And when such place is appointed because of the destruction of the building in which the Supreme Court ~~of Appeals or Special Court of Appeals~~ was held, the new place of session shall be within the same city or town with the old.

§ 17-93. Composition of Court; quorum; ~~title of judges;~~ Chief Justice.—The Supreme Court ~~of Appeals~~ shall consist of seven ~~judges~~ *justices,* any four of whom convened shall form a quorum. ~~Each of the judges shall have the title of justice.~~ The ~~judge~~ *justice* longest in continuous service shall be Chief Justice; and if two or more shall have so served for the same period, the senior in years of these shall be Chief Justice~~.~~ *; provided that an eligible justice may decline to serve as Chief Justice, or a Chief Justice may resign as such, without thereby relinquishing his membership on the Court as a justice thereof. In either event the Chief Justice shall be the justice who would next succeed to the office.*

§ 17-94. Jurisdiction when sitting ~~in bank~~ *en banc* or in divisions.—The ~~judges~~ *Supreme Court* may sit *and render final judgment* ~~in bank,~~ *en banc* or in ~~two~~ divisions, ~~consisting of not less than three judges each,~~ as ~~the Court~~ may~~, from time to time determine,~~ *be prescribed by rules of the Court not inconsistent with the provisions of this section.* ~~In case the Court shall sit in divisions, each of such divisions shall have the full power and authority of the Court in the determination of causes, the issuing of writs and the exercise of all powers authorized by the Constitution or provided by law, subject to the general control of the Court sitting in bank and such rules and regulations as the Court may make. No decision of any division shall become the judgment of the Court unless concurred in by at least three judges; and no case involving a construction of the Constitution of this State or of the United States shall be decided except by the Court in bank and the assent of at least four of the judges shall be required for the Court to determine that any law is or is not repugnant to the Constitution of this State or of the United States; and if, in a case involving the constitutionality of any such law, not more than three of the judges sitting agree in opinion on the constitutional questions involved and the case cannot be determined without passing on such questions, no decision shall be rendered therein, but the case shall be reheard by a full Court; and in no case in which the jurisdiction of the Court depends solely upon the fact that the con-~~

~~stitutionality of a law is involved shall the Court decide the case upon its merits, unless the contention of the appellant upon the constitutional question be sustained.~~ *No decision shall become the judgment of the Court, however, except on the concurrence of at least three justices, and no law shall be declared unconstitutional under either the Constitution of Virginia or the Constitution of the United States except on the concurrence of at least a majority of all justices of the Supreme Court.* If the ~~judges~~ *justices* composing any division shall differ as to the judgment to be rendered in any cause or if any ~~judge~~ *justice* of ~~either~~ *such* division, within a time and in a manner to be fixed by the rules ~~to be adopted by~~ *of* the Court, shall certify that in his opinion any decision of ~~any~~ *such* division of the Court is in conflict with ~~any~~ *a* prior decision of the Court, or of ~~any division~~ *one of the divisions* thereof, the ~~cause~~ *case* shall ~~then~~ be ~~considered~~ *reheard* and ~~adjudged~~ *decided* by the ~~full~~ Court~~, or a quorum thereof,~~ *sitting en banc.*

§ 17-99. Terms and sessions.—The Court shall hold one term annually, commencing on the first Monday in October and continuing for such length of time as it may determine. Sessions shall be held at Richmond ~~and Staunton~~ commencing at such times and continuing for such periods as the Court from time to time directs.

§ 17-100. Special sessions of the Court.—The Supreme Court ~~of Appeals~~, by an order entered of record, may direct a special session to be held ~~at either of the places designated by law for holding a regular session and~~ at such time as it may deem proper.

§ 17-101. Also when requested by Governor or deemed proper by Chief Justice.—A special session may also be held, ~~at either of the places referred to in the preceding section,~~ by order of the Chief Justice in vacation, on the written request of the Governor to him, or whenever in the opinion of the Chief Justice it is proper. The time ~~and place~~ of holding the special session shall be designated in the order, which shall be directed to the clerk ~~at such place~~, who shall enter the same in his record book and give notice thereof to each ~~judge~~ *justice* of the Court, except the Chief Justice.

§ 17-102. What may be tried at special session; effect of decisions.—At any such special session, the Court, by consent of parties or their counsel, may hear and determine any cause then ready for a hearing, or, without such consent, upon twenty days' previous notice in writing, given by a party desiring a hearing to the adverse party, of his intention to insist on the same. The Court, at such special session, shall, after notice to the parties or their counsel from the clerk of the Court, hear any cause ~~pending at either place of session~~ which, in its opinion, the public interest require to be heard and determined. Any judgment, decree or order entered or made at such special session shall have the same effect and may be reviewed and reheard in like manner and subject to the same rules as a judgment, decree or order entered or made at a regular session.

§ 17-112. Tipstaff and crier; their duties and pay.—The Supreme Court ~~of Appeals, at each place of session, and the Special Court of Apppeals~~ may appoint a tipstaff and a crier, who shall perform such duties as the Court may require and shall receive out of the State treasury such reasonable compensation as the Court may allow and be removable at its pleasure.

§ 17-116. Clerk to deliver opinions to Reporter.—In those cases which the Reporter is directed to report, copies of the reasons stated

in writing, under ~~section~~ ~~ninety~~ *Article VI, § 6* of the Constitution, shall be delivered by the clerk of the Court to the Reporter.

§ 17-118. Circuit court of county to constitute circuit court of certain cities.—The circuit court of any county, within which is situated any city which has undergone transition from a city of the second class to a city of the first class since the ~~present~~ Constitution *of nineteen hundred and two* went into effect, shall have concurrent jurisdiction with the corporation court of such city in all proceedings at law or in equity, except criminal prosecutions; and the circuit court of such county shall constitute the circuit court of such city; provided that this section shall not apply to the cities of Bristol, Colonial Heights, Fredericksburg, Martinsville, Salem and Suffolk for which separate circuit courts have heretofore been established and which are continued.

§ 17-120. Vacancies in the office of judge.—Whenever a vacancy occurs in the office of judge his successor shall be elected for ~~the unexpired~~ *a full* term *of eight years* and upon qualification shall enter at once upon the discharge of the duties of his office. But, subject to the provisions of § 17-122 the Governor shall have the power during the recess of the General Assembly to fill pro tempore vacancies in such office. Such appointment to every such vacancy shall be by commission to expire at the end of thirty days after the commencement of the next session of the General Assembly.

§ 17-139. Jurisdiction of corporation courts.—The several corporation courts shall, within the territorial limits of the cities for which they are established, have the same jurisdiction which the circuit courts have in the counties for which they are established ~~and for the appointment of electoral boards, as provided by section thirty-one of the Constitution,~~ and concurrently with the circuit courts they shall also have jurisdiction to enforce police regulations and jurisdiction over all offenses committed in any county within one mile of such city, and such other jurisdiction as may be conferrred upon them by law.

But the provisions of this section shall not apply to the Hustings Court of the city of Richmond.

§ 19.1-35. Oath and bond.—The Chief Medical Examiner shall take the oath prescribed by ~~section thirty-four~~ *Article II, § 7,* of the Constitution, and enter into bond before the clerk of the Circuit Court of the city of Richmond in the penalty of five thousand dollars before entering upon the duties of office.

§ 19.1-246. Exclusion of persons from trial.—In the trial of all criminal cases, whether the same be felony or misdemeanor cases, the court may, in its discretion, exclude from the trial any ~~or all~~ persons whose presence ~~is not deemed necessary~~ *would impair the conduct of a fair trial, provided that the right of the accused to a public trial shall not be violated.*

§ 19.1-328. Effect of failure to pay fine when coupled with jail sentence.—If a person sentenced to be confined in jail a certain time and afterwards until he pay a fine ~~and costs of prosecution~~, fail to pay such fine ~~and costs~~ before the end of such term, he shall continue in confinement until the same be paid or his discharge be ordered by the court, or the judge thereof in vacation, or he be released by reason of the expiration of the limitation for such confinement prescribed by law.

§ 19.1-329. When and how prisoner hired out to pay fine.—If any person be sentenced to confinement in jail until he pay a fine

~~and the costs of prosecution~~, or be confined in jail under a capias pro fine, the sheriff of the county or ~~the sergeant of the~~ corporation in whose jail he is confined, may, with the assent in writing of the prisoner, hire him for such length of time, not exceeding three months, as may be agreed on, to any person who will agree to pay the whole fines ~~and costs~~.

§ 19.1-330. The obligation to be taken from hirer.—The officer shall take from the hirer an obligation to the Commonwealth, with surety, for the payment of the fine ~~and costs~~, and return the same forthwith to the clerk's office of the circuit court of the county or corporation court of the city in whose jail the prisoner is confined. The clerk shall endorse on the obligation the date of its return and from the time it is returned it shall have the force and effect of a judgment, but no execution shall issue thereon until after motion upon notice to the obligors therein.

§ 19.1-332. When person confined in jail until fine is paid; how released without payment.—When a person is confined in jail by order of any court or judge until he pay a fine ~~and costs of prosecution, or the costs when there is no fine~~, or under a capias pro fine, on application to the circuit court of the county or corporation court of the city where confined, or to the judge thereof in vacation, such court, or judge in vacation, as the case may be, if to such court or judge it shall appear proper, may order the person to be released from imprisonment without the payment of the fine ~~and costs, or costs when there is no fine~~, and he shall not thereafter be imprisoned for failure to pay the fine ~~and costs or costs~~ in that case. But the attorney for the Commonwealth of the county or city shall have five days' notice of such application.

§ 19.1-333. Admission to bail in case of sentence to jail unless fine or costs paid.—Whenever in any case a person is sentenced to jail to serve out a term of confinement and until he pays a fine ~~and costs, or costs without fine, or fine without costs~~, and he has served the specific term of confinement, or whenever in any case a person is sentenced to jail until he pay a fine ~~and costs, or costs without fine, or fine without costs~~, the circuit court of the county in which such judgment was pronounced, or the judge thereof in vacation, or the hustings or corporation court of the city exercising criminal jurisdiction in which such judgment was pronounced, or the judge thereof in vacation, may admit such defendant to bail for his appearance at a future day of such court, or before the judge thereof in vacation, taking surety therefor, the bail to contain a provision that the obligors agree and bind themselves, jointly and severally, to pay such fine ~~and/or costs~~ on the date for his appearance named in such bail, and in default of the payment of such fine ~~and/or costs~~ on the day named in such bail, then the court, or judge in vacation, may without notice to the obligors, enter judgment on such bond in favor of the Commonwealth of Virginia, or city or town if the fine ~~and/or costs~~ were imposed for a violation of a city or town ordinance, and direct that execution be issued thereon forthwith; or, in the discretion of such court or judge in vacation the defendant may be recommitted to jail there to be held until he pay such fine ~~and/or costs~~ or until he serve out the time required by law for the nonpayment of such fine ~~and/or costs~~.

§ 19.1-334. When person confined in jail until fine is paid or released; limitation of confinement.—If a person is confined in jail by order of any court or judge until his fine ~~and costs, or costs when there is no fine, are~~ *is* paid, or under a capias pro fine, such confinement shall not exceed five days when the fine ~~and costs, or costs when there is no fine, are~~ *is* less than five dollars, when less than ten dollars it shall not exceed ten days, when less than twenty-five dollars it shall not exceed fifteen days, when less than fifty dollars it shall not exceed thirty days, and in no

case shall the confinement exceed two months. The jailer, upon commitment, shall note the amount of fine ~~and costs, or costs when there is no fine,~~ and the date of commitment, and shall, without further order or direction, release the defendant from jail promptly upon the expiration of the limitation above prescribed, and the defendant shall not thereafter be imprisoned for failure to pay the fine ~~and costs, or costs,~~ in that case; but nothing herein or in the preceding section shall prevent the issue of a writ of fieri facias after such release from jail.

§ 19.1-338. Fines imposed by courts not of record.—In any misdemeanor case tried before a court not of record in which a fine is imposed on a defendant, ~~or in which the defendant is required to pay the costs and the same are not paid,~~ the court may issue a capias pro fine or, in its discretion, take security for payment of such fine ~~and costs, or for the costs alone when there is no fine~~, such payment to be made within thirty days from the day of trial. It shall be sufficient to bind such surety that the judge before whom such case is tried endorse on the warrant the name of the surety, the amount for which he is bound, and the date of the endorsement; but if no security is given, the defendant may be committed to jail until such fine ~~and costs, or such costs alone, are~~ *is* paid. If security be given and payment is not made to the clerk of the court or other proper collecting officer, the clerk of the court shall issue execution against the person against whom the judgment is rendered as well as against the surety in the same manner as is provided by § 19.1-336; but in case the trial bond is not given as provided in this section, the judge may commit the defendant to jail until the fine ~~and costs are~~ *is* paid, or ~~until the costs are paid, when there is no fine,~~ unless sooner discharged by due course of law.

§ 19.1-339. Courts may commit until fine paid, order capias pro fine issued or remand case to court not of record in which judgment was entered; fieri facias issued.—The circuit or corporation court in which any judgment for a fine is rendered, going, in whole or in part, to the Commonwealth, or for a fine going, in whole or in part, to any county, city or incorporated town upon appeal taken from the decision of a court not of record of such county, city or town, when the same is affirmed, in whole or in part, may, of its own motion or at the instance of the attorney for the Commonwealth, commit the defendant to jail until the fine ~~and costs are~~ *is* paid ~~or until the costs are paid when there is no fine~~; or the court or the judge thereof in vacation may direct the clerk to issue a capias pro fine either before or after the return of a writ of fieri facias; or, such court may direct the clerk to remand the case to the court not of record in which the judgment was entered, for proceedings in accordance with this article. But, unless so directed, the clerk shall, immediately after the term is ended, issue a writ of fieri facias, returnable within ninety days, on every judgment for a fine rendered at such term, or the court may, for good cause shown, direct a writ of fieri facias to be issued during the term on any such judgment.

§ 19.1-346. Certain fines paid into the Literary Fund.—The proceeds of all fines collected for offenses committed against the State, and directed by ~~section one hundred and thirty-four~~ *Article VIII,* § *8* of the Constitution of Virginia to be set apart as a part of a perpetual and permanent literary fund, shall be paid and collected only in lawful money of the United States, and shall be paid into the State treasury to the credit of the Literary Fund, and shall be used for no other purpose whatsoever.

§ 21-243. Oath and bond of members.—Each member of the commission shall, before entering upon the discharge of his duties under

this chapter, take and subscribe the oath of office required by ~~section thirty-four~~ *Article II,* § *7* of the Constitution of Virginia, and give bond payable to the Commonwealth of Virginia in form approved by the Attorney General, in such penalty as shall be fixed from time to time by the State Health Commissioner, with some surety or guaranty company duly authorized to do business in Virginia and approved by the State Health Commissioner, as security, conditioned upon the faithful discharge of his duties. The premium of such bonds shall be paid by the commission and the bonds shall be filed with and preserved by the Comptroller.

§ *22-1.1. System of free public elementary and secondary schools to be maintained.—A system of free public elementary and secondary schools shall be established and maintained for all children throughout the Commonwealth who have reached the age of six and have not reached the age of twenty years.*

§ *22-3.1. Meaning of certain terms.—Whenever the words "county school board" or "city school board" or "town school board" or "school board of any county, city or town operating as a separate special school district" or words of like import are used in this title, they shall be deemed and taken to mean the school board exercising its functions in the county or city constituting a school division or in the county, city or town constituting a part of a school division.*

§ 22-11. Appointment of members.—The general supervision of the school system shall be vested in the State Board of Education to be appointed by the Governor, subject to confirmation by the General Assembly, and to consist of ~~seven~~ *nine* members.

§ *22-12.1. Terms and vacancies.—All members of the State Board of Education appointed prior to, and in office on, July one, nineteen hundred and seventy-one, shall remain in office until the expiration of the terms for which they were appointed, and two additional members shall be appointed on July one, nineteen hundred, seventy-one to serve for a term of four years from that date. All appointments shall be made for a term of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All appointments, including those to fill vacancies, shall be subject to confirmation by the General Assembly, and any appointment made during the recess of the General Assembly shall expire at the end of thirty days after the commencement of the next session of the General Assembly. No member of the Board shall be appointed more than once to succeed himself; provided, that in determining eligibility for appointment, and appointment heretofore or hereafter made to fill a vacancy shall not be considered.*

§ 22-13. President.—~~At the first meeting after the State Board has been constituted, it~~ *The member of the State Board serving as president on July one, nineteen hundred and seventy-one shall continue as president until the expiration of the term for which he was elected. Thereafter, the State Board* shall elect from its membership a president for a term of two years.

§ 22-19. Bylaws and regulations.—The State Board may adopt bylaws for its own government, and make rules and regulations not inconsistent with law for the management and conduct of schools. *Except as provided in § 22-19.1, such* ~~Such~~ rules and regulations when published and distributed shall have the force and effect of law until revised, amended or repealed by the General Assembly, or until such regulations are revised, amended or rescinded by the State Board.

§ *22-19.1. Standards of quality for school divisions; when submitted and effective.—When the State Board reports its budget estimate to*

the Governor pursuant to § 2.1-54, it shall also submit to the Governor and the General Assembly a report containing the standards of quality prescribed for the several school divisions of the Commonwealth. Such standards of quality, subject to revision by the General Assembly, shall be effective for the school years embraced within the fiscal years for which such budget estimate is reported.

§ 22-21.2. Procedure if county or city fails to appropriate sufficient educational funds.—Whenever the governing body of any county or city fails or refuses to appropriate funds sufficient to provide that portion of the cost apportioned to such county or city by law for maintaining an approved educational program as required by Article VIII, § 2, of the Constitution and §§ 22-126.1 and 22-127, the State Board of Education shall notify the Attorney General of such failure or refusal in writing signed by the president of the State Board. Upon receipt of such notification, it shall be the duty of the Attorney General to file in the Supreme Court a petition for a writ of mandamus directing and requiring such governing body to make forthwith such appropriation as is required by law.

The petition shall be in the name of the State Board of Education, and the governing body of the county or city shall be made a party defendant thereto, and the Supreme Court may, in its discretion, cause such other officers or persons to be made parties defendant as it may deem proper. The Court may make such order as may be appropriate respecting the employment and compensation of an attorney or attorneys for any party defendant not otherwise represented by counsel. The petition shall be heard in accordance with the procedures prescribed in § 8-710, and the writ of mandamus shall be awarded or denied according to the law and facts of the case, and with or without cost, as the Supreme Court may determine.

§ 22-29.5. Management and administration of moneys, etc., transferred from Literary Fund.—The Authority shall manage and administer as hereinafter provided all moneys or obligations that may be set aside and transferred to it from the principal of the Literary Fund by the General Assembly for public school purposes pursuant to ~~Sec. 134~~ *Article VIII, § 8,* of the Constitution of Virginia.

§ 22-29.10. Payments into Literary Fund.—On or before the tenth day of January in each year the Authority shall set aside and pay into the Literary Fund an amount equal to the excess of the principal and interest collected by the Authority in the preceding year on account of obligations transferred to the Authority from the Literary Fund over such portion of such principal and interest as shall have been pledged by any trust indenture or resolution authorizing bonds of the Authority.

The principal collected by the Authority on account of obligations transferred to the Authority from the Literary Fund which is set aside and paid into the Literary Fund on or before the tenth day of January in any year pursuant to the foregoing provisions of this section shall become part of the principal of the Literary Fund subject to the provisions of ~~Sec. 134~~ *Article VIII, § 8,* of the Constitution of Virginia and of this chapter, and the interest collected by the Authority on account of such obligations which is set aside and paid into the Literary Fund on or before the tenth day of January in any year pursuant to the foregoing provisions of this section shall be deemed to be interest on the Literary Fund subject to the provisions of ~~Sec. 135~~ *Article VIII, § 8,* of the Constitution of Virginia; provided, however, that if the total amount of such principal and interest so set aside and paid into the Literary Fund on or before the tenth day of January in any year shall be less than the total amount of such principal

and interest collected by the Authority in the preceding calendar year, the amounts of the principal and the interest to be so set aside and paid into the Literary Fund shall each be reduced in the same proportion as the total amount of such principal and interest so collected has been reduced to the total amount of such principal and interest so set aside and paid into the Literary Fund.

§ 22-29.15. Annual transfers from Literary Fund to Authority.—On July first, nineteen hundred and ~~sixty-two~~ *seventy-one*, and on January first and July first in each year thereafter, there shall be set aside and transferred to the Virginia Public School Authority for public school purposes, to be held and administered by the Virginia Public School Authority as provided by law, so much of the principal of the Literary Fund ~~established under Sec. 134 of the Constitution~~ *set apart as a permanent and perpetual school fund by Article VIII, § 8, of the Constitution, including the assets of the fund held by the Virginia Public School Authority which are repayable to the fund,* as is in excess of the total of (a) ~~ten~~ *eighty* million dollars and (b) any other moneys theretofore set aside by the General Assembly ~~under Sec. 134 of the Constitution~~ *as authorized by law,* and the State Board of Education and the State Treasurer and the State Comptroller are hereby authorized and directed to take all necessary steps to accomplish such transfer.

§ 22-30. How division made.—*The school divisions as they exist on July one, nineteen hundred and seventy-one, shall be and remain the school divisions of the State until further action of the State Board taken in accordance with the provisions of this section, and in any such school division containing more than one county or city, or combination thereof, the governing bodies and other officials mentioned in Article V of Chapter 6 of this title, shall take all steps necessary to comply with the requirements of that article on or before August one, nineteen hundred and seventy-one, which date, notwithstanding the provisions of § 22-100.11, shall be the effective date for the formation of the single school board of any such division and for the supervision and operation of the schools in such school division by such board.*

After July one, nineteen hundred and seventy-one, the State Board shall divide the State into appropriate school divisions, in the discretion of the Board, comprising not less than one county or city each, but no county or city shall be divided in the formation of such division; *nor shall any school district be consolidated without the consent of the governing body of the county or city represented thereby unless the school age population of such district be less than five thousand; nor shall there be any change in the composition of any school division which conflicts with any joint resolution expressing the sense of the General Assembly with respect thereto.*

Notice of any change in the composition of a school division proposed by the State Board of Education shall be given the clerks of the local school boards and of the local governing bodies involved by the Superintendent of Public Instruction on or before January one of the year in which such proposed school division is to be created, and no proposed school division shall be created in any year unless such notice prior to January one has been given.

Upon receipt of such notice, the governing body of any county or city affected by such proposed change which objects thereto may, by resolution, duly adopted by a majority vote of its membership and certified by its clerk to the Clerk of the House of Delegates and to the Clerk of the Senate, petition the General Assembly to be heard upon its objections. Such petition shall be referred by the Speaker of the House and the Presi-

dent of the Senate, respectively, to such committee or committees as he deems appropriate, but both timely notice, by mailing, of hearing thereon and an opportunity to be heard shall be given to each school board and governing body affected.

When, with respect to any proposed change in the composition of a school division, the provisions of this section are complied with and no joint resolution in conflict therewith is adopted by the General Assembly at the session to which this section applies, the General Assembly shall be deemed to have acquiesced in such change.

Subject to the above mentioned conditions, the State Board shall consider the following criteria in determining appropriate school divisions:

(1) The potential of the proposed division to facilitate the offering of a comprehensive program for kindergarten through grade twelve at the level of the established standards of quality,

(2) The potential of the proposed division to promote efficiency in the use of school facilities and school personnel and economy in operation,

(3) Anticipated increase or decrease in the number of children of school age in the proposed division,

(4) Geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities.

§ 22-38. Vacancy in office.—Any vacancy in the office of division superintendent shall be filled by the school board ~~or boards~~ of the division.

The office of any division superintendent shall be deemed vacant upon his engaging in any other business or employment during his term of office as such superintendent, unless such superintendent shall have been accepted for part-time employment, or upon his resignation or his removal from office by the State Board, or other appointing power.

§ 22-43. Special districts abolished~~, exceptions; certain towns may be constituted separate districts~~.—All ~~special school districts and~~ special town school districts ~~except the special school district for the town of Lexington of Rockbridge County and the town of Bedford of Bedford County and the town of Fries of Grayson County, which are hereby preserved, are hereby expressly abolished, except the special town school district for the town of Kilmarnock in Lancaster County and all those special town school districts which have heretofore been established by and with the approval of the State Board, which are hereby expressly continued for the purpose for which established, provided, however, that the town of Herndon of Fairfax County and the town of Colonial Beach of Westmoreland County, and incorporated towns having a population of not less than three thousand five hundred inhabitants, according to the last United States census, may, by ordinance of the town council and by and with the approval of the State Board, be constituted separate school districts either for the purpose of representation on the county school board, or for the purpose of being operated as a separate school district under a town school board of not less than three nor more than five members, appointed by the town council. In the event that such a town district be set up, to be operated by a board of three members, the members of such board shall be appointed in accordance with Sec. 22-89, providing for the appointment of trustees in cities and of such members, one shall be designated by the town school board as a member of the county school board and entitled to serve as a member of the county board.~~

heretofore created or preserved under any provision of law or regulation of the State Board of Education are hereby expressly abolished as of July one, nineteen hundred seventy-one. Such special town school districts shall be and become a part of the county school system of the county or counties in which the special town school district is located, and shall be managed, operated and controlled by the county school board as a part of such system. All school property, real and personal, the title to which is held by the school board of such town shall vest by operation of law in the county school board for school purposes. Any balance of school funds in such separate district shall be transferred to the county school board and the county school board shall provide for the assumption of all obligations, including any bonded indebtedness, of such separate school district. The area heretofore included in such special town school districts shall be merged with the magisterial district in which such town school district is located.

The term of office of the member of the county school board from such special town school districts shall terminate upon the abolition of the special school district, and the terms of office of the members of any county school board from any town not constituting a special town school district shall terminate on July one, nineteen hundred seventy-one.

§ 22-61. How school board appointed; assigment of duties.—The county school board shall consist of one member from each school district in the county, and in any county having a population not less than eighteen thousand and not more than twenty thousand and in any county having a population not less than thirty-three thousand and not more than thirty-five thousand, if the governing body thereof so adopts by resolution, not more than two members at large, and in any county having a population of more than forty thousand but less than forty thousand four hundred, one member at large, and in any county having a population of more than thirteen thousand but less than thirteen thousand five hundred, one member at large, all appointed by the school trustee electoral board~~, provided that in towns constituting separate school districts and operated by a school board of three members, one of the members shall be designated annually by the town board as a member of the county school board.~~. The members of the county school board from the several districts shall have no organization and duties except such as may be assigned to them by the school board as a whole.

§ 22-72. Powers and duties.—The school board shall have the following powers and duties:

(1) *Enforcement of school laws.*—To see that the school laws are properly explained, enforced and observed.

(2) *Rules for conduct and discipline.*—To make local regulations for the conduct of the schools and for the proper discipline of the students, which shall include their conduct going to and returning from school, but such local rules and regulations shall be in harmony with the general rules of the State Board and the statutes of this State.

(3) *Information as to conduct.*—To secure, by visitation or otherwise, as full information as possible about the conduct of the schools.

(4) *Conducting according to law.*—To take care that they are conducted according to law and with the utmost efficiency.

(5) *Payment of teachers and officers.*—To provide for the payment of teachers and other officers monthly or biweekly, as may be determined

by the Board, but such payment shall be made on the last day of such pay period, or as soon thereafter as possible.

(6) *School buildings and equipment.*—To provide for the erecting, furnishing, and equipping of necessary school buildings and appurtenances and the maintenance thereof.

(6a) *Insurance.*—To provide for the necessary insurance on school properties against loss by fire or against such other losses as deemed necessary.

(7) *Drinking water.*—To provide for all public schools an adequate and safe supply of drinking water and see that the same is periodically tested and approved by or under the direction of the State Board of Health, either on the premises or from specimens sent to such Board.

(8) Textbooks for ~~indigent~~ *eligible* children.—School boards shall provide, free of charge, such textbooks as may be necessary for ~~indigent~~ children attending public schools *whose parent or guardian is financially unable to furnish them;* in systems providing free textbooks, the cost of furnishing such textbooks may be paid from school operating funds or the textbook fund or such other funds as are available; in systems operating rental textbook systems, school boards shall waive rental fees, or in their discretion, may reimburse the rental textbook fund from school operating funds.

(9) *Costs and expenses.*—In general, to incur costs and expenses, but only the costs and expenses of such items as are provided for in its estimates submitted to the tax levying body without the consent of the tax levying body.

(10) *Consolidation of schools.*—To provide for the consolidation of schools whenever such procedure will contribute to the efficiency of the school system.

(11) *Other duties.*—To perform such other duties as shall be prescribed by the State Board or as are imposed by law.

§ 22-97. Enumeration of powers and duties.—The city school board shall have the following powers and duties:

(1) *Rules and regulations.*—To explain, enforce, and observe the school laws, and to make rules for the government of the schools, and for regulating the conduct of pupils going to and returning therefrom.

(2) *Method of teaching and government employed.*—To determine the studies to be pursued, the methods of teaching, the government to be employed in the schools, and the length of the school term.

(3) *Employment and control of teachers.*—To employ teachers on recommendation of the division superintendent and to dismiss them when delinquent, inefficient or in anywise unworthy of the position; provided, that no school board shall employ or pay any teacher from the public funds unless the teacher shall hold a certificate in full force, according to the provisions of §§ 22-203 to 22-206. It shall also be unlawful for the school board of any city, or any town constituting a separate school district, to employ or pay any teacher or other school employee related by consanguinity or affinity as provided in § 22-206. The exceptions and other provisions of that section shall apply to this section.

(4) *Suspension or expulsion of pupils.*—To suspend or expel pupils when the prosperity and efficiency of the school make it necessary.

(5) Free textbooks.—To decide what children, wishing to enter the schools of the city, are entitled ~~by reason of poverty of their parents or guardians~~ to receive textbooks free of charge and to provide for supplying them accordingly.

(6) *Establishment of high and normal schools.*—To establish high and normal schools and such other schools as may, in its judgment, be necessary to the completeness and efficiency of the school system.

(7) *Census.*—To see that the census of children required in § 22-223 is taken within the proper time and in the proper manner.

(8) *Meetings of board.*—To hold regular meetings and to prescribe when and how special meetings may be called.

(9) *Meetings of people.*—To call meetings of the people of the city for consultation in regard to the school interests thereof, at which meetings the chairman or some other member of the board shall preside if present.

(10) *Schoolhouses and property.*—To provide suitable schoolhouses, with proper furniture and appliances, and to care for, manage, and control the school property of the city. For these purposes it may lease, purchase, or build such houses according to the exigencies of the city and the means at its disposal. No schoolhouse shall be contracted for or erected until the plans therefor shall have been submitted to and approved in writing by the division superintendent of schools, and no public school shall be allowed in any building which is not in such condition and provided with such conveniences as are required by a due regard for decency and health; and when a schoolhouse appears to the division superintendent of schools to be unfit for occupancy, it shall be his duty to condemn the same, and immediately to give notice thereof, in writing, to the chairman of the school board, and thenceforth no public school shall be held therein, nor shall any part of the State or city fund be applied to support any school in such house until the division superintendent shall certify, in writing, to the city school board that he is satisfied with the condition of such building, and with the appliances pertaining thereto.

(11) *Visiting schools.*—To visit the public free schools within the city, from time to time, and to take care that they are conducted according to law, and with the utmost efficiency.

(12) Management and control of funds.—To manage and control the funds of the city made available to the school board for public schools, to provide for the pay of teachers and of the clerk of the board, for the cost of providing schoolhouses and the appurtenances thereto and the repairs thereof, for school furniture and appliances, for necessary textbooks for ~~indigent~~ children attending the public free schools~~,~~ *whose parent or guardian is financially unable to furnish them;* and for any other expenses attending the administration of the public free school system, so far as the same is under the control or at the charge of the school officers.

(13) *Approval and payment of claims.*—To examine all claims against the school board, and when approved, to order or authorize the payment thereof. A record of such approval, order or authorization shall be made in the proceedings of the board. Payment of each claim shall be ordered or authorized by a warrant drawn on the treasurer or other officer of the city charged by law with the responsibility for the receipt, custody and disbursement of the funds made available to the school board of such city. The warrant shall be signed by the chairman or vice-chairman of the board and countersigned by the clerk or deputy clerk thereof, payable to

the person or persons, firm or corporation entitled to receive such payment. There shall be stated on the face of the warrant the purpose or service for which such payment is drawn and also that such warrant is drawn pursuant to an order entered or authority granted by the board on the ..... day of ..... The warrant may be converted into a negotiable check when the name of the bank upon which the funds stated in the warrant are drawn or by which the check is to be paid is designated upon its face and is signed by the treasurer, deputy treasurer or other officer of the city charged by law with the responsibility for the receipt, custody and disbursement of the funds of the city.

The board may, in its discretion, appoint an agent and a deputy agent to act for the agent in his absence or inability to perform this duty by resolution spread upon the record of its proceedings to examine and approve such claims and, when approved by him or his deputy to order or authorize the payment thereof. A record of such approval, order or authorization shall be made and kept with the records of the board. Payment of each such claim so examined and approved by such agent or his deputy shall be ordered or authorized by a warrant drawn on the treasurer or other officer of the city charged by law with the responsibility for the receipt, custody, and disbursement of the funds made available to the school board of the city. The warrant shall be signed by such agent or his deputy and countersigned by the clerk or deputy clerk of the board, payable to the person or persons, firm or corporation entitled to receive such payments; provided, however, that when the agent appointed by the board is the division superintendent of schools and the division superintendent and clerk is one and the same person, all such warrants shall be countersigned by the chairman or vice-chairman of the board; provided further that when the deputy agent and deputy clerk is one and the same person the warrant shall be countersigned by either the clerk or the agent of the board. There shall be stated on the face of the warrant the purpose or service for which such payment is made and also that such warrant is drawn pursuant to authority delegated to such agent or his deputy by the board on the ..... day of ..... The warrant may be converted into a negotiable check in the same manner as is prescribed herein for warrants ordered or authorized to be drawn by the school board. The board shall require such agent and his deputy to furnish the city a corporate surety bond conditioned upon the faithful performance and discharge of the duties herein assigned to each such official. The board shall fix the amount of such bond or bonds and the premium therefor shall be paid out of the funds made available to the school board of such city.

(14) *Report of expenditures and estimate of necessary funds.*—It shall be the duty of the school board of every city, once in each year, and oftener if deemed necessary, to submit to the council, in writing, a classified report of all expenditures and a classified estimate of funds deemed to be needed for the proper maintenance and growth of the public schools of the city, and to request the council to make provisions by appropriation or levy pursuant to § 22-126, for the same.

(15) *Other duties prescribed by State Board.*—To perform such other duties as shall be prescribed by the State Board or are imposed by other parts of this title.

(16) *Acquisition of land.*—City school boards shall, in general, have the same power in relation to the condemnation or purchase of land and to the vesting of title thereof, and also in relation to the title to and management of property of any kind applicable to school purposes, whether heretofore or hereafter set apart therefor, and however set apart, whether

by gift, grant, devise, or any other conveyance and from whatever source, as county school boards have in the counties, and in addition thereto, they shall have the further right and power to condemn not in excess of fifteen acres of land for any one school when necessary for school purposes, except that when dwellings or yards are invaded not more than five acres may be condemned for any one school; provided, however, that the school board of any city having a population of more than eighty-six thousand and not more than ninety thousand and any city having a population of more than seventy-five thousand but less than eighty-seven thousand, may have the right and power to condemn not in excess of forty-five acres when necessary for school purposes.

(17) *Consolidation of schools.*—To provide for the consolidation of schools whenever such procedure will contribute to the efficiency of the school system.

§ 22-100.1. Single school board authorized.—When the State Board of Education has created a school division, composed of two or more counties or one or more counties with one or more cities, the supervision of schools in any such school division ~~may~~ *shall* be vested in a single school board under the conditions and provisions as hereinafter set forth.

§ 22-100.6 Compensation of members.—*Notwithstanding any other provision of law or city charter affecting any county or city,* ~~The~~ *the* annual salary of each member of such division school board shall be determined and paid as now provided in ~~Sec. 22-67~~ § *22-67.2* for county school boards~~, the provisions of the charter of any city concerned to the contrary notwithstanding~~.

§ 22-100.7. Transfer of title to school property; adjudication of ownership.—The title to all school property in the school division shall be vested in the division school board, as defined in § 22-100.5. The school board of every county included in such school division and the city council or the school board, whichever holds title to the school property of any city included in such school division shall have the power to transfer title to the school property of such county or city to the division school board ~~and no such division shall be created unless and until such transfer is agreed to by each county or city in the division~~.

If, at the time a division school board is created, under the authority of this section, the ownership of school property, real or personal, has not been determined or the title thereto is in question, or there is a dispute as to the ownership or title, then such question of ownership or title may be determined before the formation of said school division either by a written agreement between the participating divisions with the approval of the respective governing bodies thereof, or by any participating division petitioning a court of equity in the jurisdiction where the property or any part thereof lies to determine the title to said property, and such adjudication of ownership or title shall be conclusive thereafter.

§ 22-100.9. Expenditures for capital outlay purposes and incurring indebtedness for construction of buildings.—Notwithstanding the provisions of § 22-100.8, the local operating cost as well as the expenditures for capital outlay purposes and incurring indebtedness for the construction of school buildings shall be on a pro rata basis on enrollment of pupils ~~or such~~ *unless some* other basis ~~as may be~~ *is* mutually agreed upon by the division school board with the approval of the governing bodies of the participating counties and/or cities.

§ 22-101. How fund constituted; management.—There shall be set apart as a permanent and perpetual literary fund, the present

Literary Fund of the State, the proceeds of all public lands donated by Congress for public school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the State for forfeiture, ~~and~~ *of* all fines collected for offenses committed against the State, *and of the annual interest on the Literary Fund,* donations made for the purpose, and such other sums as the General Assembly may appropriate. The same shall be known as the "Literary Fund," and shall be invested and managed by the State Board, as prescribed by § 22-102. ~~The principal of the fund shall always remain unimpaired and entire, and the annual income arising therefrom shall be dedicated exclusively to the support and maintenance of public schools in this State.~~

The proceeds of all fines collected for offenses committed against the State and directed by ~~Sec. 134 of Article IX~~ *Article VIII, § 8,* of the Constitution of Virginia, to be set apart as part of a perpetual and permanent Literary Fund shall be paid into the treasury and on warrant of the Comptroller shall be transferred to the credit of the Literary Fund, and shall be used for no other purpose whatsoever.

§ 22-102. Investment of capital ~~and unappropriated income~~ of Literary Fund.—The State Board shall invest the capital ~~and unappropriated income~~ of the Literary Fund in securities that are legal investments under the laws of the State for public sinking funds. Whenever, in accordance with this section, bonds made by one or more of the county boards or city school boards of the several counties or cities of the State are purchased on account of the Literary Fund, a lien in favor of the fund is hereby created against all of the funds and income of the county or city, as well as upon the property upon which the loan is made. The State Board may call in any such investment, or any heretofore made, and reinvest the same as aforesaid, whenever deemed proper, for the preservation, security or improvement of the fund. Whenever, in accordance with this section, the Board shall invest in bonds of this State, no premium shall be required or paid on such investment. All securities for money belonging to the Literary Fund shall be deposited with the State Treasurer for safekeeping, who shall return with his annual report, a list thereof with a statement of their value.

§ 22-116. Of what school fund to consist.—The fund applicable annually to the establishment, support and maintenance of public schools in the Commonwealth shall consist of:

(1) State funds embracing ~~the annual interest on the Literary Fund,~~ all appropriations made by the General Assembly for public school purposes~~, that portion of the capitation tax required by the Constitution to be paid into the State treasury and not returnable to the localities,~~ and such State taxes as the General Assembly, from time to time, may order to be levied.

(2) Local funds embracing such appropriations as may be made by the board of supervisors or council for school purposes, or such funds as shall be raised by levy by the board of supervisors or council, either or both, as authorized by law, and donations or the income arising therefrom, or any other funds that may be set apart for local school purposes.

§ 22-117. When State funds to be paid for public schools in counties.—No State money shall be paid for the public schools in any county until evidence is filed with the State Board, signed by the superintendent of schools and the clerk of the board, certifying that the schools of the county have been kept in operation for ~~at least nine months, or~~ a ~~less~~ period satisfactory to the State Board, or that arrangements have

been made which will secure the keeping of them in operation for that length of time or a less period satisfactory to the State Board~~, provided, however, that no county shall be denied participation in State school funds, except as provided by law, when the board of the county has appropriated a fund equivalent to that which would have been produced by the levying of the maximum local school tax allowed by law, or has levied the maximum local school tax allowed by law, provided, such appropriation or levy is based on assessments not lower than the assessments on real and personal property in such counties in the year nineteen hundred and twenty-five~~.

§ *22-126.1. Duty to levy school tax.—Each county and city is authorized, directed and required to raise money by a tax on all property subject to local taxation at such rate as will insure a sum which, together with other available funds, will provide that portion of the cost apportioned to such county or city by law for maintaining an approved educational program, all such funds to be expended by the local school authorities in establishing, maintaining and operating such schools as the maintenance of an educational program meeting the standards of quality prescribed by the State Board of Education may require.*

§ 22-127. Appropriations by county~~,~~ *or* city ~~or town~~ governing body for public schools.—The governing body of any county~~,~~ *or* city~~, or town if the town be a separate school district,~~ may make [appropriations] on the same periodic basis as it makes appropriations to all other departments and agencies of the county~~,~~ *or* city ~~or town~~ in addition to~~,~~ or in lieu of *but not less than,* any levy ~~authorized~~ *required* under the provisions of ~~Sec. 22-126~~ § *22-126.1,* from the funds derived from the general county~~,~~ *or* city~~, or town~~ levy and from any other funds available, for operation, capital outlay and/or debt service in the public schools. Notwithstanding any other provisions of law, the amount appropriated by the governing body for public schools shall relate to its total only or to such major classifications as may be prescribed by the State Board of Education, and such funds shall be expended on order of the school board in accordance with said classifications.

§ 22-128. Special tax for capital expenditures or payment of indebtedness or rent.—For capital expenditures and for the payment of indebtedness or rent, the governing body of any county, city or town ~~if the town be a separate school district,~~ may, *in addition to the levy or appropriation required under the provisions of §§ 22-126.1 or 22-127,* levy a special county tax, a special district tax, or a special city tax, or a special town tax, as the case may be, on all property subject to local taxation, such levy or levies to be at such rate or rates as the governing body levying the tax may deem necessary for the purpose or purposes for which levied, except that where the tax is for raising funds for capital expenditures the rate shall not be more than two dollars and fifty cents on the one hundred dollars of the assessed value of the property in any one year~~; provided that there may be exempted from such taxes for debt service on Literary Fund loan or other loan for capital outlay, property located in a special town school district which levies its own taxes for debt service and capital outlay~~.

§ 22-151.1. Maintenance, etc., of school buildings and buses by county department of public works.—Insofar as permitted by ~~Secs. 132 and 133~~ *Article VIII, § 5, and Article VIII, § 7,* of the Constitution of Virginia, in any county operating under an optional form of organization and government provided by article 3 of chapter 11 of Title 15 [article 3 (§ 15.1-622 et seq.) of chapter 13 of Title 15.1] of the Code of Virginia, the board of supervisors of such county at the request of the county school board may

transfer the maintenance of school buildings and grounds and operation and maintenance of school buses from the department of education to the department of public works, and when deemed advisable by said board of supervisors of such county at the request of the county school board, there may be authorized the construction of new school buildings and additions to existing school buildings, under direction of its department of public works. Any such transfer or construction heretofore authorized and done by any board of supervisors of such county at the request of the county school board, is hereby ratified and approved.

§ 22-156. Fire precautions.—All public school buildings and additions shall have all halls, doors, stairways, seats, passageways and aisles, and all lighting and heating appliances and apparatus, arranged to facilitate egress in case of fire or accidents, and to afford the requisite and proper accommodations for public protection in such cases. All exit doors in any public schoolhouse of two or more stories in height shall open outwardly. No staircase shall be constructed except with straight runs, changes in direction being made by platforms. No doors shall open immediately upon a flight of stairs, but a landing at least the width of the doors shall be provided between such stairs and such doorway. Every public schoolhouse hereafter erected, of two stories or more, shall be equipped with an adequate number of internal fireproof stairways and with adequate means of exit on a ground level, in accordance with regulations of the State Board.

In every public school there shall be a fire drill at least once every week during the first month of each school session, and oftener, if necessary, in order that pupils may be thoroughly practiced in such drills. During the remainder of the school session fire drills shall be held at least monthly.

The Superintendent of Public Instruction shall make periodical surveys of all nonfireproof public school buildings within the State when authorized by the State Board, and shall present his findings to the Board. The State Board shall have the power to close any school that it considers to be a fire hazard, and also shall have the power to enforce such changes in construction, including alterations, erection of fire escapes, additional safety exits, and such other internal or external alterations as in the opinion of the Superintendent of Public Instruction are necessary to make the building reasonably safe to occupants against fire and panic hazards. For failure on the part of the school board of any county~~,~~ ~~town~~ or city to comply with the recommendations and requirements of the Superintendent of Public Instruction to make corrections, erect fire escapes, provide safety exits and such alterations as may be deemed necessary for the safety of the occupants concerned, the State Board, in its discretion, may withhold from such county~~,~~ ~~town~~ or city such State school funds allotted to said county~~,~~ ~~town~~ or city, ~~except such part thereof as is required by the Constitution of Virginia to be paid such county, city or town,~~ until the recommendations and requirements of the State Board have been complied with.

§ 22-189. Establishment.—~~It shall be lawful for county school boards or the school boards of counties and cities to~~ *The school board of each school division of the Commonwealth shall* establish and maintain public high schools at such places as may be both most convenient for the pupils to attend, and most suitable for the purposes of such schools~~, provided the establishment of such high schools or the teaching of such high school branches shall not be allowed to interfere with the regular and efficient instruction in the elementary branches~~.

§ 22-193. Tuition generally.—No tuition shall be charged for

pupils *of school age* attending high ~~school except as provided in the following sections~~ *schools.*

§ 22-197. Laboratory and other special fees.—~~Except in the special town school districts preserved under the provisions of Sec. 22-43, no~~ *No* laboratory or other special fees, or charges of any kind, for school supplies or materials, other than library fees and examination paper, pens, pencils and ink, shall be levied or collected from resident pupils entitled to attend either primary, grade or high school of the public school system, by any ~~city, county or town~~ *division* school board, city or town council or board of supervisors, or the State Board or any person employed in such school.

§ 22-234. Study of documents of Virginia history and United States Constitution.—In preparing the course of study in civics and history in both the elementary and high school grades, the State Board shall give careful directions for, and shall require, the teaching of the Declaration of American Independence, the Virginia Statute of Religious Freedom, *and* the Virginia Bill of Rights ~~and Sec. 58 of the Constitution of Virginia,~~ which subjects shall be carefully read and studied, thoroughly explained and taught by teachers to all pupils in accordance with the State course of study, which course of study shall require written examinations as to each of the last ~~four~~ *three* mentioned great documents of Virginia's history at the end of the term in which the course is given. An outline shall likewise be given of the Constitution of the United States and the general principles of the Constitution shall be carefully explained.

§ 22-315. State Board to exercise supervisory powers necessary for proper distribution, care, etc.—The State Board shall see ~~that all pupils attending the public schools are properly supplied with adopted textbooks,~~ that the accounts of local school boards with the publishers are accurately kept and payments made by such boards for all books purchased on the due date; that a reasonable supply of new state-adopted textbooks are kept on hand; that used books shall be rebound to prolong their usefulness; that the stock of textbooks is covered by fire insurance; that every person handling textbook accounts is properly bonded with corporate surety; that all accounts are closed if and when any local school administration is changed; and shall exercise such other supervisory powers as shall be necessary to provide satisfactory distribution and proper care of free textbooks on a state-wide basis~~.~~ *as provided by law.*

§ 24.1-29. Appointment, term and oath of members; vacancies; election of chairman and secretary; duty of secretary.—There shall be in each county and city an electoral board, composed of three members, who shall be appointed by the resident judges of the courts of record of the county or city. If there be more than one resident judge and a majority of such judges cannot agree, the senior judge shall make such appointment. If there be no resident judges, then the judge of the court of record shall make the appointment. Any vacancy occurring in the boards shall be filled by the same authority for the unexpired term. In the appointment of the electoral board, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. A majority of the electoral board shall be from the political party which cast the highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. The political party entitled to the appointment may make and file recommendations with the judge or judges for the appointment. Such recommendations shall contain the names of at least three qualified voters of the county or city.

The members of the board shall be appointed for a term of three years. The board shall elect one of its members chairman and another secretary. The members of the board shall qualify by taking and subscribing the oaths *as set forth in Article II, § 7, of the Constitution* ~~required to be taken by county and city officers~~ before entering upon their term of office. Whenever any secretary of the electoral board is elected he shall at once notify the Board of Elections of his election and inform it of his post office address and telephone number. The secretary shall also inform the Board of Elections of the names, post office addresses and telephone numbers of the other members of the electoral board.

§ 24.1-33. Persons holding other offices not to serve as member of board, registrar or officer of election.—~~No person nor the deputy of any person holding any office or post of profit or emolument under the United States Government, or who is in the employment of such government, or holding any elective office of profit or trust in the Commonwealth or in any county, city or town thereof, shall be appointed a member of the electoral board, registrar, or officers of election.~~ *No person, nor the deputy of any person, who is employed by or holds any office or post of profit or emolument, or who holds any elective office of profit or trust, under the governments of the United States, the Commonwealth, or any county, city, or town, shall be appointed a member of the electoral board or registrar or an officer of election.*

§ 24.1-41. Persons entitled to vote at all general elections.—Every citizen of the United States twenty-one years of age, who has been a resident of the Commonwealth *six months* ~~one year, of the county, city or town six months,~~ and of the precinct in which he offers to vote thirty days next preceding the general election in which he offers to vote, has been duly registered ~~unless exempted therefrom~~, and is otherwise qualified, under the Constitution and laws of this Commonwealth shall be entitled to vote for members of the General Assembly and all officers elective by the qualified voters. ~~Removal from one precinct to another in the same county, city or town, shall not deprive any person of his right to vote in the precinct from which he has moved, until the expiration of thirty days from such removal.~~ *A person who is qualified to vote except for having moved his residence from one precinct to another fewer than thirty days prior to an election may in any such election vote in the precinct from which he has moved.*

~~The qualifications of voters at any special election shall be such as are hereinbefore prescribed for voters at the next ensuing general elections.~~ *Any person who is otherwise qualified and will be qualified with respect to age to vote at the next general election shall be permitted to register in advance and also vote in any intervening primary or special election.*

§ 24.1-42. Persons disqualified from registering and voting; removal of disability.—~~The following persons shall be excluded from registering and voting: idiots, insane persons and paupers, persons who, prior to the adoption of the Constitution, were disqualified from voting by conviction of crime, either within or without the State, and whose disabilities shall not have been removed, persons convicted after the adoption of the Constitution, either within or without this State, of treason, or of any felony, bribery, petit larceny, obtaining money or property under false pretenses, embezzlement, forgery or perjury, persons who, while citizens of this State since the adoption of the Constitution, have fought a duel with a deadly weapon or sent or accepted a challenge to fight such duel, either within or without this State, or knowingly conveyed a challenge, or aided or assisted in any way in the fighting of such duel.~~ *No person who has been convicted of a felony shall be qualified to vote*

unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished.

~~The Governor may remove such disability pursuant to Sec. 73 of the Constitution.~~

§ 24.1-47. Who to be registered.—Each registrar shall register every citizen of the United States, of his election district, who shall apply in person, *or by absentee application as set forth in § 24.1-48 if he be a member of the armed forces of the United States in active service or if it be the spouse of such member of the armed forces,* to be registered at the time and in the manner required by law, and who, ~~at the time of the next general election,~~ shall have the qualifications of age and residence required by the Constitution of Virginia *and § 24.1-41.*

§ 24.1-48. Application for registration.—Each applicant to register shall provide the information necessary to complete the application to register under oath, and, unless physically disabled, shall sign the application. The application to register shall be only upon a form or forms prescribed by the State Board of Elections.

Any person otherwise qualified to vote who is on active service as a member of the armed forces of the United States or who is the spouse of any person on active service as a member of the Armed forces of the United States, and is absent from the city or county in which he resides due to such active service of the voter, or the active service of the spouse of the voter, shall be allowed to register by absentee application. The provisions of § 24.1-50 notwithstanding, such application shall accompany an application for absentee ballot and be upon a form prescribed by the State Board of Elections pursuant to §24.1-22.

When properly registered under this section, a person shall continue as registered as provided by law.

§ 24.1-81. How election of Governor ~~and~~ , Lieutenant Governor *and Attorney General* determined.—~~The State Board of Elections, on the first day of the session of the General Assembly next succeeding the election of a Governor and Lieutenant Governor, shall deliver the returns of such election to the Speaker of the House of Delegates, who shall within three days thereafter, in the presence of a majority of the Senate and House of Delegates open the returns, and the vote shall be counted, and the election determined in conformity with the provisions of Section 70 of the Constitution.~~ *The returns of the election for Governor, Lieutenant Governor, and Attorney General shall be transmitted pursuant to § 24.1-150 to the State Board of Elections which shall cause the returns to be opened and the votes to be counted pursuant to §§ 24.1-152 and 154. The person having the highest number of votes for each office shall be declared elected. If two or more shall have the highest and an equal number of votes for an office, one of them shall be chosen for the office by a majority of the total membership of the General Assembly. Contested elections for Governor, Lieutenant Governor and Attorney General shall be decided by a like vote pursuant to the provisions of Chapter 8 of this Title.*

§ 24.1-82. Discharge of duties when offices of Governor and Lieutenant Governor vacant.—~~When vacancies occur in the offices of Governor and Lieutenant Governor, the duties of the office of Governor shall be discharged by the Attorney General, if elected by the people, or if the Attorney General holds office by appointment, or be ineligible, then by the Speaker of the House of Delegates, or if the office of Speaker of the House of Delegates be vacant or the Speaker be ineligible, then by the~~

~~President pro tempore of the Senate, or if the Senate be not in session, then by the person who was President pro tempore at the close of the last preceding session, until a Governor is elected and qualified. In the event of vacancies in all of the offices mentioned in the preceding sentence, the office of acting Governor shall devolve upon the chairmen of the standing committees of the House of Delegates and the Senate, alternating between the House and the Senate, in the order of seniority as set forth in the Rules of the House and the Rules of the Senate, or if all such offices be vacant, then the living persons who have held the office of Governor, who are at the time of such vacancy physically and mentally able to discharge the duties of the office, and who are not prohibited by law from holding a State office; the office of acting Governor shall be filled from such group in inverse order as they held the office of Governor; and in the event there is no such person, then the Chief Justice of the Supreme Court of Appeals, or if there be none, the judge longest in continuous service as judge of a court of record in the Commonwealth, shall become acting Governor. While so discharging the duties of the office of Governor, such person shall not act as President pro tempore of the Senate, or as Speaker of the House of Delegates, as the case may be, nor vote as a member thereof, nor act as Attorney General or as a member of the House of Delegates or the Senate, or justice or judge of a court of record, but his office shall not be vacated except for the period during which he acts as Governor.~~

When the Governor-elect is disqualified, resigns, or dies following his election but prior to taking office, the Lieutenant Governor-elect shall succeed to the office of Governor for the full term. When the Governor-elect fails to assume office for any other reason, the Lieutenant Governor-elect shall serve as Acting Governor.

Whenever the Governor transmits to the President pro tempore of the Senate and the Speaker of the House of Delegates his written declaration that he is unable to discharge the powers and duties of his office and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as Acting Governor.

Whenever the Attorney General, the President pro tempore of the Senate, and the Speaker of the House of Delegates, or a majority of the total membership of the General Assembly, transmit to the Clerk of the Senate and the Clerk of the House of Delegates their written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall immediately assume the powers and duties of the office as Acting Governor.

Thereafter, when the Governor transmits to the Clerk of the Senate and the Clerk of the House of Delegates his written declaration that inability exists, he shall resume the powers and duties of his office unless the Attorney General, the President pro tempore of the Senate, and the Speaker of the House of Delegates, or a majority of the total membership of the General Assembly, transmit within four days to the Clerk of the Senate and the Clerk of the House of Delegates their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon the General Assembly shall decide the issue, convening within forty-eight hours for that purpose if not already in session. If within twenty-one days after receipt of the latter declaration or, if the General Assembly is not in session, within twenty-one days after the General Assembly is required to convene, the General Assembly determines by three-fourths vote of the elected membership of each house of the General Assembly that the Governor is unable to discharge the powers and duties

of his office, the Lieutenant Governor shall become Governor; otherwise, the Governor shall resume the powers and duties of his office.

In the case of the removal of the Governor from office or in the case of his disqualification, death, or resignation, the Lieutenant Governor shall become Governor.

If a vacancy exists in the office of Lieutenant Governor when the Lieutenant Governor is to succeed to the office of Governor or to serve as Acting Governor, the Attorney General, if he is eligible to serve as Governor, shall succeed to the office of Governor for the unexpired term or serve as Acting Governor. If the Attorney General is ineligible to serve as Governor, the Speaker of the House of Delegates, if he is eligible to serve as Governor, shall succeed to the office of Governor. If a vacancy exists in the office of the Speaker of the House of Delegates or if the Speaker of the House of Delegates is ineligible to serve as Governor, the House of Delegates shall convene and fill the vacancy.

§ 24.1-86. ~~Election and term of sheriffs, city sergeants, Commonwealth attorneys, treasurers and commissioners of revenue for counties and cities.~~ *County and city sheriffs, Commonwealth attorneys, treasurers, commissioners of revenue; when elected; term.*—The qualified voters of the various counties shall elect a sheriff, an attorney for the Commonwealth, a treasurer, and a commissioner of the revenue at the general election in November, nineteen hundred and seventy-one, and every four years thereafter.

The qualified voters of the various cities shall elect a ~~city sergeant~~ *sheriff*, an attorney for the Commonwealth, a treasurer, a commissioner of the revenue, and such other elective city officers *whose election is* not otherwise provided for by law or charter, at the general election in November, nineteen hundred and seventy-three and every four years thereafter.

Unless otherwise provided by law, ~~Such~~ *such* officers shall hold office for a term of four years from the first day of January next succeeding their election.

§ 24.1-152. State Board of Elections to open and record returns.—The State Board of Elections upon receipt of the certified abstracts of the votes given in the several counties and cities directed to be sent to it, shall proceed to open the same, ~~except the abstract of votes for Governor and Lieutenant Governor, and the Attorney General,~~ and shall record them in a suitable book to be kept by it for the purpose, and file and carefully preserve in its office such abstracts and the original envelopes in which they were enclosed.

§ 24.1-154. State Board of Elections to meet and make statement as to number of votes.—For the purpose of ascertaining the result of elections, the State Board of Elections shall meet at its office on the fourth Monday in November, when it shall, upon the certified abstracts on file in its office, proceed to examine and make statements of the whole number of votes given at any such election for members of the General Assembly, *Governor, Lieutenant Governor and Attorney General,* members of the United States Congress and electors of President and Vice-President of the United States, or for so many of such officers as have been voted for at such election.

The statement shall show the names of persons for whom such votes have been given for either of the offices and the whole number given to each, distinguishing the several districts, cities and counties in which they

were given. They shall certify such statements to be correct and subscribe their names thereto, and they shall thereupon determine what persons have been by the greatest number of votes duly elected to such offices, or either of them, and shall endorse and subscribe on such statements a certificate of such determination, and shall record in a suitable book to be kept by it in its office for that purpose each such certified statement and determination.

§ 24.1-167. ~~Persons entitled to have names printed on ballots. Only a person fulfilling the requirements of a candidate shall have his name printed on the ballots provided for the election.~~ *Qualifications, to be candidate; have name printed on ballots.—In order to qualify as a candidate for any office in the Commonwealth, or in its governmental units, a person must be qualified to vote for and hold that office. In order to hold any office of the Commonwealth or its governmental units, elective by the people, the candidate must have been a resident of the Commonwealth for one year prior to the commencement of the term of the office which he offers. Only a person fulfilling all the requirements of a candidate shall have his name printed on the ballot provided for the election.*

§ 24.1-182. Who may vote.—All persons qualified, *pursuant to § 24.1-41,* to vote at the election for which the primary is held, and not disqualified by reasons of other requirements in the law of the party to which he belongs, may vote at the primary; except that no person shall vote for the candidates of more than one party.

§ 24.1-183. Qualification of candidates.—The name of a candidate shall not be printed upon any official ballot used at any primary unless such person is legally qualified to hold the office for which he is a candidate, ~~and~~ unless he is eligible to vote in the primary in which he seeks to be a candidate. *In order to hold any office of the Commonwealth or its governmental units, elective by the people, the candidate must have been a resident of the Commonwealth for one year prior to the commencement of the term of the office for which he offers.*

§ 24.1-227. When absent voter may vote.—The following persons may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

(1) Any duly registered person who will, in the regular and orderly course of his business, profession, or occupation or while on vacation, be absent on the day of election from the county or city in which he is entitled to vote;

(2) Any *duly registered* person on active service as a member of the armed forces of the United States, who will be absent on the day of the election from the county or city in which he is entitled to vote;

(3) Any duly registered person, who is the spouse of any person on active service as a member of the armed forces of the United States or who is a student, or the spouse of a student attending any school or institution of learning, or any person, or the spouse accompanying such person, regularly employed in business, profession or occupation outside the continental limits of the United States, and who will be absent on the day of election from the county or city in which he is entitled to vote; or

(4) Any duly registered person who is ill or physically unable to attend the polls on the day of election.

§ 24.1-228. Application for absentee ballots.—It shall be the duty of the electoral board of each county or city to furnish the general registrar with a sufficient number of applications for official ballots on forms pre-

scribed by the State Board of Elections; and it shall be the duty of such registrars to furnish an application form, in person or by mail to any qualified voter requesting the same for the purpose of offering to vote in an election by absentee ballot.

All applications for absentee ballots shall be made in writing to the appropriate registrar and delivered to him by the applicant in person or by mail as may be required not less than five nor more than forty days prior to the election in which the applicant offers to vote. Such applications shall be signed by the applicant under the penalty of perjury as to the facts therein stated.

Applications for absentee ballots shall be as follows:

(1) An application made under § 24.1-227 (1), which shall be completed in person before the general registrar or a member of the electoral board only in the office of the registrar or secretary, shall be made on the form furnished by the registrar, signed by the applicant in the presence of either the registrar or a member of the electoral board and shall contain the following information:

(a) The reason why the applicant will be absent;

(b) The name or number of precinct in which the applicant offers to vote, and

(c) A statement that he is a resident of and duly registered in such precinct.

(2) An application of a member of the armed forces, made under § 24.1-227 (2), or of the spouse of a member of the armed forces made under § 24.1-227 (3), which shall contain the following information:

(a) A statement that the applicant or the spouse of the applicant is on active service as a member of the armed forces of the United States and the applicant will be absent from the county or city in which he is entitled to vote on the day of election;

(b) The name or number of precinct in which he offers to vote and a statement that he is a legal resident thereof;

(c) The branch of service to which he or the spouse belongs, his or the spouse's rank, grade or rate, service identification number, his home and service addresses and the date of his birth, and

(d) ~~In the case of the spouse of a serviceman, a~~ *A* statement that the applicant is duly registered in the precinct wherein the ballot will be cast.

(e) In the case of a person who is on active service as a member of the armed forces of the United States or his spouse and who is not a registered voter, such person shall be allowed to register, pursuant to § 24.1-48, by absentee application which shall accompany such person's application for absentee ballot as provided herein. In such event the Registrar shall supply or correct technical information contained in either application, such as precinct names and number, to the end that servicemen and their spouses have the fullest opportunity possible to exercise their privilege of voting.

(3) An application made under subsections (3) or (4) of § 24.1-227 which shall be signed by the applicant in the presence of one subscribing witness, who shall subscribe the same and vouch, subject to the penalty of perjury, that to the best of his knowledge and belief the facts contained

in the application as to which he has knowledge, are true and shall contain the following appropriate information:

(a) The reason why the applicant will be absent;

(b) In the case of a student or the spouse of a student attending a school or institution of learning, the name and address of such school or institution of learning;

(c) In the case of a person who is ill or physically unable to attend the polls on the day of election, the nature of the illness or physical disability;

(d) In the case of a person, or the spouse accompanying such person, who is regularly employed outside the continental limits of the United States, the name and address of his employer and his address within and outside of the United States;

(e) The name or number of precinct in which the applicant offers to vote, and a statement that he is a legal resident thereof, and duly registered;

(f) The application shall be accompanied by sufficient postage or legal tender, as indicated thereon, to defray the cost of mailing the ballot to the applicant, if to be delivered by mail.

§ 24.1-229. Duty of registrar and electoral board upon receipt of application; voucher; coupon.—The general registrar, upon receipt of the application for a ballot, if the applicant is duly registered ~~where registration is required,~~ shall enroll the name and address of the applicant on the list to be made and kept by him for the purpose, and shall either forward the application forthwith to the secretary of the electoral board, noting thereon that the applicant is a registered voter, ~~if registration is required,~~ or approve the application, note the fact of registration, and return it to the applicant for delivery to the secretary of the electoral board. If it then appears to the electoral board that the applicant is a resident and registered voter ~~if required,~~ of the precinct in which he offers to vote, the electoral board shall send to the applicant by registered or certified mail, with return receipt requested, or deliver to him in person, except in the case of a person on active service as a member of the armed forces of the United States, the following items and nothing else; provided, however, that if the applicant states as the reason for his absence on election day any of those set forth in § 24.1-227 (1), the registrar or the secretary of the electoral board, upon the determination of the qualification of the applicant to vote, shall deliver the following items only to the applicant himself in proper person and no item shall be removed by the applicant from the office of the registrar or the secretary of the electoral board:

(a) An envelope containing the folded ballot, sealed and marked "ballot within. Do not open except in presence of a notary public or other officer mentioned in § 24.1-232."

(b) An envelope for resealing the marked ballot, on which is printed the "voucher," in the following form:

"Voucher.

"This is to certify that the enclosed ballot was received by me upon my application to the registrar of the ..... (county or city) of ....., Virginia. The envelope marked 'ballot within' was opened by me in the presence of ....., notary public (or other person mentioned in § 24.1-232) of the ..... (county or city), marked while in his presence,

without assistance or knowledge on the part of anyone as to manner in which same was prepared, and then and there sealed as provided by law.

(Signed).....

Teste .....

Notary Public (or other person mentioned in § 24.1-232)."

(c) A properly addressed envelope for the return of the ballot to the electoral board by registered or certified mail or by the applicant in person and, if available, the appropriate blank material required to register or certify the mail.

(d) A printed slip giving instructions as to the manner of making out the voucher on the envelope for the return of the ballot hereinafter mentioned and how the same shall be returned.

(e) A "coupon," in the following form:

"Coupon

"Name (given by voter) ....., height ....., age given by voter) ....., weight (estimated) ....., color of hair....., color of eyes ....., birthplace (given by voter) ....., occupation (given by voter) ....., State and county or city where voter claimed to have last voted .....

"To the best of my knowledge, the above information is correct, and the applicant has complied with the requirements of the law as above provided. I have no knowledge whatever of the marking, erasure, or intent of the ballot enclosed.

(Signed).....

Notary Public (or other person mentioned in § 24.1-232)."

If the applicant is on active service as a member of the armed forces of the United States, the electoral board shall mail or deliver in person to the applicant in person the ballot as set forth in (a) above accompanied by the instruction slip set forth in (d) above. The covering envelope shall contain in the lower left-hand corner the words "Official Virginia Armed Forces Ballot," or such other words as the acts of Congress or regulations of the transmitting federal agency may require. A return envelope, as set forth in (c) above shall be furnished and in the lower left-hand corner shall appear the same words as on the covering envelope. In addition an envelope for use as prescribed in (b) above shall be furnished and shall have printed thereon, in lieu of the word "Voucher," the following to be completed:

"Official Virginia Armed Forces Ballot.

"Voter must place ballot herein and seal."

and upon the other side the following words:

"Oath of Voter.

"I do swear (or affirm) that I am now and have been a citizen and domiciliary resident of Virginia since the ..... day of ....., 19...., and am a resident of the (county or city) of ....., residing at ....., and am now in active (street and number or place of residence therein) service in the Armed Forces of the United States; that I am at least twenty-one years of age or will be on the..... day of ....., 19....., and that by exercising the privilege of voting I acknowledge and accept all responsibilities and obligations of full citizen-

ship of the Commonwealth of Virginia. The name and/or number of my voting precinct *in which I am duly registered* is .....

(if known, so state)

Signature of voter .....

"Subscribed and sworn to before me this .....day of....., 19....

Signature of officer: .....

.....

Rank and Title of Officer—
Identification No. (or other person mentioned in § 24.1-232)."

§ 25-46.33. When sheriff to remove forcible resistance to entry. —In any case in which the petitioner may be entitled under the laws of this State to enter upon lands or other property for purposes of making examinations or surveys as are authorized by law or to enter upon land or other property in accordance with the provisions of this chapter or condemn any land or other property or any interest or estate therein, the sheriff ~~or sergeant~~, whenever required, shall attend and remove, if necessary, any forcible resistance to any such entry or taking.

§ 25-52. Time for holding election if revenue bonds are to be issued.—If the bonds which any such city *or county* proposes to issue in order to raise the money necessary to pay the amount fixed in the commissioners' report be revenue bonds requiring approval by the affirmative vote of a majority of the qualified voters in a referendum election as provided in ~~Sec. 127, subsection (b),~~ *Article VII, § 10,* of the Constitution of Virginia ~~and statutes enacted pursuant thereto and in any case where any such county proposes to issue bonds,~~ the court shall allow a reasonable time for the holding of the required election.

§ 25-173. Clerk to prepare notice for personal service and deliver to sheriff when ordered by court or desired by petitioner.—In the event or events of notices for personal service being ordered and directed by the court or the judge, or being desired by the petitioner, the clerk of the court shall prepare and deliver such notice or notices to the sheriff or sheriffs of the county or counties, or ~~the sergeant~~ of the city or cities, of the residence of the persons to be served, with sufficient copies of such notice or notices to enable such sheriff or sheriffs to deliver to or to leave for each person to be served one copy of such notice.

§ 25-202. Special investigators and appraisers may be clothed with powers of sheriff or sergeant.—In any case wherein condemnation proceedings are instituted and maintained under the provisions of this chapter, the court or judge thereof, by the entry of an appropriate order in the proceedings, and upon such terms and conditions, and the taking of such oath of office as may be prescribed therein, may clothe one or more special investigators, duly appointed under the provisions of § 25-139, one or more members of any board of appraisal commissioners, duly appointed under the provisions of § 25-207, with like rights, powers, duties, and obligations to those conferred by law upon the sheriff ~~or sergeant~~ of the county or city wherein such proceedings are pending, with relation to the execution, within the county wherein such proceedings are pending, of any or all orders entered by the court or the judge thereof, in the course of such proceedings, including the service and return of process, and the service or posting of any and all notices and the return thereof, authorized or required under the provisions of this chapter. Any lawful act done by any person thus clothed with such powers, duties, or obligations, shall have like sanctions and shall be as effective and binding, upon all persons whomsoever, as if such act had been done by the sheriff ~~or sergeant~~ of the county or city,

wherein such proceedings are pending, in his own proper person. No fee or special compensation shall be allowed, or collected, or demanded, for or on account of any services rendered by any special investigator or member of a board of appraisal commissioners under authority of the provisions of this section.

§ 28.1-6. Oath; delivery of commissions of members.—The Commissioner and the associate members shall take the oath prescribed by ~~Sec. 34~~ *Article II, § 7,* of the Constitution before a court of record of any county or city wherein such member resides. The commission of each member shall be forwarded by the Governor to the clerk of the court of record of the county or city of which such member is a resident, and shall be delivered to such member on the taking of the oath and the giving of the bond prescribed in the following section (§ 28.1-7).

§ 30-1. Time and place of meeting of general assembly.—The General Assembly shall meet in regular session on the second Wednesday in January of each ~~even numbered~~ year. It shall sit at the Capitol in the city of Richmond, but may adjourn to any other place.

The General Assembly may, by joint resolution, direct the holding of such session or sessions in the Restored Capitol at Williamsburg, Virginia, as to it may seem proper.

§ 30-10. Attendance of Witnesses; Production of Evidence.—When the Senate or House of Delegates, a joint committee thereof, or any committee of either house authorized to send for persons and papers, shall order the attendance of any witness, or the production of any paper as evidence, a summons shall be issued accordingly by the clerk of such house or committee, directed to the sheriff, ~~sergeant,~~ or other officer of any county or corporation, and, when served, obedience thereto may be enforced by attachment, fine and imprisonment in jail, at the discretion of the house which, or the committee of which, caused the summons to issue, or in the case of a joint committee, at the discretion of such joint committee or as the two houses may determine by joint resolution.

§ 30-13. Other duties of Clerk of House of Delegates; publication of proposed amendments to Constitution.—In addition to such duties as may be prescribed by the rules of the House of Delegates, the Clerk thereof shall at the end of the session of the General Assembly cause to be prepared a well-arranged index to the journal of the House and the documents printed during the session by order of the House. He shall cause to be printed, with the acts and joint resolutions proposing amendments to the Constitution: Joint resolutions providing for studies for legislation of each session of the General Assembly; tables showing the time for the commencement of the regular terms of the Supreme Court ~~of Appeals~~ and of each circuit, corporation and city court; the places at which separate polls have been established in each county; the names of the several magisterial districts in each county; and the names or numbers of the several wards, or precincts if there be no wards in each city; a list of the commissioners in other states appointed by the Governor; and a carefully prepared and well-arranged index of the acts and joint resolutions.

The Clerk of the House of Delegates shall cause to be published ~~for the time prescribed by the Constitution~~ all proposed amendments to the Constitution. Such publications shall be done as follows: He shall have printed five thousand copies for distribution from his office and to the clerk of the circuit court of each county and to the clerk of the circuit court of each city not having a corporation or hustings court, and to the clerk of each of the corporation or hustings courts of each city having

such a court two copies of such proposed amendments one of which shall be posted at the front door of the courthouse and the other shall be made available for inspection by any citizen who may apply therefor. Every such clerk of court shall complete the posting hereby required not later than three months prior to the next ensuing general election of members of the House of Delegates and shall make return thereof to the Clerk of the House of Delegates upon the completion of such posting. ~~The compliance by the Clerk of the House of Delegates with the foregoing provisions of this paragraph shall be conclusive evidence that such proposed amendment or amendments to the Constitution have been published as required by the Constitution. The Clerk of the House of Delegates shall also cause to be published monthly for three consecutive months in one daily newspaper published in the city of Richmond all proposed amendments to the Constitution, the first publication to be made at the time fixed by the Constitution for the commencement of the publication of all proposed amendments thereto.~~ All costs, the payment of which is not hereinabove provided for, shall be certified by the Clerk of the House of Delegates to the Comptroller for payment. The Clerk of the House of Delegates shall make report of the action taken by him under this paragraph to the next succeeding General Assembly.

§ 30-14.2. Reenrollment of bills amended in accordance with recommendations of Governor.—The Clerk of the House of Delegates in his capacity as Keeper of the Rolls of the State shall reenroll all bills which have been amended in accordance with the recommendation of the Governor, and such reenrolled bills shall be treated in the same manner as provided in ~~Sec. 50~~ *Article IV, § 11* of the Virginia Constitution for every bill that has passed both houses, before being presented to the Governor for his final action.

§ 30-19. How Constitution amended.—Any amendment or amendments to the Constitution may be proposed in the Senate or House of Delegates by resolution, which shall contain such proposed amendment or amendments and be spread at length on the journal of the house in which it is offered, and if it is agreed to by a majority of the members elected thereto with ayes and noes taken thereon, it shall be communicated to the other house where it shall be dealt with in like manner, and when so agreed to by both houses, it shall be enrolled as provided by law and signed by the President of the Senate and Speaker of the House of Delegates. Such amendment or amendments shall thereupon stand referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates ~~and shall be published for three months previous to the time of such election.~~ If at such regular session the proposed amendment or amendments shall be agreed to by a majority vote of all the members elected to each house, the same shall be submitted to the people, *not sooner than ninety days after final passage,* by a bill or resolution introduced for such purpose, and if the people shall approve and ratify such amendment or amendments by the majority of the electors qualified to vote for the members of the General Assembly voting thereon, such amendment or amendments shall become a part of the Constitution.

§ 30-44. Hearings; attendance of witnesses and production of records, etc.; contempt proceedings.—(a) The joint committee may hold hearings anywhere in the State. The chairman of the Committee, or any member acting at his direction shall have authority to issue subpoenas, which may be served by any sheriff ~~or sergeant~~ of this State, or by any agent or investigator of the Committee, all with return shown thereon, requiring the attendance of witnesses, the production of books, records,

photographs and other writings, or both. The Committee also may compel the attendance of witnesses and the production of books, records, photographs and other writings by motion made before the circuit or corporation court having jurisdiction of the person whose attendance or of whom production is sought. The court upon such motion shall issue such subpoenas, writs, processes or orders as the court deems necessary.

(b) The chairman of the Committee, or any member acting at his direction, shall be authorized to administer oaths to witnesses. If any person, firm, corporation, association or other organization (hereinafter severally referred to as "persons") fails to appeal in response to any subpoena as thereby required, or any person fails or refuses, without legal cause, to answer any question propounded to him or fails or refuses to produce writings or, upon his appearance pursuant to a subpoena behaves in a disorderly manner, then upon the application by the chairman, or by any member of the Committee acting at his direction, or by its counsel, to the circuit or corporation court of the county or city wherein such person resides or may be found, such court shall issue an order directing its clerk to issue a rule against such person to show cause why he should not be punished for a civil contempt by reason of his failure to so appear, testify, produce writings or because of such disorderly behavior. Upon the return day of the rule, or on such day thereafter as the court may appoint, the court shall investigate the charge of contempt, and hear any answer or testimony which the accused makes or offers. The court may also direct the witness to answer such questions or perform such acts as the court deems proper. The court shall then determine whether the accused is guilty of contempt as charged by the Committee or of contempt of the court. If the court finds that the accused is guilty of contempt of the Committee or of the court he shall be fined not more than one thousand dollars or imprisoned in jail for not more than one year, or both, as the court shall determine; and should the contempt consist of the omission to do an act which the accused yet can perform, the court may imprison the accused until he performs it.

§ 30-46. Interrogatories; answers to interrogatories.—The joint committee may file interrogatories in the clerk's office of the circuit or corporation court having jurisdiction of the person from whom answers are sought. Upon such filing, the clerk shall issue a summons, directed as prescribed in § 8-44 requiring the sheriff ~~or sergeant~~ to summon the person to answer such interrogatories, and make return thereof within such time, not exceeding sixty days, as may be prescribed in the summons. With the summons there shall be a copy of the interrogatories, which shall be delivered to the person served with the summons at the time of service. The Committee may also issue, have served, and require answers to interrogatories.

§ 30-47. Attachment of books, records, photographs and writings.—The joint committee, or any member thereof when acting pursuant to its direction, may sue out an attachment for any book, record, photograph or other writing in the possession or subject to the control of any person in the circuit or corporation court of the county or city having jurisdiction of such person. Proceedings for an attachment hereunder shall be initiated by a sworn petition which shall describe such writing with reasonable certainty and shall state the grounds on which the attachment is sought. It shall be sufficient ground for an attachment if it appears from the petition that the person named therein is destroying, removing or concealing, or is about to destroy, remove or conceal, or that it is believed that, if otherwise proceeded against, such person will destroy, remove or conceal such writings to avoid their production.

Upon the filing of the petition, the clerk before whom the petition is filed shall issue an attachment in accordance with its prayer. Such attachment shall be directed to the sheriff ~~or sergeant~~ of the county or city and shall be returnable before the court out of which it was issued, or the judge thereof in vacation, not more than thirty days from the date of service. Such attachment shall command the officer to whom it may be directed to attach the writings described therein and to keep the same safely in his possession and to seal and return the property so attached forthwith to the custody of the court.

Any proceeding by the person formerly in possession or control of such writings to quash an attachment shall be by motion to the court from which the attachment issued. Such motion shall be verified by affidavit and shall recite with particularity its grounds. The motion shall be filed not more than seven days after the attachment shall have been levied. Pending the court's decision on a motion to quash such attachment, and in no event earlier than seven days after its levy, the writings shall not be examined by the joint committee, nor by any other, but shall remain sealed and under the control of the court; provided, that the person formerly in possession or control of such writings may examine them during such seven-day period under such conditions as the court may prescribe upon satisfying the court that the examination is necessary in order to prevent undue hardship.

§ 33.1-92. Acquisition of residue parcels declared to be in public interest.—The acquisition of such residue parcels in addition to the lands necessary for the immediate use for highway rights-of-way or purposes incidental to the construction, reconstruction or improvement of public highways, is hereby declared to be in the public interest and constitutes a public use as the term public uses is used in ~~See. 58~~ *Article I, § 11,* of the Constitution of Virginia.

§ 33.1-355. Excepted signs, advertisements and advertising structures.—The following signs and advertisements, if securely attached to real property or advertising structures, and the advertising structures, or parts thereof, upon which they are posted or displayed are excepted from all the provisions of this article save those enumerated in subsections (2) through (13) of § 33.1-369 and §§ 33.1-370 and 33.1-375:

(1) Advertisements securely attached to a place of business or residence, and not to exceed ten advertising structures with combined total area, exclusive of the area occupied by the name of the business, owner or lessee, of advertisements and advertising structures not to exceed five hundred square feet, erected or maintained, or caused to be erected or maintained, by the owner or lessee of such place of business or residence, within two hundred fifty feet of such place of business or residence and relating solely to merchandise, services or entertainment sold, produced, manufactured or furnished at such place of business or residence;

(2) Signs erected or maintained, or caused to be erected or maintained, on any farm by the owner or lessee of such farm and relating solely to farm produce, merchandise, services or entertainment sold, produced, manufactured or furnished on such farm;

(3) Signs upon real property posted or displayed by the owner, or by the authority of the owner, stating that the property, upon which the sign is located, or a part of such property, is for sale or rent or stating any data pertaining to such property and its appurtenances, and the name and address of the owner and the agent of such owner;

(4) Official notices or advertisements posted or displayed by or under

the direction of any public or court officer in the performance of his official or directed duties, or by trustees under deeds of trust, deeds of assignment or other similar instruments;

(5) Danger or precautionary signs relating to the premises or signs warning of the condition of or dangers of travel on a highway, erected or authorized by the Commissioner; or forest fire warning signs erected under authority of the Board of Conservation and Economic Development and signs, notices or symbols erected by the United States government under the direction of the United States Forestry Service;

(6) Notices of any *telephone company, telegraph company,* railroad, bridges, ferries or other transportation ~~or transmission~~ company necessary in the discretion of the Commissioner for the safety of the public or for the direction of the public to such utility or to any place to be reached by it;

(7) Signs, notices or symbols for the information of aviators as to location, direction and landings and conditions affecting safety in aviation erected or authorized by the Commissioner;

(8) Signs containing sixteen square feet or less and bearing an announcement of any county, town, village or city, or historic place or shrine, situated in this State, advertising itself or local industries, meetings, buildings or attractions, provided the same is maintained wholly at public expense, or at the expense of such historic place or shrine;

(9) Signs or notices containing two square feet or less, placed at a junction of two or more roads in the State Highway System denoting only the distance or direction of a church, residence or place of business, provided such signs or notices do not exceed a reasonable number in the discretion of the Commissioner;

(10) Signs or notices erected or maintained upon property giving the name of the owner, lessee or occupant of the premises;

(11) Advertisements and advertising structures within the corporate limits of cities and towns;

(12) Historical markers erected by duly constituted and authorized public authorities;

(13) Highway markers and signs erected, or caused to be erected, by the Commissioner or the State Highway Commission or other authorities in accordance with law;

(14) Signs erected upon property warning the public against hunting, fishing or trespassing thereon;

(15) Signs erected by Red Cross authorities relating to Red Cross Emergency Stations. And authority is hereby expressly given for the erection and maintenance of such signs upon the right-of-way of all highways in this State at such locations as may be approved by the Commissioner;

(16) Signs advertising agricultural products and horticultural products, or either, when such products are produced by the person who erects and maintains the signs; provided, however, that the location and number of such signs shall be in the sole discretion of the Commissioner;

(17) Signs advertising only the name, time and place of bona fide agricultural, county, district or State fairs, together with announcements of special events in connection therewith which do not consume more than

fifty per centum of the display area of such signs, provided the person who posts the signs or causes them to be posted will post a cash bond as may be prescribed by the Commissioner, adequate to reimburse the Commonwealth for the actual cost of removing such signs as are not removed within thirty days after the last day of the fair so advertised.

§ 35-31. Closing of restaurants.—The Commissioner and any of his agents, acting under his direction, may close any restaurant if the owner, manager or operator thereof has been guilty of flagrant or continued violation of this chapter or of rules and regulations of the Board governing the operations of restaurants; and in the event of such violation, it shall be his duty to take such action. The sheriff ~~or sergeant~~ of the county or city wherein the restaurant affected is located shall enforce such closure until the closing order is revoked in writing.

CHAPTER 4

Industrialized Building Unit and Mobile Home Safety Law.

§ 36-70. Short title.—The short title of the law embraced in this chapter is the Virginia Industrialized Building Unit and Mobile Home Safety Law.

§ 36-71. Definitions.—As used in this chapter, unless a different meaning or construction is clearly required by the context:

(1) *"The law"* or *"this law"* means the Virginia Industrialized Building Unit and Mobile Home Safety Law as now or hereafter embraced in this chapter.

(2) *"Commission"* means the State Corporation Commission.

(3) *"Industrialized building unit"* means a building assembly or system of building subassemblies, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building or as a part of a finished building comprising two or more industrialized building units, and not designed for ready removal to or installation or erection on another site.

(4) *"Mobile home"* means an industrialized building unit constructed on a chassis for towing to the point of use and designed to be used, without a permanent foundation for continuous year-round occupancy as a dwelling; or two or more such units separately towable, but designed to be joined together at the point of use to form a single dwelling, and which is designed for removal to, and installation or erection on other sites.

(5) *"Approved testing facility"* means an architect or professional engineer, registered in Virginia, or a testing organization, determined by the Commission to be specially qualified by reason of facilities, personnel, experience and demonstrated reliability, to investigate, test and evaluate industrialized building units and mobile homes; to list such units complying with standards at least equal to those promulgated by the Commission; to provide adequate follow-up services at the point of manufacture to insure that production units are in full compliance; and to provide a label, seal or other evidence of compliance on each unit.

§ 36-72. Declaration of policy.—Industrialized building units and mobile homes, because of the manner of their construction, assembly and use and that of their systems, components and appliances (including heat-

ing, plumbing and electrical systems) like other finished products having concealed vital parts, may present hazards to the health, life and safety of persons and to the safety of property unless properly designed and manufactured. In the sale or rental of industrialized building units and mobile homes, there is also the possibility of defects not readily ascertainable when inspected by purchasers or users or by the local building official. It is the policy and purpose of this State to provide protection to the public against those possible hazards and to promote sound building construction, and for that purpose, to forbid the sale, rental or use of new industrialized building units and mobile homes which are not so constructed as to provide reasonable safety and protection to their owners and users and involve reasonably sound building practices. It is the further policy of this State to minimize the unique problems presented by a lack of uniform standards and inspection procedures affecting the mass production of housing and to hereby declare its intention to encourage the reduction of construction costs and to make housing more feasible for all residents of the State.

§ 36-73. Authority of Commission to promulgate rules and regulations.—The Commission shall from time to time promulgate rules and regulations prescribing standards to be complied with in industrialized building units and mobile homes for protection against the hazards thereof to safety of life, health and property. Said standards shall be reasonable and appropriate to the objectives of this law and within the guiding principles prescribed by the General Assembly in this law and in any other law in pari materia.

In making such rules and regulations, the Commission shall have due regard for generally accepted safety standards as recommended by nationally recognized organizations, such as the American National Standards Institute Standard A 119/1 and the National Fire Protection Association # 501 B, applying to mobile homes.

The Commission shall likewise have due regard for Standards of the Southern Building Codes Congress, the Building Officials Conference of America, the International Conference of Building Officials, the National Fire Protection Association and the National Bureau of Standards applying to industrialized building units.

Where practical, the rules and regulations shall be stated in terms of required levels of performance, so as to facilitate the prompt acceptance of new building materials and methods. Where generally recognized standards of performance are not available, the rules and regulations of the Commission shall provide for acceptance of materials and methods whose performance has been found by the Commission, on the basis of reliable test and evaluation data presented by the proponent, to be substantially equal in safety to those specified.

§ 36-74. Notice and hearing on rules and regulations.—Before any rules or regulations are adopted, the Commission shall hold at least one public hearing. At last thirty days' notice thereof shall be given by publication in at least four newspapers of general circulation published in the State. In addition to notice by publication, the Commission shall notify in writing the mayor or other like official of every municipality in the State, and the chairmen of the governing body of every county in the State of such hearing, but failure to give or receive any such notice shall not in anywise impair the validity of any rule or regulation adopted, amended or repealed. At any such hearing all persons, desiring to do so, shall be afforded an opportunity to present their views. Notice of amendments to

or repeal of any rules or regulations theretofore adopted shall be given as aforesaid.

§ 36-75. Amendment, etc., and annual review of rules and regulations.—The Commission may modify, amend or repeal any rules or regulations from time to time as the public interest requires, after notice and hearings as provided in § 27-73 of the Code of Virginia.

The Commission and the Division of State Planning and Community Affairs shall make an annual review of the rules and regulations, considering the housing needs and supply in the State and factors that tend to impede or might improve the availability of housing for all citizens of the State and they shall recommend such modifications, amendments or repeal as deemed necessary.

§ 36-76. Printing and distribution of rules and regulations.—The Commission shall have printed from time to time, and keep in pamphlet form, all rules and regulations prescribing standards for industrialized building units and mobile homes. Such pamphlets shall be furnished upon request to members of the public.

§ 36-77. Rules and regulations to be kept in office of Commission.—A true copy of all rules and regulations adopted and in force shall be kept in the office of the Commission, accessible to the public.

§ 36-78. Effective date and application of rules and regulations.—No rules or regulations shall be made effective earlier than twelve months after June twenty-six, nineteen hundred seventy. No person, firm or corporation shall offer for sale or rental or sell or rent any industrialized building unit or mobile home which as been constructed after the effective date of such rule or regulation unless it conforms with said rules and regulations. Any unit constructed before the effective date of these regulations shall remain subject to the ordinances, laws or regulations in effect at the time such unit was constructed, but nothing in this chapter shall prevent the enactment or adoption of additional requirements where necessary to provide for adequate safety of life, health and property.

§ 36-79. Effect of label, seal, etc., of approved testing facility.—Any industrialized building unit or mobile home shall be deemed to comply with the standards of the Commission when bearing the label, seal or other evidence of listing by an approved testing facility.

§ 36-80. Variances from rules and regulations.—The Commission shall have the power upon appeal in specific cases to authorize variance from the rules and regulations to permit certain specified alternatives where the objectives of this law can be fulfilled by such other means.

§ 36-81. Application of local ordinances; enforcement of chapter by local authorities.—Industrialized building units or mobile homes bearing such evidence of listing shall be acceptable in all localities as meeting the requirements of this law, and shall be acceptable as meeting the requirements of safety to life, health and property imposed by any ordinance of any local governing body of this State without further investigation or inspection, provided such units are erected or installed in accordance with all conditions of the listing. Local requirements affecting industrialized building units and mobile homes, including zoning, utility connections and preparation of the site and maintenance of the unit, shall remain in full force and effect. Unlabeled units constructed after June twenty-six, nineteen hundred seventy, shall be subject to full inspection for local requirements and for compliance with the rules and regulations of the Commission. All local building officials are authorized to and shall enforce the provisions

of this law, and the rules and regulations made in pursuance thereof, as herein provided.

§ 36-82. Right of entry and examination by Commission; notice of violation; appeal.—The Commission, by its representative, shall have the right, at all reasonable hours, to enter into and upon any industrialized building unit or mobile home, not at the time occupied and used as a dwelling unit, upon complaint of any person having an interest in any such unit or upon request of local officials having jurisdiction, for examination as to compliance with the rules and regulations of the Commission. Whenever such officer shall find any violation of the rules and regulations of the Commission, he shall order the manufacturer to bring the unit into compliance, within a reasonable time, to be fixed in the order. If the manufacturer shall feel aggrieved by such order, he may within ten days after notice of such order, appeal to the Commission and the cause of his complaint shall be at once investigated by the Commission, and unless its authority under such order is revoked, the same shall remain in force and be complied with by such manufacturer.

§ 36-83. Violation a misdemeanor; penalty.—It shall be unlawful for any person, firm or corporation, on or after June twenty-six, nineteen hundred seventy, to violate any provisions of this law or the rules and regulations made pursuant hereto. Any person, firm or corporation violating any of the provisions of this law, or the rules and regulations made hereunder, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars.

§ 36-84. Clerical assistants to Commission; equipment, supplies and quarters.—The Commission may employ such permanent or temporary, clerical, technical and other assistants as is found necessary or advisable for the proper administration of this law, and may fix their compensation and may likewise purchase equipment and supplies deemed necessary. Suitable quarters shall be assigned by the Director of the Division of Engineering and Buildings in accordance with directions of the Governor.

§ 36-85. Fees.—The Commission, by rule and regulation, shall establish a schedule of fees to pay the costs incurred by the Commission in the administration of this law.

§ 37.1-71. Transportation of person certified for admission to hospital.—When a person has applied or has been certified for admission to a hospital under § 37.1-65 or § 37.1-67, such person may be delivered to the care of the sheriff of the county or ~~sergeant of the~~ city who shall forthwith on the same day deliver such person to the proper hospital or the patient may be sent for by the superintendent. When this is impossible such person shall be kept and cared for by the sheriff ~~or sergeant~~ in some convenient institution approved by the Board, until such person is conveyed to the proper hospital. The cost of care and transportation of any person so applying or certified for admission pursuant to § 37.1-65 or § 37.1-67 shall be paid from the State treasury from the same funds as for care in jail. The cost of care and transportation of a person certified for admission to a private hospital shall be paid by the petitioner.

If any hospital has become too crowded to accommodate any such person certified for admission therein, the Commissioner shall give notice of the fact to all sheriffs ~~and sergeants~~, and shall designate the hospital to which they shall transport such persons.

§ 37.1-73. Detention in jail after certification.—It shall be unlawful for any sheriff, ~~sergeant~~ or other officer to use any jail or other place of confinement for criminals as a place of detention for any person

in his custody for transportation to a hospital unless the detention therein of such person is specifically authorized by a justice. Notice of such action shall be given by telephone or telegraph to the Commissioner.

§ 37.1-74. Mentally ill persons not to be confined in cells with criminals.—In no case shall any sheriff, ~~sergeant~~, or jailor confine any mentally ill person in a cell or room with prisoners charged with or convicted of crime.

§ 37.1-75. Escape, sickness, death or discharge of certified person while in custody; warrant for person escaping.—If any person who has been certified for admission to a hospital, while in the custody of a sheriff, ~~sergeant~~ or other person, shall escape, become too sick to travel, die, or be discharged by due process of law, the sheriff, ~~sergeant~~, or other person shall immediately notify the Commissioner of that fact. If any person with whose custody a sheriff, ~~sergeant~~, or other person has been charged under the provisions of this chapter shall escape, the sheriff, ~~sergeant~~, or other person having such individual in custody shall immediately secure a warrant from any officer authorized to issue warrants charging the individual with escape from lawful custody, directing his apprehension and stating what disposition shall be made of such person upon arrest.

§ 37.1-78. Attendants to conduct persons admitted voluntarily to hospitals.—When application is made to the superintendent of a hospital for admission pursuant to § 37.1-65, he may send an attendant from the hospital to conduct such person to the hospital. Female attendants may be assigned to convey female persons to the hospital. If for any reason it is impracticable to employ an attendant for this purpose, then the superintendent may appoint some suitable person for the purpose, or may request the sheriff ~~or sergeant~~ of the county or city in which the person resides to convey him to the hospital. The sheriff ~~or sergeant,~~ or other person appointed for the purpose shall receive only his necessary expenses for conveying any person admitted to the hospital. Expenses authorized herein shall be paid by the Board.

§ 37.1-125. Commitment to responsible person on bond prior to removal.—If, either before admission, or after admission to a hospital or Veterans' Administration hospital, center, or other facility or installation and before removal thereto some responsible person will give bond, with sufficient surety, to be approved by the judge or justice, payable to the Commonwealth, with condition to restrain and take proper care of a mentally ill person without cost to the Commonwealth, until conveyed to a hospital, Veterans' Administration hospital, center, or other facility or installation, or otherwise discharged from custody, then the judge or justice may, in his discretion, commit such mentally ill person to the custody of such person. If the person giving the bond mentioned in this section, or his representative, shall deliver the mentally ill person therein mentioned to the sheriff of the county or ~~sergeant of the~~ city, according to the condition of the bond, such sheriff ~~or sergeant~~ shall carry such person before a judge or justice of his county or corporation, and the same proceeding shall be thereupon had as in the case of a person brought before a judge or justice under his warrant under § 37.1-67.

§ 37.1-130. When no committee appointed within one month of adjudication.—If no person shall be appointed a committee within one month from the adjudication the court, or the judge thereof in vacation, on motion of any interested person, may appoint a committee, or he shall commit the estate of the legally incompetent person to the sheriff of the county or ~~sergeant of the~~ city, who shall be committee, and he and the sureties on his official bond shall be bound for the faithful performance of the trust.

§ 37.1-137. Effect of refusal to give bond or accept trust.—If any person so appointed a fiduciary under this title refuses the trust or fails to give bond as required within one month from the date of his appointment, the court, or the judge thereof in vacation, on motion of any person interested, may appoint some other person as fiduciary, taking from such fiduciary the bond required, or shall commit the estate of the person to the sheriff of the county or ~~sergeant of the~~ city of which he is an inhabitant, who shall be the fiduciary, and he and the sureties in his official bond shall be bound for the faithful performance of the trust.

§ 38.1-54. Hearings, witnesses, appearances and procedure.—(a) Whenever the Commission shall have reason to believe that any such person has been engaged or is engaging in this State in any unfair method of competition or any unfair or deceptive act or practice defined in § 38.1-52, and that a proceeding by it in respect thereto would be to the interest of the public, it shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service thereof.

(b) At the time and place fixed for such hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the Commission requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the Commission shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

(c) In all matters in connection with such investigation, charge or hearing the Commission shall have the jurisdiction, power and authority granted or conferred upon it by Title ~~12~~ *12.1* of this Code, and, except as otherwise provided in this article, the procedure shall conform to and the right of appeal shall be the same as that provided in such title.

§ 38.1-60. Violations; procedure; cease and desist orders.—Whenever the Commission has reason to believe that there is a violation of either § 38.1-58 or § 38.1-59 it shall issue and serve upon the company or the director concerned a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than thirty days after the date of the service of such notice. The notice shall require the company or director to show cause why an order should not be made by the Commission directing such alleged offender to cease and desist from such violation. At such hearing the company or director shall have an opportunity to be heard and to show cause why an order should not be made by the Commission requiring the company or director to cease and desist from such violation. In all matters in connection with such charges or hearing the Commission shall have the jurisdiction, power and authority granted or conferred upon it by Title ~~12~~ *12.1* of this Code, and, except as otherwise provided in this article, the procedure shall conform to and the right of appeal shall be the same as that provided in such title.

§ 38.1-104. Appeal from order suspending or revoking license.—From the action of the Commission in refusing, revoking or suspending the license of any company to transact business in this State there shall be an appeal of right to the Supreme Court ~~of Appeals~~, which shall be taken in the manner provided in §§ ~~12-63 and 12-64~~ *12.1-39 through 12.1-42*.

§ 38.1-133. Powers of Commission when authorized to rehabilitate or liquidate companies.—Whenever the Commission is authorized to rehabilitate or liquidate a company or to take such other steps which it deems advisable in connection with the affairs of the company as author-

ized herein, it shall have all the power and authority of a court of record as provided in ~~Sec. 156 (c)~~ *Article IX, § 3,* of the Constitution, and all further proceedings in connection with such rehabilitation or liquidation shall be had by the Commission without any control or supervision by the court to which the application was made. For the violation of any injunction or order issued under this article it shall have the same power to punish for contempt as a court of equity, and the procedure therein shall be as set forth in § ~~12-21~~ *12.1-34.* It may deal with the property and affairs of the company in its own name or in the name of the company, and shall be vested by law with the title to all of the property, contracts and rights of action of the company as of the date of the order of the court referred to in § 38.1-132. The filing or recording of such order in any clerk's office in this State shall impart the same notice that a deed, bill of sale or other evidence of title duly filed or recorded would have imparted.

§ 38.1-279. Appeal from final order or decision of Commission.—The provisions of ~~Sec. 12-63~~ §§ *12.1-39 through 12.1-41,* shall apply to appeals to the Supreme Court ~~of Appeals~~ of Virginia from any final order or decision of the Commission with respect to any matter coming within the purview of this chapter.

ARTICLE 3.1

Uninsured Motorists Fund.

§ 38.1-379.1. Supervision and control of Commission; payments from Fund.—The Uninsured Motorists Fund now or hereafter provided for by law shall be under the supervision and control of the State Corporation Commission and shall be paid out, on warrants of the Comptroller issued on vouchers signed by such person as the Commission shall designate, for the purpose of reducing the costs of motor vehicle liability insurance as defined by § 38.1-21, as amended.

§ 38.1-379.2. Distribution to insurance companies; records of companies.—The Commission shall annually, at such time in each year as it may deem best for the purposes, make distribution from the Fund among the several insurance companies writing motor vehicle bodily injury and property damage liability insurance on motor vehicles registered in the State of Virginia in the proportion that the premium income for the basic limits coverage of each insurance company (that is, gross premiums less cancellation and return premiums) for the coverage required by paragraph (b) of § 38.1-381 of the Code of Virginia bears to the total of such premium income for such coverage written in the State during the preceding year. The amount payable to any such insurance company hereunder shall apply only to those companies maintaining records satisfactory to the Commission as will disclose loss experience under such endorsement.

§ 38.1-379.3. Rules and regulations.—The Commission shall have power to issue such rules and regulations as may be necessary to carry out the provisions and intent of this article.

§ 38.1-765. Duties and powers of Commission; judicial review.—(1) The Commission shall:

(a) Notify the Association of the existence of an insolvent insurer not later than three days after it receives notice of the determination of the insolvency.

(b) Upon request of the board of directors, provide the Association

with a statement of the net direct written premiums of each member insurer.

(2) The Commission may:

(a) Require that the Association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this chapter. Such notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

(b) Suspend or revoke, after notice and hearing, the license to transact insurance in this State of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the Commission may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed five percent of the unpaid assessment per month, except that no fine shall be less than one hundred dollars per month.

(c) Revoke the designation of any servicing facility if it finds claims are being handled unsatisfactorily.

(3) Any final action or order of the Commission under this chapter shall be subject to judicial review in accordance with the provisions of ~~Sec. 12-63~~ §§ *12.1-39 through 12.1-41* of the Code of Virginia.

§ 39.1-7. Who may be appointed.—Any person may be appointed to the office of justice of the peace under this title subject to the limitations of ~~Sec. 32~~ *Article II, § 5,* of the Constitution of Virginia and chapter 4 (§ 2.1-30 et seq.) of Title 2.1 of the Code except as hereinafter provided.

§ 43-14.1. Service of notices.—Any notice authorized or required by this chapter, except the notice required by § 43-11, may be served by any sheriff, *or* constable ~~or sergeant~~ who shall make return of the time and manner of service; or any such notice may be served by certified or registered mail and a return receipt therefor shall be prima facie evidence of receipt.

§ 43-34. Enforcement of liens acquired under three preceding sections and of liens of bailees.—Any person having a lien under the three preceding sections (§§ 43-31 to 43-33) and any bailee, except where otherwise provided, having a lien as such at common law on personal property in his possession which he has no power to sell for the satisfaction of the lien, if the debt for which the lien exists be not paid within ten days after it is due and the value of the property affected by the lien does not exceed six hundred dollars, may sell such property or so much thereof as may be necessary, by public auction, for cash, and apply the proceeds to the satisfaction of the debt and expenses of sale, and the surplus, if any, he shall pay to the owner of the property. Before making such sale, he shall advertise the time, place, and terms thereof, in such manner as to give publicity thereto, and also give to the owner notice as hereinafter provided. If such property be a motor vehicle required by the motor vehicle laws of Virginia to be registered, the person having such lien shall ascertain from the Commissioner of the Division of Motor Vehicles if the certificate of title of such motor vehicle shows a lien thereon. If the certificate of title shows a lien thereon, the bailee proposing the sale of such motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale ten days prior thereto. If the name of the owner cannot be ascertained, the name of "John Doe" shall be substituted

in any proceedings hereunder and no written notice as to him shall be required to be mailed. If the value of the property be more than six hundred dollars but does not exceed three thousand dollars, the party having such lien, after giving notice as herein provided, may apply by petition to any trial justice of the county or corporation wherein the property is, or, if the value of the property exceed three thousand dollars, to the circuit or corporation court of such county or corporation, for the sale of the property; and if, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court or trial justice shall be satisfied that the debt and lien are established and the property should be sold to pay the debt, such court or court not of record having civil jurisdiction shall order the sale to be made by the sheriff ~~or sergeant~~ of the county or corporation, who shall make the same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ of fieri facias. If the owner of the property be a resident of this State, any notice required by this section may be served in the mode prescribed by § 8-51. If he be a nonresident or if his address be unknown it may be served by posting a copy thereof in three public places in the county or corporation wherein the property is.

Whenever a motor vehicle is sold hereunder, the Division of Motor Vehicles shall issue a certificate of title and registration to the purchaser thereof upon his application containing the serial or motor number of the vehicle purchased together with an affidavit of the lienholder that he has complied with the provisions hereof, or by the sheriff ~~or sergeant~~ conducting a sale that he has complied with said order.

Any garage keeper to whom a motor vehicle has been delivered pursuant to §§ 46.1-2, 46.1-3 or 46.1-3.2 may after ninety days from the date of delivery proceed under this section providing that action has not been taken pursuant to such sections for the sale of such motor vehicle.

§ 46.1-351.1. Seizure of vehicle upon arrest of person believed to have violated §§ 46.1-350, 46.1-351, or 46.1-387.8; report to Commonwealth's attorney; notification to Commissioner; certificate of Commissioner concerning seized vehicle.—(a) Where any officer charged with the enforcement of the motor vehicle laws of this State reasonably believes that he has arrested any person who will be subject to the penalties prescribed by §§ 46.1-350, 46.1-351, or 46.1-387.8, he shall seize and take possession, either at the time of arrest or within thirty days after such arrest, of the motor vehicle being operated by such person at the time of arrest, and deliver the same to the sheriff of the county or the ~~sergeant of the~~ city in which such arrest was made, taking his receipt therefor in duplicate. The officer making such seizure shall also forthwith report in writing, of such arrest and seizure to the attorney for the Commonwealth for the county or city in which such arrest or seizure was made. In the case of any seizure made subsequent to the arrest, the officer may seize and take possession of the vehicle anywhere in the Commonwealth pursuant to this section, and return and deliver the vehicle and report as required by this section to such county or city.

(b) The attorney for the Commonwealth shall forthwith notify the Commissioner of the Division of Motor Vehicles of such seizure and the motor number of the vehicle so seized, and the Commissioner shall promptly certify to such attorney for the Commonwealth the name and address of the person in whose name such vehicle is registered, together with the name and address of any person holding a lien thereon, and the amount thereof. The Commissioner shall also forthwith notify such regis-

tered owner and lienor, in writing, of the reported seizure and the county and city wherein such seizure was made.

The certificate of the Commissioner, concerning such registration and lien shall be received in evidence in any proceeding, either civil or criminal, under any provision of this section or that of § 46.1-351.2, in which such facts may be material to the issue involved.

§ 46.1-351.2. Proceedings concerning vehicles seized under § 46.1-351.1.—(a) Within sixty days after receiving notice of seizure under § 46.1-351.1 the attorney for the Commonwealth shall file in the name of the Commonwealth, an information against the seized property, in the clerk's office of the circuit court of the county, or of the corporation court, hustings court, or other court of record having jurisdiction in the city, wherein the arrest or seizure was made. Should the attorney for the Commonwealth, for any reason, fail to file such information within such time, the same may, at any time within twelve months thereafter, be filed by the Attorney General, and the proceedings thereon shall be the same as if it had been filed by the attorney for the Commonwealth.

Such information shall allege the seizure, and set forth in general terms the grounds of forfeiture of the seized property, and shall pray that the same be condemned and sold and the proceeds disposed of according to law, and that all persons concerned or interested be cited to appear and show cause why such property should not be condemned and sold to enforce the forfeiture.

The owners of and all persons in any manner then indebted or liable for the purchase price of the property, and any person having a lien thereon, if they be known to the attorney who files the information, shall be made parties defendant thereto, and shall be served with the notice hereinafter provided for, in the manner provided by law for serving a notice, at least ten days before the day therein specified for the hearing on the information, if they be residents of this State; and if they be unknown or nonresidents, or cannot with reasonable diligence be found in this State, they shall be deemed sufficiently served by publication of the notice once a week for two successive weeks in some newspaper published in such county or city; or if none be published therein, then in some newspaper having general circulation therein, and a notice shall be sent by registered mail of such seizure to the last known address of the owner of such conveyance or vehicle.

(a1) In lieu of filing an information, as provided in subsection (a), the attorney for the Commonwealth may, upon payment of costs incident to the custody of the seized property, return the seized property to an owner or lienor, without requiring that such owner or lienor file bond as provided in subsection (b), if he believes that such owner was the actual bona fide owner of the conveyance or vehicle at the time of the seizure, that he was ignorant of such illegal use thereof, and that such illegal use was without his connivance or consent, express or implied, or if he believes that such lienor was ignorant of the fact that such conveyance or vehicle was being used for illegal purposes, when it was so seized, that such illegal use was without such lienor's connivance or consent, express or implied, that he held a bona fide lien on such property and had perfected the same in the manner prescribed by law, prior to such seizure and that the lien is equal to or more than the value of the conveyance or vehicle.

In the event the conveyance or vehicle has been sold to a bona fide purchaser subsequent to the arrest but prior to seizure in order to avoid

the provisions of § 46.1-351.1 and this section, the Commonwealth shall have a right of action against such seller for the proceeds of the sale.

(b) If the owner or lienor of the seized property shall desire to obtain possession thereof before the hearing on the information filed against the same, such property shall be appraised by the clerk of the court where such information is filed.

The sheriff of the county or ~~the~~ ~~sergeant~~ ~~of~~ the city in which the trial court is located shall promptly inspect and appraise the property, under oath, at its fair cash value, and forthwith make return thereof in writing, to the clerk's office of the court in which the proceedings are pending, upon the return of which the owner or lienor may give a bond payable to the Commonwealth, in a penalty of the amount equal to the appraised value of the conveyance or vehicle plus the court costs which may accrue, with security to be approved by the clerk, and conditioned for the performance of the final judgment of the court, on the trial of the information, and with a further condition to the effect that, if upon the hearing on information, the judgment of the court be that such property, or any part thereof, or such interest and equity as the owner or lienor may have therein, be forfeited, judgment may thereupon be entered against the obligors on such bond for the penalty thereof, without further or other proceedings against them thereon, to be discharged by the payment of the appraised value of the property so seized and forfeited and costs, upon which judgment, execution may issue, on which the clerk shall endorse, "no security to be taken." Upon giving of the bond, the property shall be delivered to the owner or lienor.

(c) Any person claiming to be the owner of such seized property, or to hold a lien thereon, may appear at any time before final judgment of the trial court, and be made a party defendant to the information so filed, which appearance shall be by answer, under oath, in which shall be clearly set forth the nature of such defendant's claim, whether as owner or as lienor, and if as owner, the right or title by which he claims to be such owner, and if lienor, the amount and character of his lien, and the evidence thereof; and in either case, such defendant shall set forth fully any reason or cause which he may have to show against the forfeiture of the property.

(c1) The hearing on the information shall in no case be held prior to final judgment in the trial for the violation of § 46.1-350 or 46.1-351. If the person operating the seized conveyance or vehicle is acquitted or the charges are for any reason dismissed, such acquittal or dismissal shall entirely relieve the property from forfeiture.

(d) In the event there is no judgment of acquittal or dismissal of the charges, if any person claiming to be the owner of the seized conveyance or vehicle or to hold a lien thereon shall deny that the conveyance or vehicle was being operated under conditions that the operator was violating the provisions of § 46.1-350, 46.1-351, or 46.1-387.8; and shall demand a trial by jury of the issue thus made, the court shall, under proper instructions, submit the same to a jury of five, to be selected and empanelled as prescribed by law, and if such jury shall find on the issue in favor of such claimant, or if the court, trying such issue without a jury, shall so find, the judgment of the court shall be to entirely relieve the property from forfeiture, and no costs shall be taxed against such claimant.

(e) If, on the other hand, the jury, or the court trying the issue without a jury, shall find against the claimant, or if it be admitted by the claimant that the conveyance or vehicle at the time of the seizure was

being operated under conditions that the operator was violating the provisions of § 46.1-350, 46.1-351, or 46.1-387.8; nevertheless, if it shall appear to the satisfaction of the court that such claimant, if he claims to be the owner, was the actual bona fide owner of the conveyance or vehicle at the time of the seizure, that he was ignorant of such illegal use thereof, and that such illegal use was without his connivance or consent, express or implied, and that such innocent owner has perfected his title to the conveyance or vehicle, if it be a motor vehicle, if application for the title is made ten days prior to its seizure or within ten days from the time it was acquired, the court shall relieve the conveyance or vehicle from forfeiture and restore it to its innocent owner, and the costs of the proceedings shall be paid by the Commonwealth as now provided by law.

Where it is shown to the satisfaction of the court that the conveyance or vehicle for the forfeiture of which proceedings have been instituted was stolen from the person in possession, relief shall be granted the owner or lienor, either or both, and the costs of the proceedings shall be paid by the Commonwealth as now provided by law.

(f) If any such claimant be a lienor, and if it shall appear to the satisfaction of the court that the owner of the conveyance or vehicle has perfected his title to the conveyance or vehicle if it be a motor vehicle, prior to its seizure, or within ten days from the time it was acquired, and that such lienor was ignorant of the fact that such conveyance or vehicle was being used for illegal purposes, when it was so seized, that such illegal use was without such lienor's connivance or consent, express or implied, and that he held a bona fide lien on such property and had perfected the same in the manner prescribed by law, prior to such seizure (if such conveyance or vehicle be an automobile the memorandum of lien on the certificate of title issued by the Commissioner of the Division of Motor Vehicles on the automobile shall make any other recordation of the same unnecessary), the court shall, by an order entered of record establish the lien, upon satisfactory proof of the amount thereof; and if, in the same proceeding, it shall be determined that the owner of the seized property was himself in possession of the same, at the time it was seized, and that such illegal use was with his knowledge or consent, the forfeiture hereinbefore in this section declared, shall become final as to any and all interest and equity which such owner, or any other person so illegally using the same, may have in such seized property, which forfeiture shall be entered of record. In the last mentioned event, if the lien established is equal to or more than the value of the conveyance or vehicle, such conveyance or vehicle shall be delivered to the lienor, and the costs of the proceedings shall be paid by the Commonwealth as now provided by law; if the lien is less than the value of the conveyance or vehicle, the lienor may have the conveyance or vehicle delivered to him upon the payment of the difference. Should the lienor not demand delivery as aforesaid, an order shall be made for the sale of the property by the sheriff of the county, or ~~sergeant~~ ~~of~~ the city, as the case may be, in the manner prescribed by law, out of the proceeds of which sale shall be paid, first, the lien, and second, the costs; and the residue, if any, shall be paid into the Literary Fund.

(g) If, however, no valid lien is established against the seized property, and upon the trial of the information, it shall be determined that the owner thereof was himself using the same, at the time of the seizure, or that such illegal use was with his knowledge or consent, the property shall be completely forfeited to the Commonwealth, and an order shall be made for the sale of such property by the sheriff of the county ~~or~~ ~~sergeant~~ of the city, as the case may be, in the manner prescribed by law. Out of

the proceeds of such sale shall be paid the costs, and the residue shall be paid into the Literary Fund.

(h) In all cases, the actual expense incident to the custody of the seized property, and the expense incident to the sale thereof, including commissions, shall be taxed as costs.

§ 49-1. Form of general oath required of officers.—Every person before entering upon the discharge of any function as an officer of this ~~State~~ *Commonwealth* shall take and subscribe the following oath: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the ~~State~~ *Commonwealth* of Virginia, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as ..... according to the best of my ability~~,~~ *(*so help me God*)*."

§ 54-118. Oath of office.—Each member of the Board shall, before entering upon the discharge of the duties of his office take, subscribe and file with the Secretary of the Commonwealth the oath of office required by ~~section thirty-four~~ *Article II,* § *7,* of the Constitution of Virginia.

§ 54-563. Appeal from action of Commission.—From any action of the State Corporation Commission under the preceding section (§ 54-562), an appeal may be taken by the individual pilots, company or association affected, or by any other person, firm or corporation feeling aggrieved by such action, in the manner prescribed in ~~section one hundred and fifty-six~~ *Article IX,* § *4* of the ~~Virginia~~ Constitution *of Virginia* for appeals from actions of the Commission prescribing rates, charges or classifications of traffic affecting ~~transportation and transmission companies.~~ *telephone companies, telegraph companies, and transportation companies.*

§ 56-1. Definitions.—Whenever used in any chapter under this title, the following terms, words and phrases shall have the meaning and shall include what is specified in this section, unless the contrary plainly appears, that is to say:

~~The word "charter" shall be construed to mean a charter of incorporation by or under which any corporation is formed.~~

The words "the Commission" shall ~~be construed to~~ mean the "State Corporation Commission."

The word "corporation" or "company" shall include all corporations ~~chartered~~ *created* by ~~the~~ acts of the General Assembly of Virginia, or under the general incorporation laws of ths State, or doing business therein, ~~and all trusts, associations, and joint stock companies, having any powers or privileges not possessed by individuals or unlimited partnerships,~~ and shall exclude all municipal corporations, *other political subdivisions,* and public institutions owned or controlled by the State.

~~The word "officers" when used in connection with the State Corporation Commission shall be construed to mean any clerk, bailiff, assistant, or other appointee of the Commission.~~

The word "person" shall include individuals, partnerships and corporations~~, in the singular, as well as in the plural number~~.

The words "public service corporation" or "public service ~~corporations~~ *company*" shall include ~~transportation and transmission companies, canal, turnpike and other internal improvement companies, and~~ gas, pipeline, electric light, heat, power and water supply companies, *sewer companies, telephone companies, telegraph companies,* and all persons~~, firms, partnerships, associations, or corporations~~ authorized to *transport passengers or*

property as a common carrier ~~exercise the right of eminent domain, or to use or occupy any street, alley, or public highway, whether along, over, or under the same, in a manner not permitted to the general public~~, and shall exclude all municipal corporations, *other political subdivisions,* and public institutions owned or controlled by the State.

The word "railroad" ~~or "railroads"~~ shall include all railroad or railway lines, whether operated by steam, electricity, or other motive power, except when otherwise specifically designated.

The words "railroad company" ~~or "railroad companies"~~ shall include any company, trustee or other person owning, leasing or operating a railroad ~~or railway, whether operated by steam, electricity, or other motive power, except when otherwise specifically designated~~.

The word "rate" shall be considered to mean "rate charged for any service rendered or to be rendered."

The words "rate," "charge" and "regulation" shall include joint rates, joint charges and joint regulations, respectively.

~~The words "transmission company" or "transmission companies" shall include any company owning, leasing or operating for hire any telegraph or telephone line.~~

The words "transportation company" ~~or "transportation companies"~~ shall include any ~~company, trustee, or other person owning, leasing or operating for hire a railroad, street railway, canal, steamboat, or steamship line, and also any freight car company, car association, car service association, or car trust, express company, or company, trustee, or person in any way engaged in business as a common carrier ever a route acquired in whole or in part under the right of eminent domain~~ *railroad company, any company transporting express by railroad, and any ship or boat company.*

§ 56-8.1. Free services to members of General Assembly and others prohibited.—No public service corporation doing business in this State shall grant to any member of the General Assembly or to any State, county, district, or municipal officer any free pass, free transportation, or any rebate or reduction in the rates charged by such corporation to the general public. Any public service corporation violating this section and any person receiving any privilege or benefit prohibited by this section shall be guilty of a misdemeanor, and upon conviction thereof, shall each be fined an amount not to exceed one thousand dollars for each such offense. This section shall not be construed to prevent any public service corporation from granting free transportation to members of any police force or fire department while in the discharge of their official duties.

§ 56-8.2. Appeals in rate cases.—Any public service corporation which is required by law to file a schedule of rates with the Commission, or the Commonwealth, or any other party in interest or party aggrieved may appeal to the Supreme Court from any final decision or order of the Commission concerning such rates. Upon the granting of such appeal, the Supreme Court may award or refuse a writ of supersedeas, and, if a writ of supersedeas be awarded, it may suspend the operation of the action appealed from in whole or in part. Alternatively, the Supreme Court in its discretion may authorize putting into effect of the schedule of rates so filed and suspended by the Commission or the schedule of rates existing at the time of the filing of the schedule upon which the investigation and hearing have been had, or require the inauguration of the schedule of rates as ordered by the Commission, until the final disposi-

tion of the appeal. But, prior to the final reversal by the Supreme Court of the order appealed from the Supreme Court, no action of the Commission prescribing or affecting rates or charges shall be delayed, or suspended in its operation, by reason of any appeal by the party whose rates or charges are affected, or by reason of any proceeding resulting from such appeal until a suspending bond payable to the Commonwealth has been executed and filed with the Commission with such conditions, in such penalty, and with such surety thereon as the Commission, subject to review by the Supreme Court, may deem sufficient. If any appeal from action of the Commission prescribing or affecting the rates or charges of a public service corporation, such bond, or if no bond is required, the order of the Supreme Court, shall expressly provide for the prompt refunding to the parties entitled thereto of all charges which may have been collected or received, pending the appeal, in excess of those fixed, or authorized by the final decision on appeal, with interest from the date of the collection thereof. But no bond shall be required of the Commonwealth. Any bond required under this section shall be enforced in the name of the Commonwealth before the Commission or before any court having jurisdiction, and the process and proceedings thereon shall be as provided by law upon bonds of like character required to be taken by courts of record of this State.

§ 56-35. ~~Commission to regulate rates, charges,~~ *Regulation of* public service ~~facilities, etc., of transportation and transmission~~ companies.—The Commission shall have the power, and be charged with the duty, of supervising, regulating and controlling all ~~transportation and transmission~~ *public service* companies doing business in this State, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses therein by such companies; and to that end the Commission shall, from time to time, prescribe and enforce against such companies such rates, charges, classifications of traffic, and rules and regulations, and shall require them to establish and maintain all such public service facilities and conveniences, as may be reasonable and just, which rates, charges, classifications, rules, regulations and requirements, the Commission may, from time to time, alter or amend.

§ 56-36. Inspection of records and ~~requiring~~ reports ~~of transportation and transmission companies, preventing discrimination, etc.~~—The Commission shall also have the right at all times to inspect the books, ~~and~~ papers *and documents* of all ~~transportation and transmission~~ *telephone, telegraph, and transportation* companies doing business in this State, and to require from such companies, from time to time, special reports and statements, under oath, concerning their business. It shall keep itself fully informed of the physical condition of all railroads of the State, as to the manner in which they are operated, with reference to the security and accommodation of the public, and shall, from time to time, make and enforce such requirements, rules and regulations as may be necessary to prevent unjust or unreasonable discrimination by any ~~transportation or transmission~~ *telephone, telegraph, or transportation* company in favor of, or against, any person, locality, community, connecting line, or kind of traffic in the matter of car service, train or boat schedule, efficiency of transportation or otherwise, in connection with the public duties of such company.

§ 56-37. Special franchise granted by cities, towns and counties.—Nothing in § 56-36 ~~or 12-54~~ shall impair the right which has heretofore been, or may hereafter be, conferred by law upon the authorities of any city, town or county to prescribe rules, regulations or rates of charge to be observed by any public service corporation in connection with any

services performed by it under a municipal or county franchise granted by such city, town or county, so far as such services may be wholly within the limits of the city, town or county granting the franchise.

§ 56-38. Adjustment of claims and controversies.—Upon the request of the parties interested, it shall be the duty of the Commission, as far as possible, to effect, by mediation, the adjustment of claims, and the settlement of controversies, between ~~transportation or transmission~~ *public service* companies and their employees and patrons.

§ 56-43. Examination of line; notice; fines, enforcement of same.—Upon the complaint and application of the mayor or council of any city or town or the board of supervisors or other governing body of any county within which any part of any ~~transportation or transmission~~ *railroad* line is located, it shall be the duty of the Commission to make an examination of the physical condition and operation thereof. Before proceeding to make such examination in accordance with such application, the Commission shall give to the applicants and the corporation or person operating any such line reasonable notice in writing of the time and place of entering upon the same. If upon such examination it shall appear to the Commission that the complaint alleged by the applicant is well founded, it shall so adjudge and shall notify such corporation or person of its adjudication; and, if such corporation or person fails for sixty days after such notification to remove the cause of complaint, the Commission shall impose the fines and penalties provided by ~~the Constitution and by~~ law for its failure to obey the orders and requirements of the Commission and enforce the collection thereof by its judgments and processes.

§ 56-64. Companies not relieved from compliance with ~~Constitution, etc.~~ § *13.1-16*.—Nothing contained in this chapter shall be construed to relieve any public service company from the duty of complying with the provisions of ~~Sec. 167 of the Constitution and Sec. 13-97~~ § *13.1-16* of this Code when applicable.

§ 56-97. Long and short haul.—No transportation company doing business in this State shall take, charge or receive any greater compensation in the aggregate for the transportation of passengers of the same class or property along the same line in the same direction for a shorter than for a longer distance, the shorter being included within the longer distance. But this section shall not be construed as authorizing any such company to charge and receive as great compensation for a shorter as for a longer distance; but, upon application to the State Corporation Commission any such company may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property, and the Commission may, from time to time, ~~subject to the provisions of the Constitution,~~ prescribe the extent to which such designated company may be relieved from the operation of this section.

§ 56-107. When reduction in rates or free carriage may be given.—Nothing in this chapter shall apply: (1) to the carriage, storage or handling of property free or at reduced rates, when such rates have been authorized or prescribed by the State Corporation Commission for the United States, State or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat; or (2) to the free carriage of homeless and destitute persons and the necessary agents employed in such transportation; or (3) to mileage, excursion or commutation passenger tickets; or (4) to persons in charge of livestock being shipped from the point of shipment to the point of destination and return.

Nor shall anything in this chapter be construed to prohibit any transportation company from giving reduced rates or free passage to (1) ministers of religion, or (2) regular traveling secretaries of the Young Men's Christian Association, or the Young Women's Christian Association, whose duties require regular travel in supervising and directing Young Men's Christian or Young Women's Christian Association work, or (3) secretaries of duly organized religious work, or (4) indigent persons, or (5) inmates of the Confederate homes or State homes for disabled soldiers and sailors, or (6) disabled soldiers and sailors, including those about to enter, and those returning home after discharge.

Nor shall this chapter be construed to prohibit any transportation company from giving free carriage to its own officers, employees, and members of their families, or to any other person or persons to whom the giving of such free carriage is not *otherwise* prohibited by the ~~Constitution~~ *laws* of this State; nor to prevent the principal offices of any transportation company from exchanging passes or tickets with other transportation companies or air or motor carriers for their officers, employees and members of their families.

§ 56-129. Commission to compel company to make repairs, additions, improvements, etc., when necessary.—Whenever in the judgment of the Commission it shall appear that repairs are necessary upon any railroad, or that any addition to its rolling stock, or addition or improvement in the equipment of any other transportation line, or any enlargement of, or improvement in, the stations or station houses, waiting rooms, wharves or landings, or any change in the mode of operating the road, or other transportation line, and conducting its business, is reasonable and expedient in order to promote the security and accommodation of the public, it shall give ~~ten days'~~ *reasonable* notice in writing to the company or person operating the road, or other transportation line, of the improvements and changes which it adjudges to be proper, designating when and where the contemplated action in the premises will be considered and disposed of, and such company or person shall be afforded a reasonable opportunity to introduce ~~witnesses~~ *evidence* and to be heard thereon. If any such company or person shall fail or refuse to obey any valid order or requirement of the Commission in the premises within such reasonable time, not less than ten days, as shall be fixed in the order of the Commission, it may impose upon any such company or person the fines and penalties prescribed by ~~the Constitution and by~~ law for its failure to obey the orders and requirements of the Commission and the requirements of the law, and enforce the payment and collection thereof by its judgment and process.

§ 56-239. Appeal from action of Commission.—The public utility whose schedules shall have been so filed or the Commonwealth or other party in interest *or party aggrieved* may appeal to the Supreme Court ~~of Appeals~~ from such decision or order as the Commission may finally enter. Upon the granting of such appeal the Supreme Court ~~of Appeals~~ may award or refuse a writ of supersedeas, and, if a writ of supersedeas be awarded, it may suspend the operation of the action appealed from in whole or in part~~, and~~. *Alternatively, the Supreme Court* in its discretion may authorize ~~the~~ putting into effect ~~of~~ the schedule of rates so filed and suspended by the Commission or the schedule of rates existing at the time of the filing of the schedule upon which the investigation and hearing have been had, or require the inauguration of the schedule of rates as ordered by the Commission, until the final disposition of the appeal. But, prior to the final reversal of the order appealed from by the ~~appellate court~~ *Supreme Court,* no action of the Commission prescribing or affecting rates or charges shall be delayed, or suspended in its operation, by

reason of any appeal by the party whose rates or charges are affected, or by reason of any proceeding resulting from such appeal until ~~such~~ a suspending bond ~~has been given as is provided for by subsection (c) of Sec. 156 of the Constitution of Virginia for transportation and transmission companies. All proceedings as to all public service corporations or persons doing a public service business with reference to such bond shall be in accordance with the proceedings provided in subsection (c) of Sec. 156 of the Constitution as to transportation and transmission companies, and such bond~~ *payable to the Commonwealth has been executed and filed with the Commission with such conditions, in such penalty, and with such surety thereon as the Commission, subject to review by the Supreme Court, may deem sufficient. In any appeal from action of the Commission prescribing or affecting the rates or charges of a public utility, such bond, or if no bond is required, the order of the Supreme Court,* shall expressly provide for the prompt refunding to the parties entitled thereto of all charges which may have been collected or received, pending the appeal, in excess of those fixed, or authorized by the final decision on appeal, with interest from the date of the collection thereof. But no bond shall be required of the Commonwealth. *Any bond required under this section shall be enforced in the name of the Commonwealth before the Commission or before any court having jurisdiction, and the process and proceedings thereon shall be as provided by law upon bonds of like character required to be taken by courts of record of this State.*

§ 56-240. Proposed rates, etc., or changes thereof, not suspended effective subject to later change by Commission; appeal.—Unless the Commission so suspends such schedule of rates, tolls, charges, rules and regulations, or changes thereof, the same shall go into effect as orginally filed by the public utility, upon the date specified in the schedule, subject, however, to the power of the Commission, upon investigation thereafter, to fix and order substituted therefor such rate or rates, tolls, charges, rules, or regulations, as shall be just and reasonable, as provided in §§ 56-235 and 56-247 of this Code.

From any action of the Commission in prescribing rates, charges, rules and regulations or changes thereof, an appeal may be taken by the corporation whose rates, tolls, charges, rules and regulations or changes thereof are affected, *or by the Commonwealth,* or by any person deeming himself aggrieved by such action ~~or if allowed by law by the Commonwealth in the manner prescribed in Sec. 156 of the Constitution of nineteen hundred and two, for appeals from actions of the Commission prescribing rates, charges or classifications of traffic affecting transportation and transmission companies~~.

§ 56-320. Free passes or reduced rates.—No motor carrier subject to the provisions of this chapter shall, directly or indirectly, issue or give any free ticket, free pass or free transportation for passengers, but nothing in this section shall apply (1) to the carriage, storage or handling of property free or at reduced rates, when such rates have been authorized or prescribed by the Commission for the United States, State or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or (2) to the free carriage of homeless and destitute persons and the necessary agents employed in such transportation, or (3) to mileage, excursion or commutation passenger tickets, or (4) to persons in charge of livestock being shipped from the point of shipment to the point of destination and return.

Nor shall anything in this section be construed to prohibit any motor carrier from (1) giving reduced rates or free passage to ministers of religion, or regular traveling secretaries of the Young Men's Christian

Association or Young Women's Christian Association, whose duties require regular travel in supervising and directing Young Men's Christian or Young Women's Christian Association work, or to secretaries of duly organized religious work, or to indigent persons, or to inmates of the Confederate homes or State homes for disabled soldiers and sailors, or disabled soldiers and sailors, including those about to enter, and those returning home after discharge; nor (2) from giving free carriage to its own officers, employees, and members of their families, representatives of the press and members of the State Highway Police or to any other person or persons to whom the giving of such free carriage is not *otherwise* prohibited by ~~the Constitution of Virginia~~ *law.*

Nor shall this section be construed to prevent the principal officers of any motor carrier from exchanging passes or tickets with other motor carriers or any rail, air, steamship, or electric railway companies for their officers, employees and members of their families~~, nor from giving or furnishing free transportation to the members, officers and employees of the Commission as provided for in Sec. 12-6~~.

§ 56-338.7. Other applicable laws.—The provisions of §§ 56-299, 56-300 to 56-304, 56-323, 56-324, 56-331, 56-333, 56-335 and 56-338, with reference to the filing of insurance with the Commission by motor carriers, warrants for vehicles used by motor carriers, reports, forms and accounts of motor carriers, enforcement of laws applicable to motor carriers, prohibition of rebates and discriminations, and the provisions of §§ ~~12-63 and 12-64~~ *12.1-39 through 12.1-42,* relating to appeals from orders and judgments of the Commission, to the extent not inconsistent with this chapter, shall be applicable to household goods carriers, as herein defined, and to the regulation thereof.

§ 56-338.17. Notice to carriers; opportunity for hearing, etc.—Before the Commission shall prescribe or fix any rate, charge, or classification of traffic, and before it shall make any order, rule, regulation or requirement directed against any one or more household goods carriers by name, the carrier or carriers to be affected by such rate, charge, classification, order, rule, regulation or requirement shall first be given, by the Commission ~~at least ten days'~~ *reasonable* notice of the time and place when and where the contemplated action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon to the end that justice may be done, and shall have process to enforce the attendance of witnesses.

§ 56-338.18. ~~Publication~~ *Notice* of general order, rule, regulation or requirement, etc.—Before the Commission shall make or prescribe any general order, rule, regulation or requirement, not directed against any specific motor carrier or motor carriers by name, ~~the contemplated general order, rule, regulation or requirement shall first be published in substance, not less than once a week for two consecutive weeks in one or more of the newspapers of general circulation published in the city of Richmond, Virginia, together with notice of the time and place when and where the Commission will hear any objections which may be urged by any persons interested, against the proposed order, rule, regulation or requirement; and every such general order, rule, regulation or requirement made by the Commission shall be published at length in the final form approved and adopted by the Commission, for the time and in the manner above specified; before it shall go into effect, and shall also, so long as it remains in force, be published in each subsequent annual report of the Commission~~ *the Commission shall give reasonable notice of its contents and shall afford interested persons having objections thereto an opportunity to present evidence and be heard. For so long as any such general order,*

rule, regulation, or requirement shall remain in force, it shall be published in each subsequent annual report of the Commission.

§ 56-338.37. Notice to carriers; opportunity to be heard, etc.—Before the Commission shall prescribe or fix any classification of traffic, and before it shall make any order, rule, regulation or requirement directed against any one or more petroleum tank truck carriers, by name, the carrier or carriers to be affected by such rate, charge, classification, order, rule, regulation or requirement shall first be given, by the Commission ~~at least ten days'~~ *reasonable* notice of the time and place when and where the contemplated action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon to the end that justice may be done, and shall have process to enforce the attendance of witnesses.

§ 56-338.38. ~~Publication~~ *Notice* of general orders, rules, regulations, etc.—Before the Commission shall make or prescribe any general order, rule, regulation or requirement, not directed against any specific carrier or carriers by name, ~~the contemplated general order, rule, regulation or requirement shall first be published in substance, not less than once a week for two consecutive weeks in one or more of the newspapers of general circulation published in the city of Richmond, Virginia, together with notice of the time and place when and where the Commission will hear any objections which may be urged by any persons interested, against the proposed order, rule, regulation or requirement; and every such general order, rule, regulation or requirement made by the Commission shall be published at length in the final form approved and adopted by the Commission, for the time and in the manner above specified, before it shall go into effect, and shall also, as long as it remains in force, be published in each subsequent annual report of the Commission~~ *the Commission shall give reasonable notice of its contents and shall afford interested persons having objections thereto an opportunity to present evidence and be heard. For so long as any such general order, rule, or regulation shall remain in force, it shall be published in each subsequent annual report of the Commission.*

§ 56-338.71. Application of other provisions of law.—The provisions of §§ 56-229, 56-300 to and including 56-304.12, 56-323, 56-324, 56-331, 56-333, 56-335 and 56-338, with reference to the filing of insurance with the Comimssion by motor carriers, warrants for vehicles used by motor carriers, reports, forms and accounts of motor carriers, enforcement of laws applicable to motor carriers, prohibition of rebates and discriminations, and the provisions of §§ ~~12-63 through 12-64~~ *12.1-39 through 12.1-42* relating to appeals from orders and judgments of the Commission, to the extent not inconsistent with this chapter, shall be applicable to restricted parcel carriers, as herein defined, and to the regulation thereof, provided that the Commission may grant such exemption from or promulgate such different or additional regulations pursuant to the above sections as the Commission may, in its discretion, deem appropriate or necessary to accomplish the purposes of this chapter.

§ 56-338.83. Notice of orders, etc., directed against specific carriers, and opportunity to be heard thereon.—Before the Commission shall prescribe or fix any rate, charge, or classification of traffic, and before it shall make any order, rule, regulation or requirement directed against any one or more restricted parcel carriers by name, the carrier or carriers to be affected by such rate, charge, classification, order, rule, regulation or requirement shall first be given, by the Commission, ~~at least ten days'~~ *reasonable* notice of the time and place when and where the contemplated

action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon to the end that justice may be done, and shall have process to enforce the attendance of witnesses.

§ 56-338.84. Notice and hearings on orders, etc., not directed against specific carriers; ~~publication of such orders, etc.~~—Before the Commission shall make or prescribe any general order, rule, regulation or requirement, not directed against any specific motor carrier or motor carriers by name, ~~the contemplated general order, rule, regulation or requirement shall first be published in substance, not less than once a week for two consecutive weeks in one or more of the newspapers of general circulation published in the city of Richmond, Virginia, together with notice of the time and place when and where the Commission will hear any objections which may be urged by any persons interested, against the proposed order, rule, regulation or requirement; and every such general order, rule, regulation or requirement made by the Commission shall be published at length in the final form approved and adopted by the Commission, for the time and in the manner above specified, before it shall go into effect, and shall also, as long as it remains in force, be published in each subsequent annual report of the Commission~~ *the Commission shall give reasonable notice of its contents and shall afford interested persons having objections thereto an opportunity to present evidence and be heard. For so long as any such general order, rule, regulation or requirement shall remain in force, it shall be published in each subsequent annual report of the Commission.*

§ 56-374. Certain passing tracks and public sidetracks not to be abandoned; furnishing facilities.—Any railroad company that has established and maintained throughout the year, for five consecutive years, a passing track or public sidetrack from which it has afforded parties owning or leasing warehouses or other buildings adjacent to such passing track or public sidetrack facilities for the receipt and shipment of their freight, in carload quantities, over the lines of such railroad company and its connections shall not abandon such passing track or public sidetrack and shall not refuse to afford parties owning or leasing warehouses or other buildings adjacent to such passing track or public sidetrack, such facilities for the receipt and shipment of their freight, without written consent of the State Corporation Commission.

So long as such passing track or public sidetrack is maintained, such railroad company shall afford all other parties that may own or lease warehouses or other buildings, now or hereafter constructed, adjacent to such passing track or public sidetrack, like facilities for the receipt and shipment of their freight in carload quantities, over the lines of such railroad company and its connections.

Such facilities shall be furnished by such railroad company upon such rules, regulations and conditions as shall be just and reasonable, and such railroad company shall file with the Commission schedules showing such rules, regulations and conditions upon which it proposes to furnish such facilities. The Commission, either upon complaint or on its own motion, may suspend the enforcement of any or all such proposed rules, regulations and conditions, for a period not exceeding sixty days, during which time it shall investigate the reasonableness or justice of the proposed rules, regulations and conditions and thereupon enter an order substituting therefor such rules, regulations and conditions as shall be deemed just and reasonable. Reasonable notice of such suspension and such investigation shall be given by the Commission to such railroad company and the public.

An appeal from any final finding, order or judgment of the Commission may be taken by any party aggrieved thereby to the Supreme Court ~~of Appeals~~ upon the same provisions as set forth in §§ ~~12-63 and 12-64~~ *12.1-39 through 12.1-42.*

If any railroad company refuses or fails to afford the facilities as required by this section, it shall be punished by a fine of not less than ten nor more than one hundred dollars for each offense and each day such railroad company refuses or fails to afford such facilities shall be a separate offense.

§ 56-462. Compliance with ~~Constitution and~~ additional conditions.—No incorporated city or town shall grant to any such telegraph or telephone corporation the right to erect its poles, wires, or cables, or to lay its conduits upon or beneath its parks, streets, avenues, or alleys until such company shall have first obtained, in the manner prescribed by the ~~Constitution and~~ laws of this State, the franchise to occupy the same. Notwithstanding the provisions of this chapter the corporate authorities of any city or town may impose upon any such corporation any terms and conditions inconsistent herewith or supplemental hereto, as to the occupation and use of its parks, streets, avenues, and alleys, and as to the construction and maintenance of the works of such company along, over, or under the same, the corporate authorities may deem expedient and proper, and the State Highway Commission may impose upon any such company any terms, rules, regulations, requirements, restrictions and conditions inconsistent herewith or supplemental hereto, as to the occupation and use of roads and streets in either State highway system, and as to the construction, operation or maintenance of the works along, over, or under the same, which the Commission may deem expedient and proper, but not in conflict, in incorporated cities and towns, with any vested contractual rights of any such company with such city or town.

§ 58-8.1. Collection of taxes accrued prior to appeal.—Any State or local tax heretofore or hereafter repealed shall be subject to all procedures for the collection of delinquent taxes or for the correction of erroneous assessment as may have been applicable to such tax immediately before such appeal.

§ 58-9. Real estate, tangible personal property and merchants' capital subject to local taxation only.—All taxable real estate, *all taxable coal and other mineral lands,* and all taxable tangible personal property and the tangible personal property of public service corporations, except rolling stock of corporations operating railroads ~~by steam~~, and also the capital of merchants are hereby segregated and made subject to local taxation only.

§ 58-37. Same; form; how served.—All writs, processes and orders of the Commissioner shall run in the name of the Commonwealth, shall be signed by the Commissioner, and shall be directed to any ~~sergeant,~~ sheriff or constable of any county or city wherein such writ, process or order is to be executed. All writs, notices, processes or orders of the Commissioner may be executed and returned in like manner and upon like persons or property as the processes, writs, notices or orders of the courts of record of this Commonwealth and when so served, executed and returned shall have the same legal effect. The officer serving or executing any writ, notice, process or order of the Commissioner shall receive the same fees allowed by law for the like services to ~~sergeants and~~ sheriffs of the counties and cities. Any officer who shall fail to execute and return any writ, process, notice or order of the Commissioner shall be subject to the same penalties provided by law for the failure to execute

and return the process of any court, which penalties, after due notice to the officer so failing, may be enforced by the judgment of the Commissioner, who is hereby clothed with power to carry this provision into effect.

§ 58-41. Warrants for collection of taxes.—If any taxes or fees, including penalties and interest, assessed by the Department of Taxation or by the State Corporation Commission in pursuance of law against any person, firm or corporation be not paid within thirty days after the same become due, the Department in the first case or the Comptroller in the second case may issue a warrant, under the authority of the Commissioner or Comptroller, as the case may be, directed to the sheriff of any county or to the sheriff~~, sergeant,~~ or high constable of any city of the State, commanding him to levy upon and sell so much of the real and personal property of the delinquent taxpayer, found within such officer's bailiwick, as may be necessary for the payment of the taxes and fees, including penalties, interest and the costs of executing the warrant and to return such warrant to the Department or Comptroller, as the case may be, and pay to the State Treasurer the money collected by virtue thereof, by a time to be therein specified, not more than ninety days from the date of the warrant.

§ 58-43. Procedure after levy; bond, etc.—The sheriff~~, sergeant~~ or high constable to whom any such warrant shall be directed shall proceed upon the same in all respects with like effect and in the same manner as provided by law in respect to executions issued upon property or upon judgments of a court of record and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner, provided, however, that if the taxpayer shall file with the Department of Taxation or the State Corporation Commission, as the case may be, or with the court having jurisdiction, a petition as provided by law for correction of the assessment so made, and shall file therewith a bond payable to the Commonwealth, with good security, to be approved by the Department, the State Corporation Commission or the clerk of the court as the case may be, in a penalty of at least twice the amount of taxes, fees, penalties and interest for which the warrant is drawn and conditioned upon the payment of the taxes, fees, penalties and interest; if his petition be denied, the Department, State Corporation Commission or clerk, as the case may be, shall certify the fact that such bond has been given to the officer executing the warrant who shall thereupon stay all proceedings on the warrant until the termination of the matter, as alleged in the petition.

§ 58-69. Estates committed to sheriff ~~or sergeant~~.—When an estate is committed to a sheriff ~~or sergeant~~ on the motion of a creditor or other person, the State tax due for such administration shall be paid by the party upon whose motion the estate was committed and the same shall be repaid to him by the sheriff ~~or sergeant~~ out of the first funds received by him from such estate; and, if an estate is committed to a sheriff ~~or sergeant~~ without motion the sheriff ~~or sergeant~~ shall be required to pay such tax as soon as sufficient assets of the estate shall have come into his hands.

§ 58-181. Collection by warrant; levy and sale or lease.—If the taxes are not paid within thirty days after they shall have become due, the Department of Taxation shall issue a warrant for the collection of the same to the sheriff of the county or ~~the sergeant of the~~ city in which any property belonging to the estate is located and the sheriff ~~or sergeant~~ shall immediately levy upon and sell so much of the property, real or personal, as shall be sufficient to pay the taxes and expenses of sale, including the regular sheriff's ~~or sergeant's~~ fees for sale of property under

an execution, or he may rent or lease any property charged with taxes for cash sufficient to pay the amount of taxes due, expenses and fees.

§ 58-404.1. Classification of events to which admission is charged. In accordance with the provisions of ~~Sec. 168~~ *Article X, § 1,* of the Constitution of Virginia, events to which admission is charged shall be divided into the following classes for the purposes of taxation:

a. Admissions charged for attendance at any event, the gross receipts of which go wholly to charitable purpose or purposes.

b. All other admissions.

§ 58-465.2. Meaning of "exempt institution."—For the purposes of this chapter the term "exempt institution" shall mean any corporation, association or other institution (a) the property of which is exempt from taxation under ~~Sec. 183~~ *Article X, § 6,* of the Constitution of Virginia or under conforming legislation enacted pursuant to it, or (b) an insurance company which pays a State license tax on gross premium income as provided by chapter 11 (§ 58-486 et seq.) of Title 58, and, in either case, which owns the shares of any bank or bank holding company doing business in this State and has informed such bank or bank holding company of its status; but the giving of such information shall not be necessary if such bank or bank holding company has knowledge of the status of such institution; provided that shares of capital stock of any bank holding company held by any such insurance company in excess of ten per cent of the actually issued and outstanding capital stock of any one such bank holding company shall not be deemed to be shares of capital stock of a bank holding company owned by an exempt institution.

§ 58-503.1. Assessments for taxation.—The State Corporation Commission is designated as the central state agency to assess for taxation the real estate and tangible personal property of all public service corporations upon which the Commonwealth shall levy a state franchise, license, or other similar tax based upon or measured by its gross receipts or gross earnings, or any part thereof.

§ 58-519. State franchise tax.—Every such railway or canal corporation shall pay to the State an annual State franchise tax for each calendar year equal to two per centum upon the gross transportation receipts, hereinafter specified, for the privilege of exercising its franchises in this State; provided, however, the rate of such annual State franchise tax for the calendar year nineteen hundred and sixty-six shall be one and nine-tenths per centum; for the calendar year nineteen hundred and sixty-seven, one and eight-tenths per centum; for the calendar year nineteen hundred and sixty-eight, one and seven-tenths per centum; for the calendar year nineteen hundred and sixty-nine, one and six-tenths per centum, and for the calendar year nineteen hundred and seventy and for each calendar year thereafter, one and five-tenths per centum; and provided further that every such railway corporation operating an electric railway or railways shall pay to the State an annual State franchise tax equal to two and one-tenth per centum upon the gross transportation receipts, hereinafter specified, for the privilege of exercising its franchise in this State. Such franchise tax, with the taxes hereinbefore provided for, shall be in lieu of all taxes or license charges whatsoever upon the franchises of such corporations and the shares of stock issued by them and upon all of their property, as hereinbefore provided; provided:

(1) That nothing herein contained shall exempt such corporations from the annual fee required by ~~section one hundred and fifty-seven of the Constitution~~ *§ 58-450* or from assessment for street and other local

improvements which shall be authorized by law, or from the county, city, town, district or road levies hereinafter provided for other than a franchise tax;

(2) That nothing herein contained shall annul, interfere with or prevent any contract or agreement by ordinance between street railway corporations and ~~municipalities~~ *cities and towns* as to compensation for use of the streets or alleys of such ~~municipalities~~ *cities and towns* by such railway corporation;

(3) That in case of any railway or canal corporation operated wholly within this State, whose actual operating expenses exceed its gross transportation receipts, the annual State franchise tax shall be equal to one and three-sixteenths per centum upon the gross transportation receipts; and

(4) That any steam railway company in which nine-tenths of the stock of such company is owned by a city or county of this State and which is operated at a loss shall pay to the State an annual State franchise tax of only five dollars.

§ 58-597. State franchise tax.—Every corporation coming within the provisions of this article shall pay to the State an annual State franchise tax on its privilege to exist with the powers aforesaid as a body corporate in this State equal to two hundred and fifty dollars for each county in or through which it is authorized by its charter to locate a pipeline or pipelines for the transmission of natural gas or crude petroleum and the products or by-products thereof in this State, which, with the taxes hereinbefore provided for, shall be in lieu of all State taxes or license charges whatsoever upon the franchises of such corporations, in so far as such franchises relate to the authority to transmit natural gas or crude petroleum and the products or by-products thereof by means of a pipeline or pipelines in this State and the shares of stock issued by it and upon all its property, except as herein provided; provided that nothing herein contained shall exempt such corporation from the annual fee required by ~~Sec. 157 of the Constitution~~ § *58-450* or from the county, city, town, district or road levies; and provided, further, that nothing contained in this article shall be construed as exempting from liability for a State franchise tax on gross receipts derived from the business of distributing and selling natural gas or crude petroleum and the products or by-products thereof in this State any such corporation as comes within this article when such corporation is engaged in the business of selling and distributing natural gas or crude petroleum and the products or by-products thereof in this State.

The real estate and tangible personal property of such corporation but not its franchise, shall be assessed on the valuation fixed by the State Corporation Commission, with county, city, town, district and road levies at the same rates as real and personal property of natural persons are assessed with such levies.

This section, as hereinabove amended, shall apply to the tax year beginning on January first, nineteen hundred sixty-four; but it shall not apply to any succeeding tax year, and for the tax year beginning on January first, nineteen hundred sixty-five and for each tax year thereafter every such corporation coming within the provisions of § 58-456 shall pay the franchise tax imposed by that section. Section 58-600 shall become inoperative after December thirty-first, nineteen hundred sixty-four.

§ 58-603. Annual State franchise tax.—Every corporation coming within the provisions of this article shall pay to the State for each tax year an annual State franchise tax equal to one and one-eighth per centum of its gross receipts from all sources up to one hundred thousand dollars of such gross receipts and three and one-half per centum of all such gross receipts from all sources in excess of one hundred thousand dollars, for the privilege of exercising its franchise in this State, which, with the taxes hereinbefore provided for, shall be in lieu of the annual State merchants license tax required under Chapter 7 (§ 58-239 et seq.) of this title and all State taxes or license charges whatsoever upon the franchises of such corporation and the shares of stock issued by it and upon all its property as hereinbefore provided; provided, that:

(1) Nothing herein contained shall exempt such corporation from motor vehicle license taxes or motor vehicle fuel taxes or the annual fee required by ~~section one hundred and fifty-seven of the Constitution,~~ *§ 58-450* or from assessments for street and other local improvements, which shall be authorized by law, nor from the county, city, town, district or road levies;

(2) Any city or town may impose a license tax upon such corporation for the privilege of doing business therein, which shall not exceed one-half of one per centum of the gross receipts of such business accruing to such corporation from such business in such city or town;

(3) From the amount of any such license tax there shall be deducted any sum or sums paid by such corporations to such city or town as a merchant's license tax and license taxes, except motor vehicle license taxes; and

(4) Nothing herein contained shall annul or interfere with or prevent any contract or agreement by ordinance between such corporations and ~~municipalities~~ *cities and towns* as to compensation for the use of the streets or alleys of such ~~municipalities~~ *cities and towns* by such corporations.

The provisions of this section shall apply to the assessment for the tax year nineteen hundred forty-nine and annually thereafter, unless otherwise provided by law.

§ 58-672. Application to Commission for review.—Any company or corporation, and the State or any county, city or town aggrieved by any action of the Commission in the ascertainment of, or the assessment for taxation of, the value of any property of any transportation company, ~~transmission company~~ or other public service corporation or in the ascertainment of any tax upon any such company or corporation of its property may, at any time within three months after receiving a certified copy of such assessment of value or tax, apply to the Commission for a review and correction of any specified item or items thereof. Such application shall set forth with reasonable certainty the item or items, of which a review and correction is sought, and the grounds of the complaint. If filed by any such company or corporation it shall be verified by affidavit.

§ 57-679. Appeals to Supreme Court ~~of Appeals~~.—Any person, firm, association, company or corporation, ~~described and included in Secs. 58-542, 58-548, 58-556, 58-565, 58-570, 58-579, 58-581, 58-588, 58-607, 58-618, 58-646 and 58-667 and any other person, firm, association, company or corporation, other than railway and canal companies,~~ which is engaged in public service and as to which the Commission now or hereafter is authorized to assess any of its property or franchises for purposes of taxation or to ascertain the taxes thereon, or the State or any

county or city, at the instance of the Attorney General, or of the Commonwealth's attorney for such county or city, aggrieved by any such assessment or ascertainment of taxes, may, after having proceeded before the Commission as provided in this article, appeal from any final order or action of the Commission to the Supreme Court ~~of Appeals~~, as a matter of right, within the time and in the manner provided by law for appeals generally from the Commission to the Supreme Court ~~of Appeals~~.

§ 58-684. Definitions.—The term "district" as used in this article means and includes sanitary district, fire district and fire zone.

The term "public service corporation" as used in this article has the same meaning as set forth for such term in ~~section one hundred and fifty-three of the Constitution of Virginia~~ § *56-1*.

§ 58-772. Assessment of lots in subdivisions of land; correction.—Whenever a tract of land is subdivided into lots ~~under the provisions of Secs. 15-779 to 15-794 [Secs. 15.1-465 to 15.1-485] or~~ under any ~~other~~ provision of general law and plats thereof are recorded, subsequent to any general reassessment of real estate in the county or city in which such real estate is situated, each lot in such subdivision shall be assessed and shown separately upon the land books, as required by law; and the commissioner of the revenue, in assessing each such lot, shall assess the same at fair market value as of the first day of January of the year next succeeding the year in which such plat is recorded, without regard to the value at which such tract of land was assessed as acreage but with regard to other assessments of lots in such county or city. Such assessment shall stand until the next general reassessment of real estate in such county or city. But any person aggrieved by any such assessment made by a commissioner of the revenue may apply for a correction of the same within the time and in the manner prescribed by ~~Secs. 58-1145 to 58-1151.~~ *law*.

§ 58-804. Form of land book; what matters to be shown separately.—(a) The Department of Taxation shall prescribe the form of the land book to be used by the commissioner of the revenue and shall furnish each commissioner of the revenue with four copies of blank land books prepared in the form so prescribed.

(b) The land books shall be so arranged that ~~real estate owned by white persons shall be assessed in one part of the book and real estate owned by colored persons shall be assessed in another part of the book and~~ real estate owned by tribal Indians in fee simple who have requested to be so designated and who have furnished the commissioner of the revenue with affidavits, made by the chief of any Indian tribe existing in this State, that such Indian is a member of such tribe and to the best knowledge and belief of the chief is a tribal Indian as defined in § 1-14 of the Code, shall be assessed in another part of the book.

(c) Tracts of lands in counties shall be entered by magisterial or school districts and town lots shall be entered upon sheets provided in the land book for that purpose; provided, however, that the governing body of any county having sanitary districts may provide by resolution that land books, personal property books and other tax assessment records shall be entered and arranged alphabetically to show the persons chargeable with taxes in each such district. The sanitary district in which the property is located shall be designated by an appropriate coding which shall provide for the means of recapitulation by sanitary district, setting forth the total assessment and tax levy for each such district.

(d) The land book on which levies are to be assessed on city lots shall be prepared so that lots ~~owned by white persons and lots owned~~

~~by colored persons and lots~~ owned by tribal Indians who have complied with paragraph (b) hereof will be assessed separately.

(e) Whenever a tract of land has been subdivided into lots ~~under the provisions of Secs. 15-779 to 15-794 [Secs. 15.1-465 to 15.1-485] or~~ under any ~~other~~ provision of general law and plats thereof have been recorded, each lot in such subdivision shall be assessed and shown separately upon the books.

(f) When the surface of the land is owned by one person and the standing timber trees thereon are owned by another, the relative value of each shall be determined and the several owners assessed with the value of their respective interests.

(g) When the surface and standing timber trees are owned by the same person, the value of the land, inclusive of the standing timber trees, shall be ascertained and assessed at such ascertained value.

(h) Nothing in this section shall be construed to prohibit any commissioner of the revenue of any city from using a land book in the form prescribed and furnished by or under the authority of the council of his city and at the cost of his city, provided such form contains the requirements that ~~lots owned by white persons, and lots owned by colored persons and~~ lots owned by tribal Indians who have complied with paragraph (b) hereof shall be assessed separately.

§ 58-822. Credit on current year's taxes when land acquired by State, county, ~~municipality~~ *city or town* or church or religious body; refund of taxes under certain conditions.—All taxpayers of this State whose property, or any portion thereof, shall have been or may be given to, sold to or taken in any manner whatsoever by this State or any county or ~~municipality~~ *city or town* thereof or any church or religious body, which is exempt from taxation by ~~Sec. 183~~ *Article X, § 6,* of the Constitution, shall be relieved from the payment of taxes and levies on such property as shall be so taken or acquired for that portion of the year in which the property was or shall be so taken or acquired, from and after the date upon which the title was or shall be vested in this State or any county or ~~municipality~~ *city or town* thereof or any such church or religious body. The county treasurers as to property situated in the counties and city treasurers and the city collectors as to property situated in the cities, so taken or acquired, shall, so long as they are authorized by law to collect taxes in their hands, received from and receipt to the original owner, his personal representative, heirs, successors or assigns, of the property so taken or acquired by this State, or any county or ~~municipality~~ *city or town* thereof or any such church or religious body, for his proportionate part of the taxes and levies for such year and credit for the payment on the tax ticket and shall return at the time he makes his returns of land and lots improperly assessed, as required by law, the proportional part of the taxes and levies exonerated from taxation for any such year, indicating on the margin of the list the date on which the property was so acquired and whether so acquired by this State or by any county or ~~municipality~~ *city or town* thereof or any such church or religious body. Such list, when approved by the proper authorities, shall be considered as a credit to any such treasurer or collector in the settlement of the accounts for such year; provided, that any such taxpayer who shall have paid his taxes and levies, or any part thereof, for such year shall be entitled to a refund for such portion of the taxes as he would be relieved from paying under the terms of this section, which refund shall be made by the treasurer or city collector upon presentation to him of a valid receipt showing that payment of such taxes was made, and the

amount of such refund shall be considered as a credit to any such treasurer or collector in the settlement of his accounts for such year.

§ 58-823. Clerk to furnish lists of such lands.—The clerk of the court of the county or city in which is recorded the transfer of title to such property shall furnish a certificate to the county or city treasurer, or city collector, showing the quantity of land so taken or acquired, and whether by this State or any county or ~~municipality~~ *city or town* thereof or church or religious body, which is exempt from taxation by ~~Sec. 183~~ *Article X, § 6,* of the Constitution, the name of the former owner and a description of the property and the district or ward in which the property is situated, also the date of the recordation of the deed or order by which such property was taken or acquired by this State or any county or ~~municipality~~ *city or town* thereof or any such church or religious body, as shown by the records in his office. Such certificate shall be sufficient evidence to the county and city treasurers and city collectors to authorize them to receive and prorate the taxes and levies as herein authorized.

§ 58-824. Proration by court; effect on interest and penalties.—Any such taxpayer, or his heirs, successors or assigns, who shall fail to have his taxes prorated by the county or city treasurer or city collector, as above provided, shall be entitled to apply to the appropriate court for proration of the taxes, as herein provided, in the same manner and within the same time as provided by law for the correction of erroneous assessments and refunding taxes erroneously charged; provided, however, that in such proceedings such taxpayer shall be entitled to relief of interest and penalties only as to the proportionate part of the property so taken or acquired by this State, or any county or municipality thereof or church or religious body, which is exempt for taxation by ~~Sec. 183~~ *Article X, § 6* of the Constitution.

§ 58-844. Cities and towns to make city and town levies; making of levy or imposition of tax not to constitute an appropriation or obligation to appropriate; funds not available, allocated, etc., until appropriated.—The council of every city and town shall annually cause to be made up and entered on their journals an account of all sums lawfully chargeable on the city or town which ought to be paid within one year and order a city or town levy of so much as in their opinion is necessary to be raised in that way in addition to what may be received for licenses and from other sources; any such governing body may provide that if any taxpayer owns tangible personal property of such small value that the local levies thereon from the year result in a tax of less than one dollar, such property may be omitted from the personal property book and no assessment made thereon. The levy so ordered may be upon the persons in the city or town above the age of twenty-one years, ~~not exempt by law from the payment of the State capitation tax,~~ *not pensioned by this State for military services,* and upon any property therein subject to local taxation and not expressly segregated to the State for purposes of State taxation only.

The making of a general city or town levy or imposition of other taxes or the collection of such levy or taxes shall not constitute an appropriation nor an obligation or duty to appropriate any funds by the council of any city or town for any purpose, expenditure, or contemplated expenditure. The laying or making of a levy in an amount sufficient to cover or pay all estimated and contemplated expenditures for the fiscal year shall not be construed as imposing any obligation or duty on the council to appropriate any amount whatsoever. No part of the funds raised by the general city or town levies or taxes shall be considered available, allocated, or expended for any purpose until there has been an appropria-

tion of funds for that expenditure or purpose by the council either annually, semiannually, quarterly, or monthly. There shall be no mandatory duty upon the council of any city or town to appropriate any funds raised by general city or town levies or taxes except to pay the principal and interest on bonds and other legal obligations of the city or town and to pay obligations of the city or town or its agencies and departments arising under contracts executed or approved by the council, unless otherwise specifically provided by statute. Any funds collected and not expended in any fiscal year shall be carried over to the succeeding fiscal years and shall be available for appropriation for any governmental purposes in those years. This section shall be applicable to all cities and towns in the State and the provisions of any charter of any city or town inconsistent or in conflict with this section shall be inoperative to the extent of such inconsistency or conflict.

§ 58-851.1. Counties authorized to levy a capitation tax.—The governing body of any county in this State may levy upon every resident of the county not less than twenty-one years of age ~~and not exempt by law from the payment of the State capitation tax,~~ *not pensioned by this State for military services,* a county capitation tax not exceeding one dollar per annum. The revenue derived from this tax shall be applied to general county purposes.

§ 58-864. Commissioner to make assessments.—Each commissioner of the revenue shall ascertain and assess, at fair market value, all the personal property not exempt from taxation and all subjects of taxation in his county or city on the first day of January in each year, except as otherwise provided by law~~, and he shall also assess all persons of full age residing therein, except those pensioned by this State for military services~~.

§ 58-881. Arrangement and contents of books.—In making out these books, the commissioner of the revenue shall arrange them alphabetically to show the persons chargeable with taxes with reference to the first and each subsequent letter of each name. When there are two or more persons of the same name, he shall use some distinguishing sign by which the taxpayer may be identified. The post-office address of each taxpayer shall be given.

The commissioner of the revenue shall, in making out the original personal property book and the two copies thereof, follow strictly the form prescribed.

Upon the personal property book shall be entered ~~the name of each person, twenty-one years of age or over, not pensioned by this State for military services, and a State poll tax of one dollar and fifty cents shall be assessed thereon against each such person, and~~ all taxable tangible and intangible personal property and all other subjects of taxation not required by or in pursuance of law to be assessed on some other book or form.

§ 58-953. Institution of proceedings.—Whenever the Governor has reason to believe that the treasurer of any county or city of the State or any other officer charged with the collection of the public revenues has failed to execute and perform the duties required of such officer by the laws of the State with reference to the collection and disposition of, and accounting for, the revenue he may cause to be instituted against such officer an ouster proceeding under §§ ~~15-500 to 15-502.~~ ~~[~~15.1-63 to 15.1-65~~]~~. Such proceeding may be instituted and the Commonwealth represented therein by the Attorney General or by special counsel selected by the Governor should the Governor so direct.

§ 58-956. If officer finally removed, substitute continued in office.—If in the ouster proceedings the officer be removed, the appointee of the Governor shall, unless sooner removed by the Governor or under the provisions of §§ ~~15-500 to 15-502~~ ~~[~~15.1-63 to 15.1-65~~]~~, continue to serve in such capacity during the remainder of the term of his predecessor and until his successor be elected or appointed and qualified.

§ 58-963.1. Postponement of due date and alteration of penalties.—The board of supervisors, or other governing body, of every county may, by ordinance, duly adopted, extend by one calendar month the date on which any penalty shall be incurred under § 58-963 in connection with the payment of county levies, alter the amount of penalties imposed during such period in connection with the payment of county levies and direct the treasurer of the county to postpone collection of local levies under § 58-965 until such date in conformance therewith.

~~Nothing in this section shall apply to any tax levied pursuant to Sec. 173 of the Constitution of this State.~~

§ 58-973. When treasurers to pay State revenue into State treasury.—Each county and city treasurer shall monthly, or oftener if called upon by the Comptroller, make up a statement of all State revenue collected by him since such treasurer filed with the Comptroller his last preceding report and at the same time pay into the State treasury the amount due without any deduction whatsoever. The Comptroller may call upon any county or city treasurer, at any time he thinks proper, to pay into the State treasury any and all money in his hands belonging to the Commonwealth and such treasurer shall, within five days from the receipt of such call, make the payment. If any treasurer fail to make any statement or payment required by this section, within the time prescribed, such failure shall be deemed a sufficient cause for his removal from office under the provisions of § ~~15-500 [Sec.~~ *15.1-63*~~]~~.

§ 58-978. Treasurer to make out lists of uncollectible taxes and delinquents.—The treasurer, after ascertaining which of the taxes and levies assessed in his county or city cannot be collected, shall, not later than the first day of August in each year, make out lists as follows:

(1) A list of real estate on the commissioner's land book improperly placed thereon or not ascertainable, with the amount of taxes and levies charged thereon.

(2) A list of other real estate which is delinquent for the nonpayment of the taxes and levies thereon.

(3) A list of such of the taxes and levies assessed on tangible personal property, machinery and tools and merchants' capital, or other subjects segregated for local taxation exclusively, except real estate, as he is unable to collect, including local capitation taxes, if any.

(4) A list of such of the taxes on intangible personal property as he is unable to collect~~, excluding State capitation taxes~~.

~~(5) A list of unpaid State capitation taxes.~~

§ 58-987. Destruction of tax tickets.—The treasurer may, at any time after the expiration of three years from the date he certifies the list mentioned in paragraphs (2) and (4) of § 58-978, *and* after the expiration of five years from the date he certifies the list mentioned in paragraph (3) of § 58-978, ~~and after the expiration of four years from the date he certifies the list mentioned in paragraph (5) of Sec. 58-978~~ destroy the tax tickets made out by him for the taxes and levies included therein, provided the certification of the Auditor of Public Accounts is obtained to the effect that these tickets are no longer needed for audit purposes.

§ 58-988. Delinquent lists involving State taxes to be transmitted to the Department of Taxation; crediting treasurer; collections.—A copy of the lists mentioned in paragraphs (4) ~~and (5)~~ of § 58-978 shall be transmitted by the treasurer to the Department of Taxation.

Upon the receipt and auditing of the list mentioned in paragraph (4) of § 58-978, the Department of Taxation shall certify to the Comptroller the necessary information to enable him to give such treasurer proper credit therefor on his books, and such treasurer shall not receive any of such taxes thereafter, but the same shall be paid directly into the State treasury~~, and as to the list mentioned in paragraph (5) of Sec. 58-978, the Department of Taxation, after auditing and checking the same, shall advise the Comptroller the necessary particulars thereof, whereupon the account of the treasurer shall be properly credited and the treasurer shall be charged in another account on the Comptroller's books, to be called the delinquent State capitation tax account, or other appropriate name~~. The foregoing, however, is subject to the following qualification, that in counties containing more than five hundred inhabitants per square mile according to the last preceding United States census, the Department of Taxation, in its discretion, may authorize the treasurer to continue to collect and receive such taxes and a copy of every such authorization shall be certified by the Department of Taxation to the Comptroller.

The Department of Taxation shall have power to issue warrants for the collection of the taxes shown on the list mentioned in paragraph (4) of § 58-978 in the same manner and with the same effect as in the case of warrants issued for the collection of taxes assessed by such Department; and all provisions of law applicable to such warrants shall be applicable to the warrants issued for the collection of delinquent State taxes under this section. The Department of Taxation shall also have power to collect the taxes shown on the list mentioned in paragraph (4) of § 58-978 by other legal process.

§ 58-989. Collection by treasurer of delinquent local levies ~~and of delinquent State capitation taxes~~.—Each county and city treasurer shall continue to collect the taxes and levies shown on the delinquent lists mentioned in paragraphs (2) and (3) of § 58-978 for one year following June thirtieth of the year as of which such delinquent lists speak~~, and each county and city treasurer shall continue to collect the delinquent State capitation taxes covered by the list mentioned in paragraph (5) of Sec. 58-978 as long as they may remain in his hands for collection. All collections of delinquent State capitation taxes including penalties and interest shall be accounted for monthly to the Comptroller and at the same time paid into the Sate treasury~~.

§ 58-991. Collection of delinquent local levies on segregated subjects other than real estate, by sheriff~~, sergeant~~ or person employed for purpose.—Such board, council or other governing body may, instead of requiring the treasurer so to continue his efforts to collect such delinquent local levies included in the list mentioned in paragraph (3) of § 58-978, place the same or the uncollected levies returned by the treasurer, as last above provided for, as the case may be, in the hands of the sheriff ~~or sergeant~~ of the county or city for collection or employ a local delinquent tax collector or collectors to make such collections, upon such terms as may be agreed upon. If such delinquent levies be placed in the hands of the sheriff ~~or sergeant~~ or if such local delinquent tax collector or collectors be employed, such sheriff~~, sergeant~~ or local delinquent tax collector or collectors shall have all the power and authority to enforce collection by levy, distress or otherwise as the treasurers of the counties and cities have under the law. In either such event, the treasurer shall be entitled

to credit for all delinquent levies which may be turned over for collection, as aforesaid, in pursuance of orders given him by such board, council or other governing body and no part thereof shall thereafter be returned to him for collection by him.

All collections made by any such sheriff, ~~sergeant~~ or delinquent tax collector shall be reported by him to such board, council or other governing body and the moneys so collected shall be paid over to the treasurer, who shall be held accountable therefor; and such sheriff, ~~sergeant~~ or delinquent tax collector shall, at the end of his term of employment, return to the board, council or other governing body a list of such delinquent levies so turned over to him as may then remain unpaid, together with the tax tickets represented thereby.

Such board, council or other governing body shall then have power to employ other delinquent tax collectors to collect the levies so returned unpaid, for such time and on such terms as may be agreed upon, such collectors to have the same powers as are hereinbefore conferred upon delinquent tax collectors, and be charged with similar duties, or to make such other disposition thereof as such board, council or other governing body may deem proper.

§ 58-1001. What may be distrained for taxes.—Any goods or chattels in the city or county belonging to the person or estate assessed with taxes or levies may be distrained therefor by the treasurer, sheriff, ~~sergeant,~~ constable or collector. In all cases property subject to levy or distress for taxes shall be liable to levy or distress in the hands of any person for taxes thereon.

§ 58-1003. Lease of real estate for collection of taxes.—Any real estate in the county or corporation belonging to the person or estate assessed with taxes or levies due on such real estate may be rented or leased by the treasurer, sheriff, constable, ~~sergeant~~ or collector, privately or at public outcry, after due publication, in the discretion of such treasurer, ~~sergeant~~, sheriff, constable or collector, either at the front door of the courthouse or on the premises or at some public place in the community where the premises are situated, after giving not less than fifteen days' notice by printed or written notices posted at the front door of the courthouse and at three or more places in the neighborhood of the real estate to be leased. Such leasing shall be for a term not exceeding one year and for cash sufficient to pay the taxes or levies due on the real estate so rented and the costs and charges of advertising and leasing. When a lease is affected, the treasurer, ~~sergeant~~, collector, sheriff or constable leasing such real estate shall put the lessee in possession thereof and for such purpose shall have like powers as those exercised by a sheriff acting under a writ of possession.

The board of supervisors or other governing body of any county may, by resolution adopted by a majority of the members thereof by a recorded yea and nay vote, postpone the time when any real estate in such county may be rented or leased for the taxes or local levies for any year until after the fifteenth day of November of the next succeeding year.

§ 58-1004. Notice to tenant prior to such leasing.—When real estate is advertised for leasing for the taxes and there is any tenant in possession of the property so advertised, then the treasurer, sheriff, ~~sergeant,~~ constable, collector or other collecting officer making the lease shall serve upon such tenant, at least five days prior to the day of leasing, a copy of the notice of leasing. This service shall be in conformity with §§ 8-51 to 8-53.

§ 58-1005. Fees of officers upon levy, distraint or leasing.—When the constable, sheriff, ~~sergeant~~ or collector advertises and leases, or adver-

tises without leasing, a parcel of real estate under § 58-1003, he shall receive a fee of sixty cents, to be paid as a part of the cost of the proceeding. When a sheriff, constable, collector~~,~~ ~~sergeant~~ or other collecting officer has to levy or distrain and sell, or levy or distrain without selling, he shall receive a fee of sixty cents, to be collected with the taxes. But in no case shall any of these fees be paid by the State.

§ 58-1021. Limitation on suits for local capitation and tangible personal property taxes.—No action, suit or other proceedings at law or in equity shall be commenced in any court of this State, nor shall any other legal action be taken, by the treasurer or other officer or agent of any county, city or town, for the collection of any taxes or levies assessed under the authority of such county, city or town upon tangible personal property or for the collection of any capitation tax levied by any county or city ~~pursuant to the provisions of section one hundred and seventy-three of the Constitution of Virginia~~, after the expiration of five years from the date upon which any penalty was required by law to have been added to any such taxes or levies so assessed; provided, however, that the proper authorities of any county, city or town may pursue and enforce any lien or other legal right arising from and based upon a judgment or decree, or any lien based upon any other legal proceeding, if such judgment or decree was obtained or entered in an action, suit or other proceeding commenced prior to the expiration of such five years, or if such other legal proceeding was commenced prior to the expiration of such five years.

§ 58-1086. What to be done on filing application.—At the time of filing the application he shall pay to the clerk at least ten per centum of the amount of the proposed purchase price of the land; but this deposit, which shall be first for purchase price and then for costs, shall in no case be less than one dollar. The clerk shall make out as many copies of the application as there are names of persons therein, with one additional copy, or more if necessary, and shall at once deliver them to the sheriff ~~or sergeant~~ of the county or city in which the land is situated and the same shall be served on the parties named therein in the same manner that process to commence a suit is served and similar return shall be made thereon by the officer serving the same. If any of the persons named in the application do not reside in the county or city in which the land is situated, but are known by the clerk to reside in some other county or city in the State, the clerk shall send copies of the application to the proper officer of the county or city wherein they reside, to be executed upon such person. Such return shall be made within sixty days after the issuing of the copy of the application. If the same be returned not executed on any party therein named, other copies may be made out and served as hereinbefore provided.

§ 58-1118. Application to Department of Taxation for correction.—Any person, firm or corporation assessed with (1) Any State taxes on intangible personal property or income (2) any State license tax, *or* (3) ~~any State capitation tax or (4)~~ aggrieved by any State tax assessed under the provisions of §§ 58-54 to 58-63 and 58-66 to 58-76, may, within three years from the thirty-first day of December of the year in which such assessment was made, apply for relief to the Department of Taxation.

§ 58-1141. Application to commissioner of the revenue or other official for correction.—Any person, firm or corporation assessed by a commissioner of the revenue or other official performing the duties imposed on commissioners of the revenue under this title with local levies on tangible personal property, machinery and tools, or merchants' capital, or a local license tax, or local ~~or State~~ capitation tax, aggrieved by any such assessment, may, within five years from the thirty-first day of December

of the year in which such assessment is made, apply to the commissioner of the revenue or such other official who made the assessment for a correction thereof.

Sections 58-1141 to 58-1144 shall also apply to erroneous assessments of real estate if the error sought to be corrected in any case was made by the commissioner of the revenue or such other official to whom the application is made.

§ 58-1162. Other omitted State taxes.—If any State tax-assessing officer or body authorized by law to assess taxes on any subject of taxation ascertain that any property, or any other subject of State taxation (except the subjects covered by the two preceding sections (58-1160, 58-1161) ~~and except State capitation taxes~~) which such tax assessing officer or body would have been authorized to assess during any current tax year has not been assessed for any tax year of the three years last past, or that the same has been assessed at less than the law required for any one or more of such years, or that the taxes thereon, for any cause, have not been realized, such tax-assessing officer or body shall list and assess the same with taxes at the rate prescribed for that year, adding thereto a penalty of five per centum and interest at the rate of six per centum per annum, which shall be computed upon the taxes and penalty from the fifteenth day of December of the year in which such taxes should have been paid to the date of the assessment; and if the assessment be not paid within thirty days after its date, interest at the rate of six per centum per annum shall accrue thereon from the date of such assessment until payment.

§ 59.1-92. Appeals from final action of Commission.—From any final action of the Commission under the provisions of this chapter an appeal shall lie of right to the Supreme Court ~~of Appeals~~ in accordance with the provisions of ~~Sec. 12-63~~ §§ *12.1-39 through 12.1-41* of the Code of Virginia.

§ 64.1-114. Substitution of supposed decedent in pending actions; reopening of judgments; effect of judgments.—After revocation of the letters the person erroneously supposed to be dead may, on suggestion filed of record of the proper fact, be substituted as plaintiff in all actions brought by the administrator, whether prosecuted to judgment or otherwise. He may, in all actions previously brought against his administrator, be substituted as defendant, on proper suggestion filed by himself, or of the plaintiff therein, but shall not be compelled to go to trial in less than three months from the time of such suggestion filed. Judgments recovered against the administrator before revocation as aforesaid of the letters may be opened, on application by the supposed decedent made within three months from the revocation and supported by affidavit, denying specifically, on the knowledge of the affiant, the cause of the action, in whole or in part, or specifically alleging the existence of facts which would be a valid defense; but, if within such period of three months, such application shall not be made or, being made, the facts exhibited shall be adjudged an insufficient defense, the judgment shall be conclusive to all intents, saving the defendant's right to have it reviewed, as in other cases, by certiorari, appeal or writ of error. After the substitution of the supposed decedent as defendant in any judgment, as aforesaid, it shall become a lien upon his real estate in the county or city and shall so continue as other judgments, unless and until it shall be set aside by the court below or reversed in the Supreme Court ~~of Appeals~~.

§ 64.1-131. When estate committed to sheriff ~~or sergeant~~; when court may allow another to qualify.—If at any time two months elapse without there being an executor or administrator of the estate of a decedent, except during a contest about the decedent's will or during

the infancy or absence of the executor, the court, or the clerk thereof, in which or by whose clerk the will was admitted to record or which has jurisdiction to grant administration on the decedent's estate shall, on the motion of any person, order the sheriff of the county or ~~the sergeant of the~~ city to take into his possession the estate of such decedent and administer the same. Thereupon such sheriff ~~or sergeant~~, without taking any other oath of office or giving any other bond or security than he may have before taken or given, shall be the administrator, or administrator de bonis non, of the decedent, with his will annexed, if there be a will, and shall be thenceforward entitled to all the rights and bound to perform all the duties of such administrator. The court may, however, at any time afterwards, on reasonable notice to such sheriff ~~or sergeant~~, revoke such order made by it or its clerk and the court may in a proper case after reasonable notice to the parties in interest permit the sheriff ~~or sergeant~~ to resign and allow any other person to qualify as executor or administrator. When an estate is committed to the sheriff ~~or sergeant~~ on the motion of a creditor or other person, the State tax due for such administration shall be paid by the party upon whose motion the estate was committed and the same shall be repaid to him by the sheriff ~~or sergeant~~ out of the first funds received by him for such estate.

§ 64.1-132. Disposition by sheriff ~~or sergeant~~ of property when no person entitled thereto.—If any sheriff ~~or sergeant~~ shall lawfully come into possession of any money or other personal property of any such deceased person whose death shall have occurred after October first, nineteen hundred forty-six, and no person entitled by law to such money or property is known or can by reasonable diligence be ascertained, such property shall within two years thereafter be sold by such sheriff ~~or sergeant~~ at public auction after posting notices in three or more public places in his county or city for ten days, or in his discretion after advertisement for ten days by one insertion in a newspaper published or having general circulation in such county or city, and the proceeds thereof together with any such money, after the payment of all necessary expenses, shall be paid by such sheriff ~~or sergeant~~ into the State treasury to the credit of the Literary Fund.

§ 65.1-4. "Employee" defined.—Unless the context otherwise requires, "employee" includes every person, including a minor, in the service of another under any contract of hire or apprenticeship, written or implied, except one whose employment is not in the usual course of the trade, business, occupation or profession of the employer; and as relating to those so employed by the State the term "employee" includes the officers and members of the national guard, the Virginia State guard and the Virginia reserve militia, registered members on duty or in training of the United States Civil Defense Corps of this State, the forest wardens, the judges, clerks and other employees of regional juvenile and domestic relations courts and all other officers and employees of the State, except only such as are elected by the people or by the General Assembly, or appointed by the Governor, either with or without the confirmation of the Senate, provided that this exception shall not apply to any "State employee" as defined in paragraph (5) of § 51-111.10 nor to members of the Industrial Commission and the State Corporation Commission, nor to the Superintendent of State Police; as relating to municipal corporations and political subdivisions of the State, the term "employee" includes all officers and employees thereof, except such as are elected by the people or by the governing body of the municipal corporation or political subdivision, who act in purely administrative capacities and are to serve for a definite term of office. Policemen and firemen, and sheriffs and their deputies, town ~~and city~~ sergeants and ~~town and city deputy sergeants~~ *their deputies*,

county and city commissioners of the revenue, county and city treasurers, attorneys for the Commonwealth, clerks of courts of record, juvenile and domestic relations courts and county and municipal courts, and their deputies, officers and employees, shall be deemed to be employees of the respective cities, counties or towns in which their services are employed and by whom their salaries are paid or in which their compensation is earnable. Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, municipal or otherwise, shall be an employee of such corporation under this Act, except as otherwise provided herein with respect to municipal corporations and political subdivisions of the State. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents and other persons to whom compensation may be payable.

§ 65.1-10. Commission continued; number, election and terms of members; vacancies; chairman; members to devote entire time to office.—The Industrial Commission of Virginia is continued within the Department of Workmen's Compensation, and shall consist of three members, one of whom shall be chosen by the joint vote of the two houses of the General Assembly during the month of January of each regular session of the General Assembly *convened in an even-numbered year* and who shall serve for terms of six years from the first day of February next succeeding election.

Whenever a vacancy in the Commission shall occur or exist when the General Assembly is in session, it shall elect a successor for the unexpired term. If the General Assembly is not in session, the Governor shall forthwith appoint pro tempore a qualified person to fill the vacancy for a term ending thirty days after the commencement of the next session of the General Assembly, and the General Assembly shall elect a successor for the unexpired term.

Not more than one member of the Commission shall be a person who on account of his previous vocation, employment or affiliation shall be classified as a representative of employers, and not more than one such appointee shall be a person who on account of his previous vocation, employment or affiliation shall be classed as a representative of employees. The Commission thus composed shall elect one of its number chairman. Each member of the Commission shall devote his entire time to the duties of his office and shall not hold any position of trust or profit or engage in any occupation or business interfering or inconsistent with his duties as such member.

§ 65.1-13. Powers and duties of bailiffs of Commission.—The bailiffs of the Commission shall, in all matters within the jurisdiction of the Commission, have the powers, discharge the functions, and perform the duties of a sheriff ~~or sergeant~~ under the law. They shall preserve order during the public sessions of the Commission, and may make arrests and serve and make return on any writ or process awarded by the Commission, and execute any writ, order, or process of execution awarded upon the findings or judgments of the Commission in any matter within its jurisdiction. They shall exercise such other powers and perform such duties as may be delegated to them.

§ 65.1-19. Service of process; fees and mileage of witnesses and officers serving subpoenas.—The county ~~sheriff~~ or city *sheriff* or town sergeant or sheriff, and their respective deputies, shall serve all subpoenas of the Commission or its deputies and shall receive the same fees as are now provided by law for like civil actions. Each witness who appears in obedience to such subpoena of the Commission shall receive for attendance the fees and mileage for witnesses in civil cases in courts.

§ 65.1-93. Agreement as to compensation.—If after injury or death, the employer and the injured employee or his dependents reach an agreement in regard to compensation or in compromise of a claim for compensation under this Act, a memorandum of the agreement in the form prescribed by the Industrial Commission shall be filed with the Commission for approval, and if approved, the same shall be binding, and an award of compensation entered upon such agreement shall be for all purposes enforceable by the court's decree as elsewhere provided in this Act, and if not approved, the same shall be void. Such agreement may be approved only when the Commission, or any member thereof, is clearly of the opinion that the best interests of the employee or his dependents will be served thereby; and approval of such agreement shall bind infant or incompetent dependents affected thereby. Any agreement entered into during the pendency of an appeal to the Supreme Court ~~of Appeals~~ shall be effective only with the approval of the Commission as herein provided.

§ 65.1-98. Conclusiveness of award; appeal; certification of questions of law; supersedeas.—The award of the Commission, as provided in § 65.1-96, if not reviewed in due time, or an award of the Commission upon such review, as provided in § 65.1-97, shall be conclusive and binding as to all questions of fact. No appeal shall be taken from the decision of one commissioner until a review of the case has been had before the full Commission, as provided in § 65.1-97, and an award entered by it. Appeals shall lie from such award to the Supreme Court ~~of Appeals~~ in the manner provided by law for appeals in equity cases from circuit and corporation courts; provided, however, that, the petition for such appeal shall be presented to the Supreme Court ~~of Appeals~~, or one of its judges if the Court be not in session, within thirty days from the date of such award or within thirty days after receipt of notice to be sent by registered mail of such award. In such case the filing with the clerk of the appellate court of ten neatly typewritten copies of the record, duly certified by the secretary of the Commission, shall be taken as a substitute for printing such record. The secretary of the Commission shall certify to the appellate court, as a part of the record, all the findings of fact upon which the action appealed from was based. Cases so appealed shall be placed upon the privileged docket of the Court and be heard at the next ensuing term thereof wherever held. The Commission, of its own motion, may certify questions of law to the Supreme Court ~~of Appeals~~ for decision and determination by the Court. In case of an appeal from the decision of the Commission, or of the certification by the Commission of questions of law, to the Supreme Court ~~of Appeals~~, the appeal or certification shall operate as a supersedeas and no employer shall be required to make payment of the award involved in the appeal or certification until the questions at issue therein shall have been fully determined in accordance with the provisions of this Act.

V. COMMENTARIES

COMMENTARIES

During its study the Code Commission received many scholarly reports and presentations which, for obvious reasons, cannot be fully shared by the reader. Because this report must be confined to a size and form acceptable for its intended purpose, elsewhere herein there are commentaries sufficient only to provide the reader with basic illumination upon essential subject matter. The commentaries which follow are intended to provide additional light in three areas of special concern.

1. CORPORATIONS—The Effect of Repeal of Article XII of the Old Constitution.

Article XII of the old Constitution contained considerable statutory detail which was repealed by the adoption of the new Constitution. One of the Commission's objectives has been to see that the essentials of Article XII are preserved as part of the law of Virginia under the new Constitution.

When the Commission first undertook this assignment, it expected to find that many new Code sections would be required in order to preserve provisions formerly found only in Article XII of the Constitution. However, this was not the case. The Commission found that most of the essentials of Article XII have exact or close counterparts in the Code or in Article IX of the new Constitution. Moreover, some of the material now found in Article XII has become obsolete with the passage of time, and no statutory counterpart for such material is necessary. The few cases where entirely new legislation is needed are discussed in the Commission's detailed recommendations in this report.

The manner and extent to which each section and paragraph of Article XII of the old Constitution will be preserved in Article IX of the new Constitution, in existing Code provisions, and in the legislation recommended in this report, will now be briefly indicated. The following materials are intended primarily as an aid in determining what effect repeal of Article XII will have on existing law. Such effects can be determined by comparing each section and paragraph of Article XII with the Constitution and Code references given.

Section 153. Necessary definitions set forth in this section will be retained in proposed § 12.1-1 and in recommended amendments to § 56-1. Obsolete definitions are eliminated.

Section 154. The essentials of this section are preserved in Article IX, § 6, of the new Constitution. For provisions relating to surrender of forfeiture of charters, see, e.g., §§ 13.1-81, 13.1-92, 13.1-93, 13.1-94, 13.1-117 and 13.1-128.

Section 155, first paragraph. For the most part, this section is preserved by Article IX, § 1, of the new Constitution and by proposed § 12.1-6.

Section 155, second paragraph. The prohibitions of this paragraph are included within the prohibitions set forth in proposed § 12.1-10.

Section 155, third paragraph. This paragraph is preserved in substance by Article IX, § 1, of the new Constitution.

Section 155, fourth paragraph. This paragraph is preserved in substance by Article IX, § 1, of the new Constitution and by proposed §§ 12.1-7, 12.1-18, and 12.1-25.

Section 155, fifth paragraph. Existing statutory law already establishes divisions of insurance, banking, and other special branches of the Commission. See proposed § 12.1-16 and §§ 6.1-2 and 38.1-1.

Section 155, sixth paragraph. Public sessions of the Commission are required by proposed § 12.1-26. The quorum requirement is set forth in proposed § 12.1-8. No special legislation is required in order to insure that the Commission will keep permanent records and will keep its office open on business days.

Section 155, seventh paragraph. Repeal of this paragraph does not require any new legislation.

Section 156(a), first paragraph. This paragraph is covered by Article IX, § 2, of the new Constitution.

Section 156(a), second paragraph. Repeal of this paragraph does not require any new legislation.

Section 156(b), first paragraph. The essentials of this paragraph are included in Article IX, § 2, and in proposed § 12.1-12. See also § 56-35 and proposed amendment thereto.

Section 156(b), second paragraph. Title 56 now includes the provisions of this paragraph. See especially §§ 56-36, 56-93, 56-128, and 56-139.

Section 156(b), third paragraph. This paragraph, dealing with the obligation of the Commission to provide notice and hearing, is covered in part in Article IX, § 3. The notice requirements are simplified by proposed § 12.1-28 and by amendments recommended for §§ 56-338.18, 56-338.38, and 56-338.84.

Section 156(b), fourth paragraph. This section is largely obsolete under the new Constitution. See also § 56-38 concerning mediation by the Commission.

Section 156(c), first paragraph. This paragraph is preserved in substance by Article IX, § 3, and by proposed §§ 12.1-13, 12.1-33, and 12.1-34.

Section 156(c), second paragraph. The new Constitution, Article IX, § 2, similarly authorizes the General Assembly to give the Commission additional duties.

Section 156(c), third paragraph. This paragraph, dealing with the power of the Commission to impose fines, is dealt with in proposed § 12.1-33.

Section 156(d), first paragraph. Appeals of right and the manner of taking such appeals are dealt with in Article IX, § 4, of the new Constitution. See also proposed §§ 12.1-39 through 12.1-43; and §§ 56-239, 56-240; proposed § 56-8.2; Rules of the Supreme Court of Appeals, Rule 5:1, § 13.

Section 156(d), second paragraph. The new Constitution similarly provides that no court other than the Supreme Court shall have jurisdiction to review actions of the Commission. See also § 56-109.

Section 156(e). The provisions of this section relating to writs of supersedeas and suspending bonds have been modified somewhat by the amendment proposed to § 56-239 and by proposed § 56-8.2. See also proposed § 12.1-42.

Section 156(f). The provisions of this section relating to preparation and certification of the record on appeal are incorporated by reference in Rule 5:1, § 13, of the Rules of the Supreme Court of Appeals. See also proposed § 12.1-39, preserving the requirement for a written opinion by the Commission and providing that the action of the Commission appealed from shall be regarded as prima facie, just, reasonable, and correct.

Section 156(g). No statutory counterpart for this provision is either necessary or desirable.

Section 156(h). This section is largely unnecessary; essential portions of it are preserved by Article IX, § 4, and by proposed § 12.1-14. See also § 56-109.

Section 156(i). The annual report of the Commission is covered by proposed § 12.1-4.

Section 156(j). This section will be obsolete with repeal of the Constitution of 1902.

Section 156(k). This section is obsolete.

Section 157. Fees required to be paid by corporations are adequately covered by existing law. See especially §§ 13.1-91, 13.1-102, 58-443, and 58-450.

Section 158. Compare Article IX, § 6, of the new Constitution.

Section 159. See Article IX, § 6, of the new Constitution.

Section 160. This section is covered by § 56-97.

Section 161. This section prohibits transportation and transmission companies from granting special rates to members of the General Assembly or to State, county, or municipal officers. Legislation preserving this prohibition is recommended in the form of proposed § 56-8.1.

Section 162. Existing law gives railroad employees protection equal to or greater than that afforded by this section. See §§ 8-641 through 8-646; § 56-441.

Section 163. This section is preserved in substance by Article IX, § 5, of the new Constitution.

Section 164. This section is adequately preserved in Article IX, § 6, of the new Constitution.

Section 165. Repeal of this section, directing the General Assembly to adopt laws preventing monopolies, requires no further legislative action. See Title 59.1, Chapter 3.

Section 166. The prohibitions of this section are adequately covered by existing law. See especially Title 56, Chapters 6 and 13.

Section 167. Stock statements and bond statements are required by § 13.1-16.

2. JUSTICE—The Confidential Nature of Proceedings of the Judicial Inquiry and Review Commission.

The following are extracts from a presentation by Judge M. Ray Doubles on September 4, 1970:

I think the next matter is Section 13, which deals with the confidential character of the proceeding. In the constitution, as we noted before, the provisions say that these proceedings shall be confidential. We had quite a bit of discussion as to what that word may mean. I am not satisfied, frankly, with what I have come up with in my research on the meaning of this word.

I don't know how many cases I have read. But I can't find a case that is right in line with the kind of thing that this contemplates here.

You will find that the word "confidential" is used in two ways with regard to the types of instances involved. In one situation, it means "secret." The other way in which this word appears in cases deals with confidential relationships between parties. There are just hundreds of cases on that where the word is used to describe confidential relationship.

There was a big block of cases dealing with people who are exempt from the Civil Service Act on the federal side where they occupy a confidential relationship with their employer, for example. You find in a lot of the trade secret cases or the employee-employer cases a confidential relationship. That complete line doesn't help any at all, I don't think.

We have only one case in Virginia that even comes near to using the word. That is a case about the husband and wife testimony in court being protected due to the confidential relationship. I will read a short paragraph from the case. The word "private" was the word that was involved. The court said:

> "In Webster's New International Dictionary, 'private' means 'not publicly known; not open; secret, as a private conversation; confidential.' In the same work, the word 'privately' is thus defined 'private; secret; in an unofficial way.' In the light of the above definition, the word 'privately' as used in the statute is intended, we think, to be synonymous with 'confidential.' In other words, the communications referred to are intended to mean those of a secret nature between husband and wife."

As I say, I am just really embarrassed about not being able to find in the context of a hearing by a commission or a state agency or a court or any other thing what the word "confidential" may mean in a statute or in a constitutional provision with regard to that. But in line with the thought of the Commission here at its last meeting that certainly a person who committed perjury before the Judicial Inquiry and Review Commission ought not to have the benefit of a defense of confidentiality, I have drafted this new section with that in mind. I will now read Section 13:

> "Confidentiality—All papers filed with and proceedings before the Commission, including all testimony and other evidence and any transcript thereof made by a reporter, shall be confidential and shall not be divulged by any person to anyone except the Commission, except that the record of any proceeding filed with the Supreme Court shall lose its confidential character."

The following is new:

> "However, if the Commission shall find that any witness under oath has willfully and intentionally testified falsely, the Commission may direct the Chairman or one of its members to report such finding and details leading thereto including any transcript thereof to the Commonwealth's Attorney of the city or county where such act occurred for such disposition as to a charge of perjury as the Commonwealth may be advised. In any subsequent prosecution for perjury based thereon, the proceedings before the Commission relevant thereto shall lose their confidential character."

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The next paragraph deals with something that is new and was suggested by a member of the Commission. That paragraph reads as follows:

> "All records of proceedings before the Commission which are not filed with the Supreme Court in connection with a formal complaint

filed with that tribunal shall be kept in the confidential files of the Commission."

It was suggested at the last time that the Commission may have occasion maybe to want to refer back to their own files and that they ought to be kept somewhere so that they will be kept in good condition. Then a suggestion was made by the Assistant Attorney General that any person who shall divulge information in violation of the provisions of this section shall be guilty of a misdemeanor. That is at the end of the section dealing with confidentiality. However, the very next section, I think, we might take in the same breath, because it involves the civil aspect of the matter. That is Section 14 "Privilege." That section reads as follows:

> "The filing of papers with and the giving of testimony before the Commission shall be privileged, except where such filing of papers or giving of testimony is motivated or accompanied by actual malice."

This is the phraseology I have suggested to make the giving of testimony surrounded with qualified privilege only in case of a libel or slander suit by the judge against a witness before the Commission. It is to be a qualified privilege only, which would be initiated if it was actuated by actual malice.

3. EDUCATION—The General Nature of "Standards of Quality."

The following are extracts from a presentation by Dr. Woodrow W. Wilkerson, State Superintendent of Public Instruction, on September 4, 1970:

DR. WILKERSON: Thank you very much, Mr. Chairman, and members of the Commission. First, the Board itself has not discussed specifically the standards of quality that would be required under the constitutional changes if adopted by the people. So, I can't speak for what the Board would have in mind in following through with this particular recommendation which has been so ably outlined by Mr. McIlwaine.

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A few aspects that occur to me are these: Of course, the heart of any instruction program is the classroom teacher. So, to me, we are talking here about a standard with respect to qualifications of teachers which would obtain throughout the State of Virginia. The level at which they would be set is germane, I think, to the problem. It talks somewhere in the commentary about the standards being progressive and at the same time being related to circumstances and changing situations.

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The State Board establishes standards with respect to the certification of teachers. In other words, any teacher who is employed regularly or paid out of public funds shall hold a certificate issued in accordance with the rules and regulations of the State Board of Education. When it comes to stipulating for every county and city that any teacher employed shall be at a certain level of training, whether it be at a Bachelor's Degree or a Master's Degree or a Ph.D. Degree—that, to me, is a part of setting a standard with respect to teachers. That is an illustration.

Another illustration could well be in the area of instructional materials. All of us know that we have to have instructional materials. We have to have textbooks. We have to have library materials. We have to have supplementary materials, audio-visual materials, et cetera. So, at what point would such a standard in this area be set with respect

to numbers of children, for example? I am thinking of the components that go into a program of quality.

The third area could have to do with what type of offering we are talking about throughout the State of Virginia. That is a very difficult one. I don't have the answer to it at the present time.

CHAIRMAN PHILPOTT: Let me ask you this: Is it contemplated in your mind that that offering will be uniform?

DR. WILKERSON: Let me express my feeling this way: Richmond City, Fairfax County, Arlington, et cetera, currently offer a certain program far in excess of some other localities in the State. The State Board stipulates in its accreditation standards that every high school, if the focus is on the high school, shall offer a minimum program in the academic subjects, the fine arts, and the practical arts. That is a minimum for purposes of accreditation. It is not uniform, then, other than being a minimum requirement with respect to accreditation.

CHAIRMAN PHILPOTT: Isn't that all you can ever aspire to—a minimum degree of offering throughout the state that would be uniform? If the locality itself chose to rise above that standard, of course, we wouldn't want to put any prohibition in their way.

DR. WILKERSON: One difficulty occurs to me. This is very tentative in my thinking right now. We talk about accreditation, forty-two units being the minimum for a particular high school. We come along and relate some standards of quality to the cost factor. Then a locality goes far ahead of the minimum of forty-two. Then it seems to me there is some relationship there which we have not ferreted out as to whether we are putting a greater responsibility on the locality that goes far beyond that which a small locality will be offering, namely, the forty-two units.

This is an area of concern. I don't have the answers to it at the present time. The breadth of offering, to me, would be a component in standards of quality that would need to be stipulated.

That doesn't answer the question directly. This is a most troublesome one. I think it is going to be one of the more troublesome areas for the State Board of Education.

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CHAIRMAN PHILPOTT: Is the standard of quality also going to include the pupil-teacher ratio?

DR. WILKERSON: I would think so. Qualifications of teachers and adequacy in terms of numbers.

CHAIRMAN PHILPOTT: Surely that could be uniform throughout the state, could it not?

DR. WILKERSON: As to a minimum, yes.

CHAIRMAN PHILPOTT: Dr. Wilkerson, if we are saying that the General Assembly or the state shall provide the funds to maintain a school system of high quality, it seems to me that there ought to be a uniform pupil-teacher ratio regardless of the size of the county.

DR. WILKERSON: That, I think, Mr. Chairman, is going to be related to the size of the school division that we will be talking about. In other words, I am talking about the overall ratio now, not the established positions under the present basic school aid formula, which comes into

play here. Obviously the ratio in a small locality attempting to offer a reasonably broad program practically and as of now is lower than in other localities which are larger. So, that backs me in my thinking right up against the question as to what is a reasonable pupil-teacher ratio with respect to or as a part of standards of quality to be promulgated by the state.

I am not proposing that as an insurmountable problem either. I am saying this is an area that has not been thought through.

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For the first time, we have the accreditation program for the elementary grades. One of the standards speaks to this very point as a minimum for any school in the State of Virginia.

CHAIRMAN PHILPOTT: Dr. Wilkerson, we are not going to be concerned with accreditation the way I look at this thing after this constitution is approved. It is going to be your responsibility, the way I envision this, to see that every school division does come up to these standards that you establish. It is not a question of accreditation. They have to come up to it.

DR. WILKERSON: That is right. I was just referencing that as a development wherein we had stipulated standards with respect to qualifications of teachers for the elementary schools, pupil-teacher ratio, library facilities, et cetera. But that is purely for the purposes of accreditation. I agree that here we are talking about standards of quality that shall obtain throughout the state.

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My understanding is that once the standards of quality are determined and reviewed by the General Assembly and they then become these standards, it is incumbent upon the State Board, the State officials, to see to it that such standards are carried out throughout the state of Virginia. That is, of course, related to the amount of money that is made available as determined by the General Assembly and the cost of the same apportioned between the State and the given localities and the given school divisions.

VI. APPENDICES

APPENDIX A

THE CONSTITUTION OF 1971

APPENDIX A

THE CONSTITUTION OF 1971

CONSTITUTION OF VIRGINIA

(Adopted November 3, 1970)

ARTICLE I

BILL OF RIGHTS

A DECLARATION OF RIGHTS made by the good people of Virginia in the exercise of their sovereign powers, which rights do pertain to them and their posterity, as the basis and foundation of government.

Section 1. Equality and rights of men.

That all men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Section 2. People the source of power.

That all power is vested in, and consequently derived from, the people, that magistrates are their trustees and servants, and at all times amenable to them.

Section 3. Government instituted for common benefit.

That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and, whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

Section 4. No exclusive emoluments or privileges; offices not to be hereditary.

That no man, or set of men, is entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

Section 5. Separation of legislative, executive, and judicial departments; periodical elections.

That the legislative, executive, and judicial departments of the Commonwealth should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by regular elections, in which all or any part of the former members shall be again eligible, or ineligible, as the laws may direct.

Section 6. Free elections; consent of governed.

That all elections ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed, or deprived of, or damaged in, their property for public uses, without their own consent, or that of their representatives duly elected, or bound by any law to which they have not, in like manner, assented for the public good.

Section 7. Laws should not be suspended.

That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Section 8. Criminal prosecutions.

That in criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, and to call for evidence in his favor, and he shall enjoy the right to a speedy and public trial, by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty. He shall not be deprived of life or liberty, except by the law of the land or the judgment of his peers, nor be compelled in any criminal proceeding to give evidence against himself, nor be put twice in jeopardy for the same offense.

Laws may be enacted providing for the trial of offenses not felonious by a court not of record without a jury, preserving the right of the accused to an appeal to and a trial by jury in some court of record having original criminal jurisdiction. Laws may also provide for juries consisting of less than twelve, but not less than five, for the trial of offenses not felonious, and may classify such cases, and prescribe the number of jurors for each class.

In criminal cases, the accused may plead guilty. If the accused plead not guilty, he may, with his consent and the concurrence of the Commonwealth's attorney and of the court entered of record, be tried by a smaller number of jurors, or waive a jury. In case of such waiver or plea of guilty, the court shall try the case.

The provisions of this section shall be self-executing.

Section 9. Prohibition of excessive bail and fines, cruel and unusual punishment, suspension of habeas corpus, bills of attainder, and ex post facto laws.

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted; that the privilege of the writ of habeas corpus shall not be suspended unless when, in cases of invasion or rebellion, the public safety may require; and that the General Assembly shall not pass any bill of attainder, or any ex post facto law.

Section 10. General warrants of search or seizure prohibited.

That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

Section 11. Due process of law; obligation of contracts; taking of private property; prohibited discrimination; jury trial in civil cases.

That no person shall be deprived of his life, liberty, or property without due process of law; that the General Assembly shall not pass any law impair-

ing the obligation of contracts, nor any law whereby private property shall be taken or damaged for public uses, without just compensation, the term "public uses" to be defined by the General Assembly; and that the right to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex, or national origin shall not be abridged, except that the mere separation of the sexes shall not be considered discrimination.

That in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred. The General Assembly may limit the number of jurors for civil cases in courts of record to not less than five.

Section 12. Freedom of speech and of the press; right peaceably to assemble, and to petition.

That the freedoms of speech and of the press are among the great bulwarks of liberty, and can never be restrained except by despotic governments; that any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; that the General Assembly shall not pass any law abridging the freedom of speech or of the press, nor the right of the people peaceably to assemble, and to petition the government for the redress of grievances.

Section 13. Militia; standing armies; military subordinate to civil power.

That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

Section 14. Government should be uniform.

That the people have a right to uniform government; and, therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

Section 15. Qualities necessary to preservation of free government.

That no free government, nor the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue; by frequent recurrence to fundamental principles; and by the recognition by all citizens that they have duties as well as rights, and that such rights cannot be enjoyed save in a society where law is respected and due process is observed.

That free government rests, as does all progress, upon the broadest possible diffusion of knowledge, and that the Commonwealth should avail itself of those talents which nature has sown so liberally among its people by assuring the opportunity for their fullest development by an effective system of education throughout the Commonwealth.

Section 16. Free exercise of religion; no establishment of religion.

That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced,

restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and the same shall in nowise diminish, enlarge, or affect their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others, any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

Section 17. Construction of the Bill of Rights.

The rights enumerated in this Bill of Rights shall not be construed to limit other rights of the people not therein expressed.

ARTICLE II

FRANCHISE AND OFFICERS

Section 1. Qualifications of voters.

In elections by the people, the qualifications of voters shall be as follows: Each voter shall be a citizen of the United States, shall be twenty-one years of age, shall fulfill the residence requirements set forth in this section, and shall be registered to vote pursuant to this Article. No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority. As prescribed by law, no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been re-established.

The residence requirements shall be that each voter shall have been a resident of the Commonwealth for six months and of the precinct where he votes for thirty days. A person who is qualified to vote except for having moved his residence from one precinct to another fewer than thirty days prior to an election may in any such election vote in the precinct from which he has moved. Residence, for all purposes of qualification to vote, requires both domicile and a place of abode. The General Assembly may provide, in elections for President and Vice-President of the United States, a residence requirement of less than six months and alternatives to registration for new residents of the Commonwealth.

Any person who will be qualified with respect to age to vote at the next general election shall be permitted to register in advance and also to vote in any intervening primary or special election.

Section 2. Registration of voters.

The General Assembly shall provide by law for the registration of all persons otherwise qualified to vote who have met the residence requirements contained in this Article, and shall ensure that the opportunity to register is made available. Registrations accomplished prior to the effective date of this section shall be effective hereunder. The registration records shall not be closed to new or transferred registrations more than thirty days before the election in which they are to be used.

Applications to register shall require the applicant to provide under oath the following information on a standard form: full name, including the maiden name of a woman, if married; age; date and place of birth;

marital status; occupation; social security number, if any; whether the applicant is presently a United States citizen; address and place of abode and length of residence in the Commonwealth and in the precinct; place and time of any previous registrations to vote; and whether the applicant has ever been adjudicated to be mentally incompetent or convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored. Except as otherwise provided in this Constitution, all applications to register shall be completed in person before the registrar and by or at the direction of the applicant and signed by the applicant, unless physically disabled. No fee shall be charged to the applicant incident to an application to register.

Nothing in this Article shall preclude the General Assembly from requiring as a prerequisite to registration to vote the ability of the applicant to read and complete in his own handwriting the application to register.

Section 3. Method of voting.

In elections by the people, the following safeguards shall be maintained. Voting shall be by ballot or by machines for receiving, recording, and counting votes cast. No ballot or list of candidates upon any voting machine shall bear any distinguishing mark or symbol, other than words identifying political party affiliation; and their form, including the offices to be filled and the listing of candidates or nominees, shall be as uniform as is practicable throughout the Commonwealth or smaller governmental unit in which the election is held.

In elections other than primary elections, provision shall be made whereby votes may be cast for persons other than the listed candidates or nominees. Secrecy in casting votes shall be maintained, except as provision may be made for assistance to handicapped voters, but the ballot box or voting machine shall be kept in public view and shall not be opened, nor the ballots canvassed nor the votes counted, in secret. Votes may be cast only in person, except as otherwise provided in this Article.

Section 4. Powers and duties of General Assembly.

The General Assembly shall establish a uniform system for permanent registration of voters pursuant to this Constitution, including provision for appeal by any person denied registration, correction of illegal or fraudulent registrations, proper transfer of all registered voters, and cancellation of registrations in other jurisdictions of persons who apply to register to vote in the Commonwealth. The General Assembly shall provide for maintenance of accurate and current registration records and shall provide for cancellation of the registration of any voter who has not voted at least once during four consecutive calendar years.

The General Assembly may provide for registration and voting by absentee application and ballot for members of the armed forces of the United States in active service, and their spouses, who are otherwise qualified to vote, and may provide for voting by absentee ballot for other qualified voters.

The General Assembly shall provide for the nomination of candidates, shall regulate the time, place, manner, conduct, and administration of primary, general, and special elections, and shall have power to make any other law regulating elections not inconsistent with this Constitution.

Section 5. Qualifications to hold elective office.

The only qualification to hold any office of the Commonwealth or of its governmental units, elective by the people, shall be that a person must

have been a resident of the Commonwealth for one year and be qualified to vote for that office, except as otherwise provided in this Constitution, and except that:

(a) the General Assembly may impose more restrictive geographical residence requirements for election of its members, and may permit other governing bodies in the Commonwealth to impose more restrictive geographical residence requirements for election to such governing bodies, but no such requirement shall impair equal representation of the persons entitled to vote;

(b) the General Assembly may provide that residence in a local governmental unit is not required for election to designated elective offices in local governments, other than membership in the local governing body; and

(c) nothing in this Constitution shall limit the power of the General Assembly to prevent conflict of interests, dual officeholding, or other incompatible activities by elective or appointive officials of the Commonwealth or of any political subdivision.

Section 6. Apportionment.

Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established by the General Assembly. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 1971 and every ten years thereafter.

Any such reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, section 13, of this Constitution.

Section 7. Oath or affirmation.

All officers elected or appointed under or pursuant to this Constitution shall, before they enter on the performance of their public duties, severally take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as ....., according to the best of my ability (so help me God)."

Section 8. Electoral boards; registrars and officers of election.

There shall be in each county and city an electoral board composed of three members, selected as provided by law. In the appointment of the electoral boards, representation, as far as practicable, shall be given to each of the two political parties which, at the general election next preceding their appointment, cast the highest and the next highest number of votes. The present members of such boards shall continue in office until the expiration of their respective terms; thereafter their successors shall be appointed for the term of three years. Any vacancy occurring in any board shall be filled by the same authority for the unexpired term.

Each electoral board shall appoint the officers and registrars of election for its county or city. In appointing such officers of election, representation, as far as practicable, shall be given to each of the two political parties

which, at the general election next preceding their appointment, cast the highest and next highest number of votes.

No person, nor the deputy of any person, who is employed by or holds any office or post of profit or emolument, or who holds any elective office of profit or trust, under the governments of the United States, the Commonwealth, or any county, city, or town, shall be appointed a member of the electoral board or registrar or officer of election.

Section 9. Privileges of voters during election.

No voter, during the time of holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger, nor to attend any court as suitor, juror, or witness; nor shall any such voter be subject to arrest under any civil process during his attendance at election or in going to or returning therefrom.

ARTICLE III

DIVISION OF POWERS

Section 1. Departments to be distinct.

The legislative, executive, and judicial departments shall be separate and distinct, so that none exercise the powers properly belonging to the others, nor any person exercise the power of more than one of them at the same time, provided, however, administrative agencies may be created by the General Assembly with such authority and duties as the General Assembly may prescribe. Provision may be made for judicial review of any finding, order, or judgment of such administrative agencies.

ARTICLE IV

LEGISLATURE

Section 1. Legislative power.

The legislative power of the Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Delegates.

Section 2. Senate.

The Senate shall consist of not more than forty and not less than thirty-three members, who shall be elected quadrennially by the voters of the several senatorial districts on the Tuesday succeeding the first Monday in November.

Section 3. House of Delegates.

The House of Delegates shall consist of not more than one hundred and not less than ninety members, who shall be elected biennially by the voters of the several house districts on the Tuesday succeeding the first Monday in November.

Section 4. Qualifications of senators and delegates.

Any person may be elected to the Senate who, at the time of the election, is twenty-one years of age, is a resident of the senatorial district which he is seeking to represent, and is qualified to vote for members of the General Assembly. Any person may be elected to the House of Delegates who, at the time of the election, is twenty-one years of age, is a resident of the house district which he is seeking to represent, and is quali-

fied to vote for members of the General Assembly. A senator or delegate who moves his residence from the district for which he is elected shall thereby vacate his office.

No person holding a salaried office under the government of the Commonwealth, and no judge of any court, attorney for the Commonwealth, sheriff, treasurer, assessor of taxes, commissioner of the revenue, collector of taxes, or clerk of any court shall be a member of either house of the General Assembly during his continuance in office; and his qualification as a member shall vacate any such office held by him. No person holding any office or post of profit or emolument under the United States government, or who is in the employment of such government, shall be eligible to either house.

Section 5. Compensation; election to civil office of profit.

The members of the General Assembly shall receive such salary and allowances as may be prescribed by law, but no increase in salary shall take effect for a given member until after the end of the term for which he was elected. No member during the term for which he shall have been elected shall be elected by the General Assembly to any civil office of profit in the Commonwealth.

Section 6. Legislative sessions.

The General Assembly shall meet once each year on the second Wednesday in January. No regular session of the General Assembly convened in an even-numbered year shall continue longer than sixty days; no regular session of the General Assembly convened in an odd-numbered year shall continue longer than thirty days; but with the concurrence of two-thirds of the members elected to each house, any regular session may be extended for a period not exceeding thirty days. Neither house shall, without the consent of the other, adjourn to another place, nor for more than three days.

The Governor may convene a special session of the General Assembly when, in his opinion, the interest of the Commonwealth may require and shall convene a special session upon the application of two-thirds of the members elected to each house.

Section 7. Organization of General Assembly.

The House of Delegates shall choose its own Speaker; and, in the absence of the Lieutenant Governor, or when he shall exercise the office of Governor, the Senate shall choose from its own body a president pro tempore. Each house shall select its officers and settle its rules of procedure. The houses may jointly provide for legislative continuity between sessions occurring during the term for which members of the House of Delegates are elected. Each house may direct writs of election for supplying vacancies which may occur during a session of the General Assembly. If vacancies exist while the General Assembly is not in session, such writs may be issued by the Governor under such regulations as may be prescribed by law. Each house shall judge of the election, qualification, and returns of its members, may punish them for disorderly behavior, and, with the concurrence of two-thirds of its elected membership, may expel a member.

Section 8. Quorum.

A majority of the members elected to each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day and shall have power to compel the attendance of members in such manner and under such penalty as each house may prescribe. A smaller number, not less than two-fifths of the elected membership of each house, may meet and

may, notwithstanding any other provision of this Constitution, enact legislation if the Governor by proclamation declares that a quorum of the General Assembly cannot be convened because of enemy attack upon the soil of Virginia. Such legislation shall remain effective only until thirty days after a quorum of the General Assembly can be convened.

Section 9. Immunity of legislators.

Members of the General Assembly shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the sessions of their respective houses; and for any speech or debate in either house shall not be questioned in any other place. They shall not be subject to arrest under any civil process during the sessions of the General Assembly, or during the fifteen days before the beginning or after the ending of any session.

Section 10. Journal of proceedings.

Each house shall keep a journal of its proceedings, which shall be published from time to time. The vote of each member voting in each house on any question shall, at the desire of one-fifth of those present, be recorded in the journal. On the final vote on any bill, and on the vote in any election or impeachment conducted in the General Assembly or on the expulsion of a member, the name of each member voting in each house and how he voted shall be recorded in the journal.

Section 11. Enactment of laws.

No law shall be enacted except by bill. A bill may originate in either house, may be approved or rejected by the other, or may be amended by either, with the concurrence of the other.

No bill shall become a law unless, prior to its passage:

(a) it has been referred to a committee of each house, considered by such committee in session, and reported;

(b) it has been printed by the house in which it originated prior to its passage therein;

(c) it has been read by its title, or its title has been printed in a daily calendar, on three different calendar days in each house; and

(d) upon its final passage a vote has been taken thereon in each house, the name of each member voting for and against recorded in the journal, and a majority of those voting in each house, which majority shall include at least two-fifths of the members elected to that house, recorded in the affirmative.

Only in the manner required in subparagraph (d) of this section shall an amendment to a bill by one house be concurred in by the other, or a conference report be adopted by either house, or either house discharge a committee from the consideration of a bill and consider the same as if reported. The printing and reading, or either, required in subparagraphs (b) and (c) of this section, may be dispensed with in a bill to codify the laws of the Commonwealth, and in the case of an emergency by a vote of four-fifths of the members voting in each house, the name of each member voting and how he voted to be recorded in the journal.

No bill which creates or establishes a new office, or which creates, continues, or revives a debt or charge, or which makes, continues, or revives any appropriation of public or trust money or property, or which releases, discharges, or commutes any claim or demand of the Common-

wealth, or which imposes, continues, or revives a tax, shall be passed except by the affirmative vote of a majority of all the members elected to each house, the name of each member voting and how he voted to be recorded in the journal.

Every law imposing, continuing, or reviving a tax shall specifically state such tax. However, any law by which taxes are imposed may define or specify the subject and provisions of such tax by reference to any provision of the laws of the United States as those laws may be or become effective at any time or from time to time, and may prescribe exceptions or modifications to any such provision.

The presiding officer of each house shall, not later than twenty days after adjournment, sign every bill that has been passed by both houses and duly enrolled. The fact of signing shall be recorded in the journal.

Section 12. Form of laws.

No law shall embrace more than one object, which shall be expressed in its title. Nor shall any law be revived or amended with reference to its title, but the act revived or the section amended shall be reenacted and published at length.

Section 13. Effective date of laws.

All laws, except a general appropriation law, shall take effect on the first day of the fourth month following the month of adjournment of the session of the General Assembly at which it has been enacted, unless a subsequent date is specified or unless in the case of an emergency (which emergency shall be expressed in the body of the bill) the General Assembly shall specify an earlier date by a vote of four-fifths of the members voting in each house, the name of each member voting and how he voted to be recorded in the journal.

Section 14. Powers of General Assembly; limitations.

The authority of the General Assembly shall extend to all subjects of legislation not herein forbidden or restricted; and a specific grant of authority in this Constitution upon a subject shall not work a restriction of its authority upon the same or any other subject. The omission in this Constitution of specific grants of authority heretofore conferred shall not be construed to deprive the General Assembly of such authority, or to indicate a change of policy in reference thereto, unless such purpose plainly appear.

The General Assembly shall confer on the courts power to grant divorces, change the names of persons, and direct the sales of estates belonging to infants and other persons under legal disabilities, and shall not, by special legislation, grant relief in these or other cases of which the courts or other tribunals may have jurisdiction.

The General Assembly may regulate the exercise by courts of the right to punish for contempt.

The General Assembly shall not enact any local, special, or private law in the following cases:

(1) For the punishment of crime.

(2) Providing a change of venue in civil or criminal cases.

(3) Regulating the practice in, or the jurisdiction of, or changing the rules of evidence in any judicial proceedings or inquiry before the

courts or other tribunals, or providing or changing the methods of collecting debts or enforcing judgments or prescribing the effect of judicial sales of real estate.

(4) Changing or locating county seats.

(5) For the assessment and collection of taxes, except as to animals which the General Assembly may deem dangerous to the farming interests.

(6) Extending the time for the assessment or collection of taxes.

(7) Exempting property from taxation.

(8) Remitting, releasing, postponing, or diminishing any obligation or liability of any person, corporation, or association to the Commonwealth or to any political subdivision thereof.

(9) Refunding money lawfully paid into the treasury of the Commonwealth or the treasury of any political subdivision thereof.

(10) Granting from the treasury of the Commonwealth, or granting or authorizing to be granted from the treasury of any political subdivision thereof, any extra compensation to any public officer, servant, agent, or contractor.

(11) For registering voters, conducting elections, or designating the places of voting.

(12) Regulating labor, trade, mining, or manufacturing, or the rate of interest on money.

(13) Granting any pension.

(14) Creating, increasing, or decreasing, or authorizing to be created, increased, or decreased, the salaries, fees, percentages, or allowances of public officers during the term for which they are elected or appointed.

(15) Declaring streams navigable, or authorizing the construction of booms or dams therein, or the removal of obstructions therefrom.

(16) Affecting or regulating fencing or the boundaries of land, or the running at large of stock.

(17) Creating private corporations, or amending, renewing, or extending the charters thereof.

(18) Granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity.

(19) Naming or changing the name of any private corporation or association.

(20) Remitting the forfeiture of the charter of any private corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution and the laws passed in pursuance thereof.

The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

Section 15. General laws.

In all cases enumerated in the preceding section, and in every other case which, in its judgment, may be provided for by general laws, the General Assembly shall enact general laws. Any general law shall be sub-

ject to amendment or repeal, but the amendment or partial repeal thereof shall not operate directly or indirectly to enact, and shall not have the effect of enactment of, a special, private, or local law.

No general or special law shall surrender or suspend the right and power of the Commonwealth, or any political subdivision thereof, to tax corporations and corporate property, except as authorized by Article X. No private corporation, association, or individual shall be specially exempted from the operation of any general law, nor shall a general law's operation be suspended for the benefit of any private corporation, association, or individual.

Section 16. Appropriations to religious or charitable bodies.

The General Assembly shall not make any appropriation of public funds, personal property, or real estate to any church or sectarian society, or any association or institution of any kind whatever which is entirely or partly, directly or indirectly, controlled by any church or sectarian society. Nor shall the General Assembly make any like appropriation to any charitable institution which is not owned or controlled by the Commonwealth; the General Assembly may, however, make appropriations to nonsectarian institutions for the reform of youthful criminals and may also authorize counties, cities, or towns to make such appropriations to any charitable institution or association.

Section 17. Impeachment.

The Governor, Lieutenant Governor, Attorney General, judges, members of the State Corporation Commission, and all officers appointed by the Governor or elected by the General Assembly, offending against the Commonwealth by malfeasance in office, corruption, neglect of duty, or other high crime or misdemeanor may be impeached by the House of Delegates and prosecuted before the Senate, which shall have the sole power to try impeachments. When sitting for that purpose, the senators shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present. Judgment in case of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the Commonwealth; but the person convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law. The Senate may sit during the recess of the General Assembly for the trial of impeachments.

Section 18. Auditor of Public Accounts.

An Auditor of Public Accounts shall be elected by the joint vote of the two houses of the General Assembly for the term of four years. His powers and duties shall be prescribed by law.

ARTICLE V

EXECUTIVE

Section 1. Executive power; Governor's term of office.

The chief executive power of the Commonwealth shall be vested in a Governor. He shall hold office for a term commencing upon his inauguration on the Saturday after the second Wednesday in January, next succeeding his election, and ending in the fourth year thereafter immediately upon the inauguration of his successor. He shall be ineligible to the same office for the term next succeeding that for which he was elected, and to any other office during his term of service.

Section 2. Election of Governor.

The Governor shall be elected by the qualified voters of the Commonwealth at the time and place of choosing members of the General Assembly. Returns of the election shall be transmitted, under seal, by the proper officers, to the State Board of Elections, or such other officer or agency as may be designated by law, which shall cause the returns to be opened and the votes to be counted in the manner prescribed by law. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and an equal number of votes, one of them shall be chosen Governor by a majority of the total membership of the General Assembly. Contested elections for Governor shall be decided by a like vote. The mode of proceeding in such cases shall be prescribed by law.

Section 3. Qualifications of Governor.

No person except a citizen of the United States shall be eligible to the office of Governor; nor shall any person be eligible to that office unless he shall have attained the age of thirty years and have been a resident of the Commonwealth and a registered voter in the Commonwealth for five years next preceding his election.

Section 4. Place of residence and compensation of Governor.

The Governor shall reside at the seat of government. He shall receive for his services a compensation to be prescribed by law, which shall neither be increased nor diminished during the period for which he shall have been elected. While in office he shall receive no other emolument from this or any other government.

Section 5. Legislative responsibilities of Governor.

The Governor shall communicate to the General Assembly, at every regular session, the condition of the Commonwealth, recommend to its consideration such measures as he may deem expedient, and convene the General Assembly on application of two-thirds of the members elected to each house thereof, or when, in his opinion, the interest of the Commonwealth may require.

Section 6. Presentation of bills; veto powers of Governor.

Every bill which shall have passed the Senate and House of Delegates shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but, if not, he may return it with his objections to the house in which it originated, which shall enter the objections at large on its journal and proceed to reconsider the same. If, after such consideration, two-thirds of the members present, which two-thirds shall include a majority of the members elected to that house, shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members present, which two-thirds shall include a majority of the members elected to that house, it shall become a law, notwithstanding the objections.

The Governor shall have the power to veto any particular item or items of an appropriation bill, but the veto shall not affect the item or items to which he does not object. The item or items objected to shall not take effect except in the manner heretofore provided in this section as to bills returned to the General Assembly without his approval.

If the Governor approve the general purpose of any bill but disapprove any part or parts thereof, he may return it, with recommendations for its

amendment, to the house in which it originated, whereupon the same proceedings shall be had in both houses upon the bill and his recommendations in relation to its amendment as is above provided in relation to a bill which he shall have returned without his approval, and with his objections thereto; provided that, if after such reconsideration both houses, by a vote of a majority of the members present in each, shall agree to amend the bill in accordance with his recommendation in relation thereto, or either house by such vote shall fail or refuse to so amend it, then and in either case the bill shall be again sent to him, and he may act upon it as if it were then before him for the first time. In all cases above set forth, the names of the members voting for and against the bill or item or items of an appropriation bill, shall be entered on the journal of each house.

If any bill shall not be returned by the Governor within seven days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly shall, by final adjournment, prevent such return; in which case it shall be a law if approved by the Governor, in the manner and to the extent above provided, within thirty days after adjournment, but not otherwise.

Section 7. Executive and administrative powers.

The Governor shall take care that the laws be faithfully executed.

The Governor shall be commander-in-chief of the armed forces of the Commonwealth and shall have power to embody such forces to repel invasion, suppress insurrection, and enforce the execution of the laws.

The Governor shall conduct, either in person or in such manner as shall be prescribed by law, all intercourse with other and foreign states.

The Governor shall have power to fill vacancies in all offices of the Commonwealth for the filling of which the Constitution and laws make no other provision. If such office be one filled by the election of the people, the appointee shall hold office until the next general election, and thereafter until his successor qualifies, according to law. The General Assembly shall, if it is in session, fill vacancies in all offices which are filled by election by that body.

Gubernatorial appointments to fill vacancies in offices which are filled by election by the General Assembly or by appointment by the Governor which is subject to confirmation by the Senate or the General Assembly, made during the recess of the General Assembly, shall expire at the end of thirty days after the commencement of the next session of the General Assembly.

Section 8. Information from administrative officers.

The Governor may require information in writing, under oath, from any officer of any executive or administrative department, office, or agency, or any public institution upon any subject relating to their respective departments, offices, agencies, or public institutions; and he may inspect at any time their official books, accounts, and vouchers, and ascertain the conditions of the public funds in their charge, and in that connection may employ accountants. He may require the opinion in writing of the Attorney General upon any question of law affecting the official duties of the Governor.

Section 9. Administrative organization.

The functions, powers, and duties of the administrative departments and divisions and of the agencies of the Commonwealth within the legislative and executive branches may be prescribed by law.

Section 10. Appointment and removal of administrative officers.

Except as may be otherwise provided in this Constitution, the Governor shall appoint each officer serving as the head of an administrative department or division of the executive branch of the government, subject to such confirmation as the General Assembly may prescribe. Each officer appointed by the Governor pursuant to this section shall have such professional qualifications as may be prescribed by law and shall serve at the pleasure of the Governor.

Section 11. Effect of refusal of General Assembly to confirm an appointment by the Governor.

No person appointed to any office by the Governor, whose appointment is subject to confirmation by the General Assembly, under the provisions of this Constitution or any statute, shall enter upon, or continue in, office after the General Assembly shall have refused to confirm his appointment, nor shall such person be eligible for reappointment during the recess of the General Assembly to fill the vacancy caused by such refusal to confirm.

Section 12. Executive clemency.

The Governor shall have power to remit fines and penalties under such rules and regulations as may be prescribed by law; to grant reprieves and pardons after conviction except when the prosecution has been carried on by the House of Delegates; to remove political disabilities consequent upon conviction for offenses committed prior or subsequent to the adoption of this Constitution; and to commute capital punishment.

He shall communicate to the General Assembly, at each regular session, particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting, or commuting the same.

Section 13. Lieutenant Governor: election and qualifications.

A Lieutenant Governor shall be elected at the same time and for the same term as the Governor, and his qualifications and the manner and ascertainment of his election, in all respects, shall be the same, except that there shall be no limit on the terms of the Lieutenant Governor.

Section 14. Duties and compensation of Lieutenant Governor.

The Lieutenant Governor shall be President of the Senate but shall have no vote except in case of an equal division. He shall receive for his services a compensation to be prescribed by law, which shall not be increased nor diminished during the period for which he shall have been elected.

Section 15. Attorney General.

An Attorney General shall be elected by the qualified voters of the Commonwealth at the same time and for the same term as the Governor; and the fact of his election shall be ascertained in the same manner. No person shall be eligible for election or appointment to the office of Attorney General unless he is a citizen of the United States, has attained the age of thirty years, and has the qualifications required for a judge of a court of record. He shall perform such duties and receive such compensation as may be prescribed by law, which compensation shall neither be increased nor diminished during the period for which he shall have been elected. There shall be no limit on the terms of the Attorney General.

Section 16. Succession to the office of Governor.

When the Governor-elect is disqualified, resigns, or dies following his election but prior to taking office, the Lieutenant Governor-elect shall succeed to the office of Governor for the full term. When the Governor-elect fails to assume office for any other reason, the Lieutenant Governor-elect shall serve as Acting Governor.

Whenever the Governor transmits to the President pro tempore of the Senate and the Speaker of the House of Delegates his written declaration that he is unable to discharge the powers and duties of his office and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as Acting Governor.

Whenever the Attorney General, the President pro tempore of the Senate, and the Speaker of the House of Delegates, or a majority of the total membership of the General Assembly, transmit to the Clerk of the Senate and the Clerk of the House of Delegates their written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall immediately assume the powers and duties of the office as Acting Governor.

Thereafter, when the Governor transmits to the Clerk of the Senate and the Clerk of the House of Delegates his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Attorney General, the President pro tempore of the Senate, and the Speaker of the House of Delegates, or a majority of the total membership of the General Assembly, transmit within four days to the Clerk of the Senate and the Clerk of the House of Delegates their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon the General Assembly shall decide the issue, convening within forty-eight hours for that purpose if not already in session. If within twenty-one days after receipt of the latter declaration or, if the General Assembly is not in session, within twenty-one days after the General Assembly is required to convene, the General Assembly determines by three-fourths vote of the elected membership of each house of the General Assembly that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall become Governor; otherwise, the Governor shall resume the powers and duties of his office.

In the case of the removal of the Governor from office or in the case of his disqualification, death, or resignation, the Lieutenant Governor shall become Governor.

If a vacancy exists in the office of Lieutenant Governor when the Lieutenant Governor is to succeed to the office of Governor or to serve as Acting Governor, the Attorney General, if he is eligible to serve as Governor, shall succeed to the office of Governor for the unexpired term or serve as Acting Governor. If the Attorney General is ineligible to serve as Governor, the Speaker of the House of Delegates, if he is eligible to serve as Governor, shall succeed to the office of Governor for the unexpired term or serve as Acting Governor. If a vacancy exists in the office of the Speaker of the House of Delegates or if the Speaker of the House of Delegates is ineligible to serve as Governor, the House of Delegates shall convene and fill the vacancy.

Section 17. Commissions and grants.

Commissions and grants shall run in the name of the Commonwealth of Virginia, and be attested by the Governor, with the seal of the Commonwealth annexed.

ARTICLE VI

JUDICIARY

Section 1. Judicial power; jurisdiction.

The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish. Trial courts of general jurisdiction, appellate courts, and such other courts as shall be so designated by the General Assembly shall be known as courts of record.

The Supreme Court shall, by virtue of this Constitution, have original jurisdiction in cases of habeas corpus, mandamus, and prohibition and in matters of judicial censure, retirement, and removal under section 10 of this Article. All other jurisdiction of the Supreme Court shall be appellate. Subject to such reasonable rules as may be prescribed as to the course of appeals and other procedural matters, the Supreme Court shall, by virtue of this Constitution, have appellate jurisdiction in cases involving the constitutionality of a law under this Constitution or the Constitution of the United States and in cases involving the life or liberty of any person.

No appeal shall be allowed to the Commonwealth in a case involving the life or liberty of a person, except that an appeal by the Commonwealth may be allowed in any case involving the violation of a law relating to the state revenue.

Subject to the foregoing limitations, the General Assembly shall have the power to determine the original and appellate jurisdiction of the courts of the Commonwealth.

Section 2. Supreme Court.

The Supreme Court shall consist of seven justices. The General Assembly may, if three-fifths of the elected membership of each house so vote at two successive regular sessions, increase or decrease the number of justices of the Court, provided that the Court shall consist of no fewer than seven and no more than eleven justices. The Court may sit and render final judgment en banc or in divisions as may be prescribed by law. No decision shall become the judgment of the Court, however, except on the concurrence of at least three justices, and no law shall be declared unconstitutional under either this Constitution or the Constitution of the United States except on the concurrence of at least a majority of all justices of the Supreme Court.

Section 3. Selection of Chief Justice.

The Chief Justice shall be selected from among the justices in a manner provided by law.

Section 4. Administration of the judicial system.

The Chief Justice of the Supreme Court shall be the administrative head of the judicial system. He may temporarily assign any judge of a court of record to any other court of record except the Supreme Court and may assign a retired judge of a court of record, with his consent, to any court of record except the Supreme Court. The General Assembly may adopt such additional measures as it deems desirable for the improvement of the administration of justice by the courts and for the expedition of judicial business.

Section 5. Rules of practice and procedure.

The Supreme Court shall have the authority to make rules governing the course of appeals and the practice and procedures to be used in the courts of the Commonwealth, but such rules shall not be in conflict with the general law as the same shall, from time to time, be established by the General Assembly.

Section 6. Opinions and judgments of the Supreme Court.

When a judgment or decree is reversed, modified, or affirmed by the Supreme Court, or when original cases are resolved on their merits, the reasons for the Court's action shall be stated in writing and preserved with the record of the case. The Court may, but need not, remand a case for a new trial. In any civil case, it may enter final judgment, except that the award in a suit or action for unliquidated damages shall not be increased or diminished.

Section 7. Selection and qualification of judges.

The justices of the Supreme Court shall be chosen by the vote of a majority of the members elected to each house of the General Assembly for terms of twelve years. The judges of all other courts of record shall be chosen by the vote of a majority of the members elected to each house of the General Assembly for terms of eight years. During any vacancy which may exist while the General Assembly is not in session, the Governor may appoint a successor to serve until thirty days after the commencement of the next session of the General Assembly. Upon election by the General Assembly, a new justice or judge shall begin service of a full term.

All justices of the Supreme Court and all judges of other courts of record shall be residents of the Commonwealth and shall, at least five years prior to their appointment or election, have been admitted to the bar of the Commonwealth. Each judge of a trial court of record shall during his term of office reside within the jurisdiction of one of the courts to which he was appointed or elected; provided, however, that where the boundary of such jurisdiction is changed by annexation or otherwise, no judge thereof shall thereby become disqualified from office or ineligible for reelection if, except for such annexation or change, he would otherwise be qualified.

Section 8. Additional judicial personnel.

The General Assembly may provide for additional judicial personnel, such as judges of courts not of record and magistrates or justices of the peace, and may prescribe their jurisdiction and provide the manner in which they shall be selected and the terms for which they shall serve.

The General Assembly may confer upon the clerks of the several courts having probate jurisdiction, jurisdiction of the probate of wills and of the appointment and qualification of guardians, personal representatives, curators, appraisers, and committees of persons adjudged insane or convicted of felony, and in the matter of the substitution of trustees.

Section 9. Commission; compensation; retirement.

All justices of the Supreme Court and all judges of other courts of record shall be commissioned by the Governor. They shall receive such salaries and allowances as shall be prescribed by the General Assembly, which shall be apportioned between the Commonwealth and its cities and counties in the manner provided by law. Unless expressly prohibited or limited by the General Assembly, cities and counties shall be permitted to supplement from local funds the salaries of any judges serving within their

geographical boundaries. The salary of any justice or judge shall not be diminished during his term of office.

The General Assembly may enact such laws as it deems necessary for the retirement of justices and judges, with such conditions, compensation, and duties as it may prescribe. The General Assembly may also provide for the mandatory retirement of justices and judges after they reach a prescribed age, beyond which they shall not serve, regardless of the term to which elected or appointed.

Section 10. Disabled and unfit judges.

The General Assembly shall create a Judicial Inquiry and Review Commission consisting of members of the judiciary, the bar, and the public and vested with the power to investigate charges which would be the basis for retirement, censure, or removal of a judge. The Commission shall be authorized to conduct hearings and to subpoena witnesses and documents. Proceedings before the Commission shall be confidential.

If the Commission finds the charges to be well-founded, it may file a formal complaint before the Supreme Court.

Upon the filing of a complaint, the Supreme Court shall conduct a hearing in open court and, upon a finding of disability which is or is likely to be permanent and which seriously interferes with the performance by the judge of his duties, shall retire the judge from office. A judge retired under this authority shall be considered for the purpose of retirement benefits to have retired voluntarily.

If the Supreme Court after the hearing on the complaint finds that the judge has engaged in misconduct while in office, or that he has persistently failed to perform the duties of his office, or that he has engaged in conduct prejudicial to the proper administration of justice, it shall censure him or shall remove him from office. A judge removed under this authority shall not be entitled to retirement benefits, but only to the return of contributions made by him, together with any income accrued thereon.

This section shall apply to justices of the Supreme Court, to judges of other courts of record, and to members of the State Corporation Commission. The General Assembly also may provide by general law for the retirement, censure, or removal of judges of any court not of record, or other personnel exercising judicial functions.

Section 11. Incompatible activities.

No justice or judge of a court of record shall, during his continuance in office, engage in the practice of law within or without the Commonwealth, or seek or accept any non-judicial elective office, or hold any other office of public trust, or engage in any other incompatible activity.

Section 12. Limitation; judicial appointment.

No judge shall be granted the power to make any appointment of any local governmental official elected by the voters except to fill a vacancy in office pending the next ensuing general election or, if the vacancy occurs within one hundred twenty days prior to such election, pending the second ensuing general election.

ARTICLE VII
LOCAL GOVERNMENT

Section 1. Definitions.

As used in this Article (1) "county" means any existing county or any such unit hereafter created, (2) "city" means an independent incor-

porated community which has within defined boundaries a population of five thousand or more and which has become a city as provided by law, (3) "town" means any existing town or an incorporated community within one or more counties which has within defined boundaries a population of one thousand or more and which has become a town as provided by law, (4) "regional government" means a unit of general government organized as provided by law within defined boundaries, as determined by the General Assembly, (5) "general law" means a law which on its effective date applies alike to all counties, cities, towns, or regional governments or to a reasonable classification thereof, and (6) "special act" means a law applicable to a county, city, town, or regional government and for enactment shall require an affirmative vote of two-thirds of the members elected to each house of the General Assembly.

The General Assembly may increase by general law the population minima provided in this Article for cities and towns. Any county which on the effective date of this Constitution had adopted an optional form of government pursuant to a valid statute that does not meet the general law requirements of this Article may continue its form of government without regard to such general law requirements until it adopts a form of government provided in conformity with this Article. In this Article, whenever the General Assembly is authorized or required to act by general law, no special act for that purpose shall be valid unless this Article so provides.

Section 2. Organization and government.

The General Assembly shall provide by general law for the organization, government, powers, change of boundaries, consolidation, and dissolution of counties, cities, towns, and regional governments. The General Assembly may also provide by general law optional plans of government for counties, cities, or towns to be effective if approved by a majority vote of the qualified voters voting on any such plan in any such county, city, or town.

The General Assembly may also provide by special act for the organization, government, and powers of any county, city, town, or regional government, including such powers of legislation, taxation, and assessment as the General Assembly may determine, but no such special act shall be adopted which provides for the extension or contraction of boundaries of any county, city, or town.

Every law providing for the organization of a regional government shall, in addition to any other requirements imposed by the General Assembly, require the approval of the organization of the regional government by a majority vote of the qualified voters voting thereon in each county and city which is to participate in the regional government and of the voters voting thereon in a part of a county or city where only the part is to participate.

Section 3. Powers.

The General Assembly may provide by general law or special act that any county, city, town, or other unit of government may exercise any of its powers or perform any of its functions and may participate in the financing thereof jointly or in cooperation with the Commonwealth or any other unit of government within or without the Commonwealth. The General Assembly may provide by general law or special act for transfer to or sharing with a regional government of any services, functions, and related facilities of any county, city, town, or other unit of government within the boundaries of such regional government.

Section 4. County and city officers.

There shall be elected by the qualified voters of each county and city a treasurer, a sheriff, an attorney for the Commonwealth, a clerk, who shall be clerk of the court in the office of which deeds are recorded, and a commissioner of revenue. The duties and compensation of such officers shall be prescribed by general law or special act.

Regular elections for such officers shall be held on Tuesday after the first Monday in November. Such officers shall take office on the first day of the following January unless otherwise provided by law and shall hold their respective offices for the term of four years, except that the clerk shall hold office for eight years.

The General Assembly may provide for county or city officers or methods of their selection, including permission for two or more units of government to share the officers required by this section, without regard to the provisions of this section, either (1) by general law to become effective in any county or city when submitted to the qualified voters thereof in an election held for such purpose and approved by a majority of those voting thereon in each such county or city, or (2) by special act upon the request, made after such an election, of each county or city affected. No such law shall reduce the term of any person holding an office at the time the election is held. A county or city not required to have or to elect such officers prior to the effective date of this Constitution shall not be so required by this section.

The General Assembly may provide by general law or special act for additional officers and for the terms of their office.

Section 5. County, city, and town governing bodies.

The governing body of each county, city, or town shall be elected by the qualified voters of such county, city, or town in the manner provided by law.

If the members are elected by district, the district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. When members are so elected by district, the governing body of any county, city, or town may, in a manner provided by law, increase or diminish the number, and change the boundaries, of districts, and shall in nineteen hundred and seventy-one and every ten years thereafter, and also whenever the boundaries of such districts are changed, reapportion the representation in the governing body among the districts in a manner provided by law. Whenever the governing body of any such unit shall fail to perform the duties so prescribed in the manner herein directed, a suit shall lie on behalf of any citizen thereof to compel performance by the governing body.

Unless otherwise provided by law, the governing body of each city or town shall be elected on the second Tuesday in June and take office on the first day of the following September. Unless otherwise provided by law, the governing body of each county shall be elected on the Tuesday after the first Monday in November and take office on the first day of the following January.

Section 6. Multiple offices.

Unless two or more units exercise functions jointly as authorized in sections 3 and 4, no person shall at the same time hold more than one office mentioned in this Article. No member of a governing body shall be

eligible, during the term of office for which he was elected or appointed, to hold any office filled by the governing body by election or appointment, except that a member of a governing body may be named a member of such other boards, commissions, and bodies as may be permitted by general law.

Section 7. Procedures.

No ordinance or resolution appropriating money exceeding the sum of five hundred dollars, imposing taxes, or authorizing the borrowing of money shall be passed except by a recorded affirmative vote of a majority of all members elected to the governing body. In case of the veto of such an ordinance or resolution, where the power of veto exists, it shall require for passage thereafter a recorded affirmative vote of two-thirds of all members elected to the governing body.

On final vote on any ordinance or resolution, the name of each member voting and how he voted shall be recorded.

Section 8. Consent to use public property.

No street railway, gas, water, steam or electric heating, electric light or power, cold storage, compressed air, viaduct, conduit, telephone, or bridge company, nor any corporation, association, person, or partnership engaged in these or like enterprises shall be permitted to use the streets, alleys, or public grounds of a city or town without the previous consent of the corporate authorities of such city or town.

Section 9. Sale of property and granting of franchises by cities and towns.

No rights of a city or town in and to its waterfront, wharf property, public landings, wharves, docks, streets, avenues, parks, bridges, or other public places, or its gas, water, or electric works shall be sold except by an ordinance or resolution passed by a recorded affirmative vote of three-fourths of all members elected to the governing body.

No franchise, lease, or right of any kind to use any such public property or any other public property or easement of any description in a manner not permitted to the general public shall be granted for a longer period than forty years, except for air rights together with easements for columns of support, which may be granted for a period not exceeding sixty years. Before granting any such franchise or privilege for a term in excess of five years, except for a trunk railway, the city or town shall, after due advertisement, publicly receive bids therefor. Such grant, and any contract in pursuance thereof, may provide that upon the termination of the grant, the plant as well as the property, if any, of the grantee in the streets, avenues, and other public places shall thereupon, without compensation to the grantee, or upon the payment of a fair valuation therefor, become the property of the said city or town; but the grantee shall be entitled to no payment by reason of the value of the franchise. Any such plant or property acquired by a city or town may be sold or leased or, unless prohibited by general law, maintained, controlled, and operated by such city or town. Every such grant shall specify the mode of determining any valuation therein provided for and shall make adequate provisions by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates and the maintenance of the property in good order throughout the term of the grant.

Section 10. Debt.

(a) No city or town shall issue any bonds or other interest-bearing obligations which, including existing indebtedness, shall at any time ex-

ceed eighteen per centum of the assessed valuation of the real estate in the city or town subject to taxation, as shown by the last preceding assessment for taxes. In determining the limitation for a city or town there shall not be included the following classes of indebtedness.

(1) Certificates of indebtedness, revenue bonds, or other obligations issued in anticipation of the collection of the revenues of such city or town for the then current year; provided that such certificates, bonds, or other obligations mature within one year from the date of their issue, be not past due, and do not exceed the revenue for such year.

(2) Bonds pledging the full faith and credit of such city or town authorized by an ordinance enacted in accordance with section 7, and approved by the affirmative vote of the qualified voters of the city or town voting upon the question of their issuance, for a supply of water or other specific undertaking from which the city or town may derive a revenue; but from and after a period to be determined by the governing body not exceeding five years from the date of such election, whenever and for so long as such undertaking fails to produce sufficient revenue to pay for cost of operation and administration (including interest on bonds issued therefor), the cost of insurance against loss by injury to persons or property, and an annual amount to be placed into a sinking fund sufficient to pay the bonds at or before maturity, all outstanding bonds issued on account of such undertaking shall be included in determining such limitation.

(3) Bonds of a city or town the principal and interest on which are payable exclusively from the revenues and receipts of a water system or other specific undertaking or undertakings from which the city or town may derive a revenue or secured, solely or together with such revenues, by contributions of other units of government.

(4) Contract obligations of a city or town to provide payments over a period of more than one year to any publicly owned or controlled regional project, if the project has been authorized by an interstate compact or if the General Assembly by general law or special act has authorized an exclusion for such project purposes.

(b) No debt shall be contracted by or on behalf of any county or district thereof or by or on behalf of any regional government or district thereof except by authority conferred by the General Assembly by general law. The General Assembly shall not authorize any such debt except the classes described in paragraphs (1) and (3) of subsection (a), refunding bonds, and bonds issued, with the consent of the school board and the governing body of the county, by or on behalf of a county or district thereof for capital projects for school purposes and sold to the Literary Fund, the Virginia Supplemental Retirement System, or other state agency prescribed by law, unless in the general law authorizing the same, provision be made for submission to the qualified voters of the county or district thereof or the region or district thereof, as the case may be, for approval or rejection by a majority vote of the qualified voters voting in an election on the question of contracting such debt. Such approval shall be a prerequisite to contracting such debt.

Any county may, upon approval by the affirmative vote of the qualified voters of the county voting in an election on the question, elect to be treated as a city for the purposes of issuing its bonds under this section. If a county so elects, it shall thereafter be subject to all of the benefits and limitations of this section applicable to cities, but in determining the limitation for a county there shall be included, unless otherwise excluded

under this section, indebtedness of any town or district in that county empowered to levy taxes on real estate.

ARTICLE VIII

EDUCATION

Section 1. Public schools of high quality to be maintained.

The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained.

Section 2. Standards of quality; state and local support of public schools.

Standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly.

The General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality, and shall provide for the apportionment of the cost of such program between the Commonwealth and the local units of government comprising such school divisions. Each unit of local government shall provide its portion of such cost by local taxes or from other available funds.

Section 3. Compulsory education; free textbooks.

The General Assembly shall provide for the compulsory elementary and secondary education of every eligible child of appropriate age, such eligibility and age to be determined by law. It shall ensure that textbooks are provided at no cost to each child attending public school whose parent or guardian is financially unable to furnish them.

Section 4. Board of Education.

The general supervision of the public school system shall be vested in a Board of Education of nine members, to be appointed by the Governor, subject to confirmation by the General Assembly. Each appointment shall be for four years, except that those to fill vacancies shall be for the unexpired terms. Terms shall be staggered, so that no more than three regular appointments shall be made in the same year.

Section 5. Powers and duties of the Board of Education.

The powers and duties of the Board of Education shall be as follows:

(a) Subject to such criteria and conditions as the General Assembly may prescribe, the Board shall divide the Commonwealth into school divisions of such geographical area and school-age population as will promote the realization of the prescribed standards of quality, and shall periodically review the adequacy of existing school divisions for this purpose.

(b) It shall make annual reports to the Governor and the General Assembly concerning the condition and needs of public education in the Commonwealth, and shall in such report identify any school divisions which have failed to establish and maintain schools meeting the prescribed standards of quality.

(c) It shall certify to the school board of each division a list of qualified persons for the office of division superintendent of schools, one of

whom shall be selected to fill the post by the division school board. In the event a division school board fails to select a division superintendent within the time prescribed by law, the Board of Education shall appoint him.

(d) It shall have authority to approve textbooks and instructional aids and materials for use in courses in the public schools of the Commonwealth.

(e) Subject to the ultimate authority of the General Assembly, the Board shall have primary responsibility and authority for effectuating the educational policy set forth in this Article, and it shall have such other powers and duties as may be prescribed by law.

Section 6. Superintendent of Public Instruction.

A Superintendent of Public Instruction, who shall be an experienced educator, shall be appointed by the Governor, subject to confirmation by the General Assembly, for a term coincident with that of the Governor making the appointment, but the General Assembly may alter by statute this method of selection and term of office. The powers and duties of the Superintendent shall be prescribed by law.

Section 7. School boards.

The supervision of schools in each school division shall be vested in a school board, to be composed of members selected in the manner, for the term, possessing the qualifications, and to the number provided by law.

Section 8. The Literary Fund.

The General Assembly shall set apart as a permanent and perpetual school fund the present Literary Fund; the proceeds of all public lands donated by Congress for free public school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the Commonwealth by forfeiture, of all fines collected for offenses committed against the Commonwealth, and of the annual interest on the Literary Fund; and such other sums as the General Assembly may appropriate. But so long as the principal of the Fund totals as much as eighty million dollars, the General Assembly may set aside all or any part of additional moneys received into its principal for public school purposes, incuding the teachers retirement fund.

The Literary Fund shall be held and administered by the Board of Education in such manner as may be provided by law. The General Assembly may authorize the Board to borrow other funds against assets of the Literary Fund as collateral, such borrowing not to involve the full faith and credit of the Commonwealth.

The principal of the Fund shall include assets of the Fund in other funds or authorities which are repayable to the Fund.

Section 9. Other educational institutions.

The General Assembly may provide for the establishment, maintenance, and operation of any educational institutions which are desirable for the intellectual, cultural, and occupational development of the people of this Commonwealth. The governance of such institutions, and the status and powers of their boards of visitors or other governing bodies, shall be as provided by law.

Section 11. Aid to nonpublic higher education.

The General Assembly may provide for loans to students attending nonprofit institutions of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education. The General Assembly may also provide for a state agency or authority to assist in borrowing money for construction of educational facilities at such institutions, provided that the Commonwealth shall not be liable for any debt created by such borrowing.

ARTICLE IX

CORPORATIONS

Section 1. State Corporation Commission.

There shall be a permanent commission which shall be known as the State Corporation Commission and which shall consist of three members. The General Assembly may, by majority vote of the members elected to each house, increase the size of the Commission to no more than five members. Members of the Commission shall be elected by the General Assembly and shall serve for regular terms of six years. At least one member of the Commission shall have the qualifications prescribed for judges of courts of record, and any Commissioner may be impeached or removed in the manner provided for the impeachment or removal of judges of courts of record. The General Assembly may enact such laws as it deems necessary for the retirement of the Commissioners, with such conditions, compensation, and duties as it may prescribe. The General Assembly may also provide for the mandatory retirement of Commissioners after they reach a prescribed age, beyond which they shall not serve, regardless of the term to which elected or appointed. Whenever a vacancy in the Commission shall occur or exist when the General Assembly is in session, the General Assembly shall elect a successor for such unexpired term. If the General Assembly is not in session, the Governor shall forthwith appoint pro tempore a qualified person to fill the vacancy for a term ending thirty days after the commencement of the next regular session of the General Assembly, and the General Assembly shall elect a successor for such unexpired term.

The Commission shall annually elect one of its members chairman. Its subordinates and employees, and the manner of their appointment and removal, shall be as provided by law, except that its heads of divisions and assistant heads of divisions shall be appointed and subject to removal by the Commission.

Section 2. Powers and duties of the Commission.

Subject to the provisions of this Constitution and to such requirements as may be prescribed by law, the Commission shall be the department of government through which shall be issued all charters, and amendments or extensions thereof, of domestic corporations and all licenses of foreign corporations to do business in this Commonwealth.

Except as may be otherwise prescribed by this Constitution or by law, the Commission shall be charged with the duty of administering the laws made in pursuance of this Constitution for the regulation and control of corporations doing business in this Commonwealth. Subject to such criteria and other requirements as may be prescribed by law, the Commission shall have the power and be charged with the duty of regulating the rates,

charges, and services and, except as may be otherwise authorized by this Constitution or by general law, the facilities of railroad, telephone, gas, and electric companies.

The Commission shall in proceedings before it ensure that the interests of the consumers of the Commonwealth are represented, unless the General Assembly otherwise provides for representation of such interests.

The Commission shall have such other powers and duties not inconsistent with this Constitution as may be prescribed by law.

Section 3. Procedures of the Commission.

Before promulgating any general order, rule, or regulation, the Commission shall give reasonable notice of its contents.

In all matters within the jurisdiction of the Commission, it shall have the powers of a court of record to administer oaths, to compel the attendance of witnesses and the production of documents, to punish for contempt, and to enforce compliance with its lawful orders or requirements by adjudging and enforcing by its own appropriate process such fines or other penalties as may be prescribed or authorized by law. Before the Commission shall enter any finding, order, or judgment against a party it shall afford such party reasonable notice of the time and place at which he shall be afforded an opportunity to introduce evidence and be heard.

The Commission may prescribe its own rules of practice and procedure not inconsistent with those made by the General Assembly. The General Assembly shall have the power to adopt such rules, to amend, modify, or set aside the Commission's rules, or to substitute rules of its own.

Section 4. Appeals from actions of the Commission.

The Commonwealth, any party in interest, or any party aggrieved by any final finding, order, or judgment of the Commission shall have, of right, an appeal to the Supreme Court. The method of taking and prosecuting an appeal from any action of the Commission shall be prescribed by law or by the rules of the Supreme Court. All appeals from the Commission shall be to the Supreme Court only.

No other court of the Commonwealth shall have jurisdiction to review, reverse, correct, or annul any action of the Commission or to enjoin or restrain it in the performance of its official duties, provided, however, that the writs of mandamus and prohibition shall lie from the Supreme Court to the Commission.

Section 5. Foreign corporations.

No foreign corporation shall be authorized to carry on in this Commonwealth the business of, or to exercise any of the powers or functions of, a public service enterprise, or be permitted to do anything which domestic corporations are prohibited from doing, or be relieved from compliance with any of the requirements made of similar domestic corporations by the Constitution and laws of this Commonwealth. However, nothing in this section shall restrict the power of the General Assembly to enact such laws specially applying to foreign corporations as the General Assembly may deem appropriate.

Section 6. Corporations subject to general laws.

The creation of corporations, and the extension and amendment of charters whether heretofore or hereafter granted, shall be provided for by general law, and no charter shall be granted, amended, or extended by

special act, nor shall authority in such matters be conferred upon any tribunal or officer, except to ascertain whether the applicants have, by complying with the requirements of the law, entitled themselves to the charter, amendment, or extension applied for and to issue or refuse the same accordingly. Such general laws may be amended, repealed, or modified by the General Assembly. Every corporation chartered in this Commonwealth shall be deemed to hold its charter and all amendments thereof under the provisions of, and subject to all the requirements, terms, and conditions of, this Constitution and any laws passed in pursuance thereof. The police power of the Commonwealth to regulate the affairs of corporations, the same as individuals, shall never be abridged.

Section 7. Exclusions from term "corporation" or "company."

The term "corporation" or "company" as used in this Article shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the Commonwealth.

ARTICLE X

TAXATION AND FINANCE

Section 1. Taxable property; uniformity; classification and segregation.

All property, except as hereinafter provided, shall be taxed. All taxes shall be levied and collected under general laws and shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, except that the General Assembly may provide for differences in the rate of taxation to be imposed upon real estate by a city or town within all or parts of areas added to its territorial limits, or by a new unit of general government, within its area, created by or encompassing two or more, or parts of two or more, existing units of general government. Such differences in the rate of taxation shall bear a reasonable relationship to differences between nonrevenue producing governmental services giving land urban character which are furnished in one or several areas in contrast to the services furnished in other areas of such unit of government.

The General Assembly may define and classify taxable subjects. Except as to classes of property herein expressly segregated for either state or local taxation, the General Assembly may segregate the several classes of property so as to specify and determine upon what subjects state taxes, and upon what subjects local taxes, may be levied.

Section 2. Assessments.

All assessments of real estate and tangible personal property shall be at their fair market value, to be ascertained as prescribed by law. The General Assembly may define and classify real estate devoted to agricultural, horticultural, forest, or open space uses, and may by general law authorize any county, city, town, or regional government to allow deferral of, or relief from, portions of taxes otherwise payable on such real estate if it were not so classified, provided the General Assembly shall first determine that classification of such real estate for such purpose is in the public interest for the preservation or conservation of real estate for such uses. In the event the General Assembly defines and classifies real estate for such purposes, it shall prescribe the limits, conditions, and extent of such deferral or relief. No such deferral or relief shall be granted within the territorial limits of any county, city, town, or regional government except by ordinance adopted by the governing body thereof.

So long as the Commonwealth shall levy upon any public service corporation a state franchise, license, or other similar tax based upon or measured by its gross receipts or gross earnings, or any part thereof, its real estate and tangible personal property shall be assessed by a central state agency, as prescribed by law.

Section 3. Taxes or assessments upon abutting property owners.

The General Assembly by general law may authorize any county, city, town, or regional government to impose taxes or assessments upon abutting property owners for such local public improvements as may be designated by the General Assembly; however, such taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owners.

Section 4. Property segregated for local taxation; exceptions.

Real estate, coal and other mineral lands, and tangible personal property, except the rolling stock of public service corporations, are hereby segregated for, and made subject to, local taxation only, and shall be assessed for local taxation in such manner and at such times as the General Assembly may prescribe by general law.

Section 5. Franchise taxes; taxation of corporate stock.

The General Assembly, in imposing a franchise tax upon corporations, may in its discretion make the same in lieu of taxes upon other property, in whole or in part, of such corporations. Whenever a franchise tax shall be imposed upon a corporation doing business in this Commonwealth, or whenever all the capital, however invested, of a corporation chartered under the laws of this Commonwealth shall be taxed, the shares of stock issued by any such corporation shall not be further taxed.

Section 6. Exempt property.

(a) Except as otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, state and local, including inheritance taxes:

(1) Property owned directly or indirectly by the Commonwealth or any political subdivision thereof, and obligations of the Commonwealth or any political subdivision thereof exempt by law.

(2) Real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers.

(3) Private or public burying grounds or cemeteries, provided the same are not operated for profit.

(4) Property owned by public libraries or by institutions of learning, not conducted for profit, so long as such property is primarily used for literary, scientific, or educational purposes or purposes incidental thereto. This provision may also apply to leasehold interests in such property as may be provided by general law.

(5) Intangible personal property, or any class or classes thereof, as may be exempted in whole or in part by general law.

(6) Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, as may be provided by classification or designation by a three-fourths vote of the members elected to each house of the General Assembly and subject to such restrictions and conditions as may be prescribed.

(b) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for the exemption from local real property taxation, or a portion thereof, within such restrictions and upon such conditions as may be prescribed, of real estate owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age who are deemed by the General Assembly to be bearing an extraordinary tax burden on said real estate in relation to their income and financial worth.

(c) Except as to property of the Commonwealth, the General Assembly by general law may restrict or condition, in whole or in part, but not extend, any or all of the above exemptions.

(d) The General Assembly may define as a separate subject of taxation any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(e) The General Assembly may define as a separate subject of taxation household goods and personal effects and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(f) Exemptions of property from taxation as established or authorized hereby shall be strictly construed; provided, however, that all property exempt from taxation on the effective date of this section shall continue to be exempt until otherwise provided by the General Assembly as herein set forth.

(g) The General Assembly may by general law authorize any county, city, town, or regional government to impose a service charge upon the owners of a class or classes of exempt property for services provided by such governments.

Section 7. Collection and disposition of state revenues.

All taxes, licenses, and other revenues of the Commonwealth shall be collected by its proper officers and paid into the state treasury. No money shall be paid out of the state treasury except in pursuance of appropriations made by law; and no such appropriation shall be made which is payable more than two years and six months after the end of the session of the General Assembly at which the law is enacted authorizing the same.

Section 8. Limit of tax or revenue.

No other or greater amount of tax or revenues shall, at any time, be levied than may be required for the necessary expenses of the government, or to pay the indebtedness of the Commonwealth.

Section 9. State debt.

No debt shall be contracted by or in behalf of the Commonwealth except as provided herein.

(a) Debts to meet emergencies and redeem previous debt obligations.

The General Assembly may (1) contract debts to suppress insurrection, repel invasion, or defend the Commonwealth in time of war; (2)

contract debts, or may authorize the Governor to contract debts, to meet casual deficits in the revenue or in anticipation of the collection of revenues of the Commonwealth for the then current fiscal year within the amount of authorized appropriations, provided that the total of such indebtedness shall not exceed thirty per centum of an amount equal to 1.15 times the average annual tax revenues of the Commonwealth derived from taxes on income and retail sales, as certified by the Auditor of Public Accounts, for the preceding fiscal year and that each such debt shall mature within twelve months from the date such debt is incurred; and (3) contract debts to redeem a previous debt obligation of the Commonwealth.

The full faith and credit of the Commonwealth shall be pledged to any debt created under this subsection. The amount of such debt shall not be included in the limitations on debt hereinafter established, except that the amount of debt incurred pursuant to clause (3) above shall be included in determining the limitation on the aggregate amount of general obligation debt for capital projects permitted elsewhere in this Article unless the debt so incurred pursuant to clause (3) above is secured by a pledge of net revenues from capital projects of institutions or agencies administered solely by the executive department of the Commonwealth or of institutions of higher learning of the Commonwealth, which net revenues the Governor shall certify are anticipated to be sufficient to pay the principal of and interest on such debt and to provide such reserves as the law authorizing the same may require, in which event the amount thereof shall be included in determining the limitation on the aggregate amount of debt contained in the provision of this Article which authorizes general obligation debt for certain revenue producing capital projects.

(b) General obligation debt for capital projects and sinking fund.

The General Assembly may, upon the affirmative vote of a majority of the members elected to each house, authorize the creation of debt to which the full faith and credit of the Commonwealth is pledged, for capital projects to be distinctly specified in the law authorizing the same; provided that any such law shall specify capital projects constituting a single purpose and shall not take effect until it shall have been submitted to the people at an election and a majority of those voting on the question shall have approved such debt. No such debt shall be authorized by the General Assembly if the amount thereof when added to amounts approved by the people, or authorized by the General Assembly and not yet submitted to the people for approval, under this subsection during the three fiscal years immediately preceding the authorization by the General Assembly of such debt and the fiscal year in which such debt is authorized shall exceed twenty-five per centum of an amount equal to 1.15 times the average annual tax revenues of the Commonwealth derived from taxes on income and retail sales, as certified by the Auditor of Public Accounts, for the three fiscal years immediately preceding the authorization of such debt by the General Assembly.

No debt shall be incurred under this subsection if the amount thereof when added to the aggregate amount of all outstanding debt to which the full faith and credit of the Commonwealth is pledged other than that excluded from this limitation by the provisions of this Article authorizing the contracting of debts to redeem a previous debt obligation of the Commonwealth and for certain revenue-producing capital projects, less any amounts set aside in sinking funds for the repayment of such outstanding debt, shall exceed an amount equal to 1.15 times the average annual tax revenues of the Commonwealth derived from taxes on income and retail sales, as certified by the Auditor of Public Accounts, for the three fiscal years immediately preceding the incurring of such debt.

All debt incurred under this subsection shall mature within a period not to exceed the estimated useful life of the projects as stated in the authorizing law, which statement shall be conclusive, or a period of thirty years, whichever is shorter; and all debt incurred to redeem a previous debt obligation of the Commonwealth, except that which is secured by net revenues anticipated to be sufficient to pay the same and provide reserves therefor, shall mature within a period not to exceed thirty years. Such debt shall be amortized, by payment into a sinking fund or otherwise, in annual installments of principal to begin not later than one-tenth of the term of the bonds, and any such sinking fund shall not be appropriated for any other purpose; if such debt be for public road purposes, such payment shall be first made from revenues segregated by law for the construction and maintenance of state highways. No such installment shall exceed the smallest previous installment by more than one hundred per centum. If sufficient funds are not appropriated in the budget for any fiscal year for the timely payment of the interest upon and installments of principal of such debt, there shall be set apart by direction of the Governor, from the first general fund revenues received during such fiscal year and thereafter, a sum sufficient to pay such interest and installments of principal.

(c) Debt for certain revenue producing capital projects.

The General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth, and such debt shall not be included in determining the limitation on general obligation debt for capital projects as permitted elsewhere in this Article, provided that

(1) the creation of such debt is authorized by the affirmative vote of two-thirds of the members elected to each house of the General Assembly; and

(2) such debt is created for specific revenue producing capital projects (including the enlargement or improvement thereof), which shall be distinctly specified in the law authorizing the same, of institutions and agencies administered solely by the executive department of the Commonwealth or of institutions of higher learning of the Commonwealth.

Before any such debt shall be authorized by the General Assembly, and again before it shall be incurred, the Governor shall certify in writing, filed with the Auditor of Public Accounts, his opinion, based upon responsible engineering and economic estimates, that the anticipated net revenues to be pledged to the payment of principal of and interest on such debt will be sufficient to meet such payments as the same become due and to provide such reserves as the law authorizing such debt may require, and that the projects otherwise comply with the requirements of this subsection, which certifications shall be conclusive.

No debt shall be incurred under this subsection if the amount thereof when added to the aggregate amount of all outstanding debt authorized by this subsection and the amount of all outstanding debt incurred to redeem a previous debt obligation of the Commonwealth which is to be included in the limitation of this subsection by virtue of the provisions of this Article authorizing the contracting of debts to redeem a previous debt obligation of the Commonwealth, less any amounts set aside in sinking funds for the payment of such debt, shall exceed an amount equal to 1.15 times the average annual tax revenues of the Commonwealth derived from taxes on income and retail sales, as certified by the Auditor of Public Accounts, for the three fiscal years immediately preceding the incurring of such debt.

This subsection shall not be construed to pledge the full faith and credit of the Commonwealth to the payment of any obligation of the

Commonwealth, or any institution, agency, or authority thereof, or to any refinancing or reissuance of such obligation which was incurred prior to the effective date of this subsection.

(d) Obligations to which section not applicable.

The restrictions of this section shall not apply to any obligation incurred by the Commonwealth or any institution, agency, or authority thereof if the full faith and credit of the Commonwealth is not pledged or committed to the payment of such obligation.

Section 10. Lending of credit, stock subscriptions, and works of internal improvement.

Neither the credit of the Commonwealth nor of any county, city, town, or regional government shall be directly or indirectly, under any device or pretense whatsoever, granted to or in aid of any person, association, or corporation; nor shall the Commonwealth or any such unit of government subscribe to or become interested in the stock or obligations of any company, association, or corporation for the purpose of aiding in the construction or maintenance of its work; nor shall the Commonwealth become a party to or become interested in any work of internal improvement, except public roads and public parks, or engage in carrying on any such work; nor shall the Commonwealth assume any indebtedness of any county, city, town, or regional government, nor lend its credit to the same. This section shall not be construed to prohibit the General Assembly from establishing an authority with power to insure and guarantee loans to finance industrial development and industrial expansion and from making appropriations to such authority.

Section 11. Governmental employee retirement system fund.

The General Assembly shall maintain a state employees retirement system to be administered in the best interest of the beneficiaries thereof and subject to such restrictions or conditions as may be prescribed by the General Assembly.

ARTICLE XI

CONSERVATION

Section 1. Natural resources and historical sites of the Commonwealth.

To the end that the people have clean air, pure water, and the use and enjoyment for recreation of adequate public lands, waters, and other natural resources, it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings. Further, it shall be the Commonwealth's policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth.

Section 2. Conservation and development of natural resources and historical sites.

In the furtherance of such policy, the General Assembly may undertake the conservation, development, or utilization of lands or natural resources of the Commonwealth, the acquisition and protection of historical sites and buildings, and the protection of its atmosphere, lands, and waters from pollution, impairment, or destruction, by agencies of the Commonwealth or by the creation of public authorities, or by leases or other contracts with agencies of the United States, with other states, with units of

government in the Commonwealth, or with private persons or corporations. Notwithstanding the time limitations of the provisions of Article X, section 7, of this Constitution, the Commonwealth may participate for any period of years in the cost of projects which shall be the subject of a joint undertaking between the Commonwealth and any agency of the United States or of other states.

Section 3. Natural oyster beds.

The natural oyster beds, rocks, and shoals in the waters of the Commonwealth shall not be leased, rented, or sold but shall be held in trust for the benefit of the people of the Commonwealth, subject to such regulations and restriction as the General Assembly may prescribe, but the General Assembly may, from time to time, define and determine such natural beds, rocks, or shoals by surveys or otherwise.

ARTICLE XII

FUTURE CHANGES

Section 1. Amendments.

Any amendment or amendments to this Constitution may be proposed in the Senate or House of Delegates, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, the name of each member and how he voted to be recorded, and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates. If at such regular session or any subsequent special session of that General Assembly the proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the voters qualified to vote in elections by the people, in such manner as it shall prescribe and not sooner than ninety days after final passage by the General Assembly. If a majority of those voting vote in favor of any amendment, it shall become part of the Constitution on the date prescribed by the General Assembly in submitting the amendment to the voters.

Section 2. Constitutional convention.

The General Assembly may, by a vote of two-thirds of the members elected to each house, call a convention to propose a general revision of, or specific amendments to, this Constitution, as the General Assembly in its call may stipulate.

The General Assembly shall provide by law for the election of delegates to such a convention, and shall also provide for the submission, in such manner as it shall prescribe and not sooner than ninety days after final adjournment of the convention, of the proposals of the convention to the voters qualified to vote in elections by the people. If a majority of those voting vote in favor of any proposal, it shall become effective on the date prescribed by the General Assembly in providing for the submission of the convention proposals to the voters.

SCHEDULE

Section 1. Effective date of revised Constitution.

This revised Constitution shall, except as is otherwise provided herein, go into effect at noon on the first day of July, nineteen hundred and seventy-one.

Section 2. Officers and elections.

Unless otherwise provided herein or by law, nothing in this revised Constitution shall affect the oath, tenure, term, status, or compensation of any person holding any public office, position, or employment in the Commonwealth, nor affect the date for filling any state or local office, elective or appointive, which shall be filled on the date on which it would otherwise have been filled.

Section 3. Laws, proceedings, and obligations unaffected.

The common and statute law in force at the time this revised Constitution goes into effect, so far as not in conflict therewith, shall remain in force until they expire by their own limitation or are altered or repealed by the General Assembly. Unless otherwise provided herein or by law, the adoption of this revised Constitution shall have no effect on pending judicial proceedings or judgments, on any obligations owing to or by the Commonwealth or any of its officers, agencies, or political subdivisions, or on any private obligations or rights.

Section 4. Qualifications of judges.

The requirement of Article VI, section 7, that justices of the Supreme Court and judges of courts of record shall, at least five years prior to their election or appointment, have been members of the bar of the Commonwealth, shall not preclude justices or judges who were elected or appointed prior to the effective date of this revised Constitution, and who are otherwise qualified, from completing the term for which they were elected or appointed and from being reelected for one additional term.

Section 5. First session of General Assembly following adoption of revised Constitution.

The General Assembly shall convene at the Capitol at noon on the first Wednesday in January, nineteen hundred and seventy-one. It shall enact such laws as may be deemed proper, including those necessary to implement this revised Constitution. The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with Article II, section 6, of this Constitution. The General Assembly shall be vested with all the powers, charged with all the duties, and subject to all the limitations prescribed by this Constitution except that this session shall continue as long as may be necessary; that the salary and allowances of members shall not be limited by section 46 of the Constitution of 1902 as amended and that the effective date limitation of section 53 of the Constitution of 1902 as amended shall not be operative.

APPENDIX B
HOUSE JOINT RESOLUTION NO. 106

APPENDIX B

HOUSE JOINT RESOLUTION NO. 106

Directing the Virginia Code Commission to make certain revisions and study certain matters, and authorizing the Commission to propose a complete recodification of the statute laws.

Resolved by the House of Delegates, the Senate concurring, That the Virginia Code Commission is directed to:

(1) Undertake a general revision of the Code of Virginia, with particular reference to amendments throughout the Code which will be made necessary should the proposed Revision of the Constitution of Virginia be adopted by the voters at the referendum to be held this year on that issue; and

(2) Undertake the study of such other matters as may be referred to the Commission.

(3) Undertake a study of the desirability of adopting, in whole or in part, the Uniform Consumer Credit Code.

(4) Undertake a study and report on all matters relating to separation and divorce.

(5) Undertake a study of Virginia's Workmen's Compensation laws and changes necessitated by the Federal Coal Mine Health and Safety Act of 1969, and other Federal laws.

(6) Undertake a study and report on the rule against perpetuities with a view toward preserving its basic policy while making it comprehensible.

Resolved, further, That the Commission is authorized to propose a complete recodification of the statute laws of this State of a general nature, beginning with the latest official Code, the Code of Virginia of 1950, and all Acts of the General Assembly subsequent thereto.

The Commission may employ such legal counsel and experts, and stenographic, secretarial and clerical personnel as necessary to carry out the directives of and exercise the authority conferred by this Resolution; and may for these purposes expend funds appropriated to it.

All agencies of the State shall assist the Commission in the studies which it makes pursuant to the provisions of this Resolution, when requested.

The Commission shall make a report, containing its recommendations for amendments in the Code made necessary by the above-mentioned proposed Revision of the Constitution, to the Governor and the General Assembly not later than December fifteen, nineteen hundred seventy.

The Commission shall make its report, or reports, and recommendations on the other matters, which it will study pursuant to the provisions of this Resolution, not later than December fifteen, nineteen hundred seventy-one.

APPENDIX C
TABLE OF CODE SECTIONS AFFECTED

APPENDIX C

Table of Code Sections Affected

The following is a list of the Sections of the Code of Virginia of 1950, as amended, that would be affected by the new Constitution. Opposite each section is a notation of the action necessary.

Title 1 (General Provisions)

1-12	Amend
1-13.2	Amend
1-13.5:1	New
1-13.21	Amend
1-13.26	Amend
1-13.27:1	New
1-13.29	Amend
1-13.38	Amend
1-13.41	New

Title 2 (Administration of the Government Generally)

2.1-37.1	New
2.1-37.2	New
2.1-37.3	New
2.1-37.4	New
2.1-37.5	New
2.1-37.6	New
2.1-37.7	New
2.1-37.8	New
2.1-37.9	New
2.1-37.10	New
2.1-37.11	New
2.1-37.12	New
2.1-37.13	New
2.1-37.14	New
2.1-37.15	New
2.1-37.16	New
2.1-37.17	New
2.1-37.18	New
2.1-118	Amend
2.1-153	Amend
2.1-177	Amend
2.1-257	Amend
2.1-303	Amend
2.1-316	Amend
2.1-345	Amend

Title 3.1 (Agriculture, Horticulture and Food)

3.1-8	Amend

Title 4 (Alcoholic Beverages and Industrial Alcohol)

4-4	Amend
4-56	Amend

Title 5.1 (Aviation)

5.1-33	Amend
5.1-77	Amend
5.1-125	Amend
5.1-136	Amend

Title 6.1 (Banking and Finance)

No changes necessary

Title 7.1 (Boundaries, Jurisdiction and Emblems of the Commonwealth)

No changes necessary

Title 8 (Civil Remedies and Procedure; Evidence Generally)

8-1.2	Amend
8-494	Repeal
8-581.1	Amend
8-653	Amend

Titles 8.1 through 8.10 (Uniform Commercial Code)

No changes necessary

Title 9 (Commissions, Boards and Institutions Generally)

9-107	Amend

Title 10 (Conservation Generally)

No changes necessary

Title 11 (Contracts)

No changes necessary

Title 12 (Corporation Commission)

12-1	Repeal
12.1-1	New
12-2	Repeal
12.1-2	New
12-3	Repeal
12.1-3	New
12-4	Repeal
12.1-4	New
12-5	Repeal
12.1-5	New
12-6	Repeal
12.1-6	New
12-7	Repeal
12.1-7	New
12-8	Repeal
12.1-8	New
12-9	Repeal
12.1-9	New
12-10	Repeal
12.1-10	New
12-11	Repeal
12.1-11	New
12-12	Repeal
12.1-12	New
12-13	Repeal
12.1-13	New
12-14	Repeal
12.1-14	New
12-15	Repeal
12.1-15	New

12-16	Repeal
12.1-16	New
12-17	Repeal
12.1-17	New
12-18	Repeal
12.1-18	New
12-19	Repeal
12.1-19	New
12-20	Repeal
12.1-20	New
12-21	Repeal
12.1-21	New
12-22	Repeal
12.1-22	New
12-23	Repeal
12.1-23	New
12-24	Repeal
12.1-24	New
12-25	Repeal
12.1-25	New
12-26	Repeal
12.1-26	New
12-27	Repeal
12.1-27	New
12-28	Repeal
12.1-28	New
12-29	Repeal
12.1-29	New
12-30	Repeal
12.1-30	New
12-31	Repeal
12.1-31	New
12-32	Repeal
12.1-32	New
12-33	Repeal
12.1-33	New
12-34	Repeal
12.1-34	New
12-35	Repeal
12.1-35	New
12-36	Repeal
12.1-36	New
12-37	Repeal
12.1-37	New
12-38	Repeal
12.1-38	New
12-39	Repeal
12.1-39	New
12-40	Repeal
12.1-40	New
12-41	Repeal
12.1-41	New
12-42	Repeal
12.1-42	New
12-43	Repeal
12.1-43	New
12-44	Repeal
12-45	Repeal

12-46	Repeal
12-47	Repeal
12-48	Repeal
12-49	Repeal
12-50	Repeal
12-51	Repeal
12-52	Repeal
12-53	Repeal
12-54	Repeal
12-55	Repeal
12-56	Repeal
12-57	Repeal
12-57.1	Repeal
12-58	Repeal
12-59	Repeal
12-60	Repeal
12-61	Repeal
12-62	Repeal
12-63	Repeal
12-63.1	Repeal
12-64	Repeal
12-65 Repeal and redesignate as 38.1-379.1	
12-66 Repeal and redesignate as 38.1-379.2	
12-67 Repeal and redesignate as 38.1-379.3	
12-68 Repeal and redesignate as 36-70	
12-69 Repeal and redesignate as 36-71	
12-70 Repeal and redesignate as 36-72	
12-71 Repeal and redesignate as 36-73	
12-72 Repeal and redesignate as 36-74	
12-73 Repeal and redesignate as 36-75	
12-74 Repeal and redesignate as 36-76	
12-75 Repeal and redesignate as 36-77	
12-76 Repeal and redesignate as 36-78	
12-77 Repeal and redesignate as 36-79	
12-78 Repeal and redesignate as 36-80	
12-79 Repeal and redesignate as 36-81	
12-80 Repeal and redesignate as 36-82	
12-81 Repeal and redesignate as 36-83	
12-82 Repeal and redesignate as 36-84	
12-83 Repeal and redesignate as 36-85	

Title 13.1 (Corporations)

13.1-11.1	New
13.1-57	Amend
13.1-204	Amend
13.1-290.1	Amend
13.1-400.6	Amend
13.1-519	Amend
13.1-535	Amend

Title 14.1 (Costs, Fees, Salaries and Allowances)

14.1-29	Amend
14.1-30	Amend
14.1-31	Amend
14.1-32	Amend
14.1-52	Amend
14.1-68	Amend

14.1-69	Amend
14.1-70	Amend
14.1-72	Amend
14.1-73	Amend
14.1-75	Amend
14.1-76	Amend
14.1-77	Amend
14.1-78	Amend
14.1-79	Amend
14.1-80	Amend
14.1-85	Amend
14.1-86	Amend
14.1-87	Amend
14.1-89	Amend
14.1-96	Amend
14.1-101	Amend
14.1-105	Amend
14.1-111	Amend
14.1-120	Amend
14.1-125	Amend
14.1-136	Amend
14.1-181	Amend
14.1-182	Amend

Title 15.1 **(Counties, Cities and Towns)**

15.1-37.4	New
15.1-37.5	New
15.1-37.6	New
15.1-37.7	New
15.1-37.8	New
15.1-40.1	New
15.1-41	Amend
15.1-42	Amend
15.1-48	Amend
15.1-51	Amend
15.1-53	Amend
15.1-63	Amend
15.1-74	Amend
15.1-75	Amend
15.1-77	Amend
15.1-86	Amend
15.1-87	Amend
15.1-90.1	Amend
15.1-134	Amend
15.1-170	Amend
15.1-176	Amend
15.1-177	Amend
15.1-178	Amend
15.1-179	Amend
15.1-180	Amend
15.1-185	Amend
15.1-185.1	New
15.1-186	Amend
15.1-187	Amend
15.1-190	Amend
15.1-190.1	Amend
15.1-225	Amend
15.1-228	Amend

15.1-229	Amend
15.1-239	Amend
15.1-276	Amend
15.1-277	Amend
15.1-307	Amend
15.1-308	Amend
15.1-322	Amend
15.1-323	Amend
15.1-324	Amend
15.1-372	Amend
15.1-545	Amend
15.1-571	Amend
15.1-571.1	New
15.1-589	Amend
15.1-623	Amend
15.1-664	Amend
15.1-667	Amend
15.1-668	Amend
15.1-670	Amend
15.1-674	Amend
15.1-677	Amend
15.1-685	Amend
15.1-700	Amend
15.1-706	Amend
15.1-720	Amend
15.1-721	Amend
15.1-727	Amend
15.1-729	Amend
15.1-742	Amend
15.1-757	Amend
15.1-760	Amend
15.1-761	Amend
15.1-787	Amend
15.1-788	Amend
15.1-788.1	New
15.1-792	Amend
15.1-796	Amend
15.1-796.1	New
15.1-803	Amend
15.1-806	Amend
15.1-808	Amend
15.1-819	Amend
15.1-821	Amend
15.1-824	Amend
15.1-825	Amend
15.1-850	Amend
15.1-894	Amend
15.1-987	Amend
15.1-988	Amend
15.1-989	Amend
15.1-991	Amend
15.1-992	Amend
15.1-993	Amend
15.1-998	Amend
15.1-1020	Amend
15.1-1021	Amend
15.1-1047.1	Amend
15.1-1061	Amend

15.1-1104	Amend
15.1-1135	Amend
15.1-1349	Amend

Title 16.1 (Courts Not of Record)

16.1-162	Amend

Title 17 (Courts of Record)

17-3	Repeal
17-3.1	New
17-4	Repeal
17-5	Amend
17-17	Amend
17-18	Amend
17-93	Amend
17-94	Amend
17-99	Amend
17-100	Amend
17-101	Amend
17-102	Amend
17-104	Repeal
17-105	Repeal
17-106	Repeal
17-107	Repeal
17-108	Repeal
17-109	Repeal
17-112	Amend
17-116	Amend
17-118	Amend
17-120	Amend
17-139	Amend

Title 18.1 (Crimes and Offenses Generally)

No changes necessary

Title 19.1 (Criminal Procedure)

19.1-35	Amend
19.1-246	Amend
19.1-328	Amend
19.1-329	Amend
19.1-330	Amend
19.1-332	Amend
19.1-333	Amend
19.1-334	Amend
19.1-338	Amend
19.1-339	Amend
19.1-346	Amend

Title 20 (Domestic Relations)

No changes necessary

Title 21 (Drainage, Soil Conservation, Sanitation and Public Facilities District)

21-243	Amend

Title 22 (Education)

22-1	Repeal
22-1.1	New

22-3	Repeal
22-3.1	New
22-4	Repeal
22-8	Repeal
22-10	Repeal
22-11	Amend
22-12	Repeal
22-12.1	New
22-13	Amend
22-19	Amend
22-19.1	New
22-21.2	New
22-29.5	Amend
22-29.10	Amend
22-29.15	Amend
22-30	Amend
22-34	Repeal
22-38	Amend
22-43	Amend
22-43.1	Repeal
22-43.2	Repeal
22-43.4	Repeal
22-61	Amend
22-72	Amend
22-97	Amend
22-100.1	Amend
22-100.2	Repeal
22-100.6	Amend
22-100.7	Amend
22-100.9	Amend
22-100.12	Repeal
22-101	Amend
22-101.1	Repeal
22-101.1:1	Repeal
22-101.2	Repeal
22-102	Amend
22-115.29	Repeal
22-115.30	Repeal
22-115.31	Repeal
22-115.32	Repeal
22-115.33	Repeal
22-115.34	Repeal
22-115.35	Repeal
22-116	Amend
22-117	Amend
22-126	Repeal
22-126.1	New
22-127	Amend
22-128	Amend
22-130	Repeal
22-138.1	Repeal
22-141	Repeal
22-141.1	Repeal
22-146.1	Repeal
22-146.2	Repeal
22-146.3	Repeal
22-146.4	Repeal
22-146.5	Repeal

22-146.6	Repeal
22-146.7	Repeal
22.146.8	Repeal
22-146.9	Repeal
22-146.10	Repeal
22-146.11	Repeal
22-151.1	Amend
22-156	Amend
22-161.1	Repeal
22-161.2	Repeal
22-161.3	Repeal
22-161.4	Repeal
22-161.5	Repeal
22-189	Amend
22-193	Amend
22-195	Repeal
22-197	Amend
22-221	Repeal
22-234	Amend
22-307	Repeal
22-315	Amend

Title 23 (Educational Institutions)

23-10	Repeal
23-11	Repeal
23-12	Repeal
23-13	Repeal

Title 24.1 (Elections)

24.1-29	Amend
24.1-33	Amend
24.1-41	Amend
24.1-42	Amend
24.1-47	Amend
24.1-48	Amend
24.1-81	Amend
24.1-82	Amend
24.1-83	Repeal
24.1-86	Amend
24.1-127	Repeal
24.1-128	Repeal
24.1-152	Amend
24.1-154	Amend
24.1-167	Amend
24.1-182	Amend
24.1-183	Amend
24.1-227	Amend
24.1-228	Amend
24.1-229	Amend

Title 25 (Eminent Domain)

25-46.33	Amend
25-52	Amend
25-173	Amend
25-202	Amend

Title 26 (Fiduciaries Generally)

No changes necessary

Title 27 (Fire Protection)

No changes necessary

Title 28.1 (Fish, Oysters, Shellfish and Other Marine Life)

28.1-6	Amend

Title 29 (Game, Inland Fisheries and Dogs)

No changes necessary

Title 30 (General Assembly)

30-1	Amend
30-10	Amend
30-13	Amend
30-14.2	Amend
30-19	Amend
30-44	Amend
30-46	Amend
30-47	Amend

Title 31 (Guardian and Ward)

No changes necessary

Title 32 (Health)

No changes necessary

Title 33 (Highways, Bridges and Ferries)

33.1-92	Amend
33.1-355	Amend

Title 34 (Homestead and Other Exemptions)

No changes necessary

Title 35 (Hotels, Restaurants and Camps)

35-31	Amend

Title 36 (Housing)

36-70	New
36-71	New
36-72	New
36-73	New
36-74	New
36-75	New
36-76	New
36-77	New
36-78	New
36-79	New
36-80	New
36-81	New
36-82	New
36-83	New
36-84	New
36-85	New

Title 37.1 (Institutions for the Mentally Ill; Mental Health Generally)

37.1-71	Amend
37.1-73	Amend

37.1-74	Amend
37.1-75	Amend
37.1-78	Amend
37.1-125	Amend
37.1-130	Amend
37.1-137	Amend

Title 38.1 (Insurance)

38.1-54	Amend
38.1-60	Amend
38.1-104	Amend
38.1-133	Amend
38.1-279	Amend
38.1-379.1	New
38.1-379.2	New
38.1-379.3	New
38.1-765	Amend

Title 39.1 (Justices of the Peace)

39.1-7	Amend

Title 40 (Labor and Employment)

No changes necessary

Title 41 (Land Office)

No changes necessary

Title 42 (Libraries)

No changes necessary

Title 43 (Mechanics' and Certain Other Liens)

43-14.1	Amend
43-34	Amend

Title 44 (Military and War Emergency Laws)

No changes necessary

Title 45.1 (Motor Vehicles)

No changes necessary

Title 46.1 (Motor Vehicles)

46.1-351.1	Amend
46.1-351.2	Amend

Title 47 (Notaries and Out of State Commissioners)

No changes necessary

Title 48 (Nuisances)

No changes necessary

Title 49 (Oaths, Affirmations and Bonds)

49-1	Amend

Title 50 (Partnerships)

No changes necessary

Title 51 (Pensions and Retirement)

No changes necessary

Title 52 (Police (State))

No changes necessary

Title 53 (Prisons and Other Methods of Correction)

No changes necessary

Title 54 (Professions and Occupations)

54-118	Amend
54-563	Amend

Title 55 (Property and Conveyances)

No changes necessary

Title 56 (Public Service Companies)

56-1	Amend
56-8.1	New
56-8.2	New
56-35	Amend
56-36	Amend
56-37	Amend
56-38	Amend
56-41	Repeal
56-42	Repeal
56-43	Amend
56-64	Amend
56-97	Amend
56-107	Amend
56-129	Amend
56-239	Amend
56-240	Amend
56-320	Amend
56-338.7	Amend
56-338.17	Amend
56-338.18	Amend
56-338.37	Amend
56-338.38	Amend
56-338.71	Amend
56-338.83	Amend
56-338.84	Amend
56-374	Amend
56-457	Repeal
56-462	Amend

Title 57 (Religious and Charitable Matters; Cemeterie

No changes necessary

Title 58 (Taxation)

58-8.1	New
58-9	Amend
58-37	Amend
58-41	Amend
58-43	Amend
58-49	Repeal

58-50	Repeal
58-69	Amend
58-181	Amend
58-404.1	Amend
58-465.2	Amend
58-503.1	New
58-519	Amend
58-540	Repeal
58-541	Repeal
58-597	Amend
58-603	Amend
58-616	Repeal
58-617	Repeal
58-672	Amend
58-676	Repeal
58-677	Repeal
58-679	Amend
58-684	Amend
58-772	Amend
58-804	Amend
58-822	Amend
58-823	Amend
58-824	Amend
58-844	Amend
58-851.1	Amend
58-864	Amend
58-881	Amend
58-953	Amend
58-956	Amend
58-963.1	Amend
58-973	Amend
58-978	Amend
58-987	Amend
58-988	Amend
58-989	Amend
58-991	Amend
58-1001	Amend
58-1003	Amend
58-1004	Amend
58-1005	Amend
58-1021	Amend
58-1086	Amend
58-1118	Amend
58-1141	Amend
58-1162	Amend
58-1163	Repeal

Title 59.1 (Trade and Commerce)

59.1-92	Amend

Title 60.1 (Unemployment Compensation)

No changes necessary

Title 61.1 (Warehouses, Cold Storage and Refrigerated Locker Plants)

No changes necessary

Title 62.1 (Waters of the State, Ports and Harbors)

No changes necessary

Title 63.1 (Welfare)

No changes necessary

Title 64.1 (Wills and Decedents' Estates)

64.1-114	Amend
64.1-131	Amend
64.1-132	Amend

Title 65.1 (Workmen's Compensation)

65.1-4	Amend
65.1-10	Amend
65.1-13	Amend
65.1-19	Amend
65.1-93	Amend
65.1-98	Amend

APPENDIX D

PLAN OF THE CODE

APPENDIX D

PLAN OF THE CODE

At the risk of belaboring the obvious, the Commission wishes to invite the attention of the readers of this report to the following basic and essential considerations in the preparation of this report:

ACTS OF A GENERAL NATURE—Generally speaking, the Code is a compilation of acts of a general nature. However, for good reasons, certain special and local acts also are found there.

ORGANIZATION OF MATERIAL—The Code now consists of seventy-five titles, the numbers of which may be found in the front of each volume of the Code. Most titles are subdivided into chapters and some chapters are subdivided into articles; however, the basic substantive unit of the Code is the section. Section 52 of the Constitution provides that "No law shall embrace more than one object which shall be expressed in its title; nor shall any law be revived or amended with reference to its title, but the act revived or the section amended shall be reenacted and published at length." For convenience, the Code is divided into ten volumes, numbered 1 through 9, with a volume numbered 2A appearing between Volumes 2 and 3. Three volumes of the Code, numbered 10 through 12 contain the Index. Originally, titles of the Code were arranged alphabetically and their division into volumes was purely arbitrary for convenience of size.

HISTORICAL REFERENCES—Historical references appear at the end of each section of the Code immediately following the text. They direct the reader to the original legislation and each subsequent change.

ANNOTATIONS—The annotations which follow the text of each section of the Code contain notes of all direct constructions of statutes included in the Code by the Supreme Court of Appeals of Virginia, the Supreme Court of the United States, and the United States Circuit Court of Appeals. In each annotation any cross reference to another section of the Code or to another note is placed first. The notes of decisions have been arranged with reference to the aspects of the statutes dealt with in the decisions noted. The general order is usually as follows: (1) constitutionality, (2) construction, (3) general rules and principles, (4) exceptions of limitations, (5) applications and illustrations, (6) procedural matters, (7) miscellaneous matters. The precise order in any given annotation, however, depends largely upon the particular statute under consideration. References to cases in which the statute has been applied but not discussed appear as the last note in every annotation.

TABLES—Full use should be made of all the tables found in the Code. In the front part of each volume may be found a table of titles for the entire Code and a table of contents for the particular volume. In addition, there is a listing of chapters at the beginning of each title and a listing of sections at the beginning of each chapter. A number of tables tracing the antecedent provisions of the present Code may be found at the front of Volume 10.

INDEX—the Index is in Volumes 10, 11 and 12. Indexing is the most difficult and costly operation in the production of the Code; therefore, the objective of the Code Commission has been (not a perfect index, for there can be no such thing) an adequate, workable index at a reasonable cost to the average practitioner.

CONSTITUTIONS—The Constitution of the United States and the Constitution of Virginia are printed at the end of Volume 9.

RULES OF COURT—The Rules of Court of the Supreme Court of Appeals may be found at the end of Volume 2, following Title 8.

CONSTRUCTION OF THE CODE—Every user of the Code should know thoroughly the provisions of Chapter 2 of Title 1, i.e., sections 1-10 through 1-17. Virginia is a common law State, except where modified by statute. Section 1-10 provides that "the common law of England, insofar as it is not repugnant to the principles of the Bill of Rights and Constitution of this State, shall continue in full force within the same, and be the rule of decision, except as altered by the General Assembly." Section 1-11 provides that "the right and benefit of all writs, remedial and judicial, given by any statute or act of Parliament, made in aid of the common law prior to the fourth year of the reign of James the First, of a general nature, not local to England, shall still be saved, insofar as the same are consistent with the Bill of Rights and Constitution of this State and the Acts of Assembly." Section 1-12 provides when statutes shall take effect. The remainder of the sections of Chapter 2 of Title 1 contain rules of construction and definitions which apply throughout the Code except where otherwise specifically provided. However, it is important to observe that in a number of titles, chapters and articles, and in some instances sections, there may be found definitions applicable to those particular chapters, articles and sections only which take precedence over the general definitions found in Chapter 2 of Title 1.

PROSCRIBED ACTS—As a common law State, the General Assembly of Virginia can enact any statute upon any subject it chooses, so long as such legislation does not conflict with the Constitution of the United States, laws enacted by the Congress or the Constitution of Virginia. These sources of superior authority must be consulted to determine if and how the General Assembly is proscribed.

SPECIAL CONSIDERATIONS

WHAT IS THE LAW AND WHEN?—The new Constitution will take effect at noon on July 1, 1971. For this reason it is important to remember that all of the legislation recommended by the Code Commission in this report is prepared to take effect at noon on the first day of July, 1971. It is equally important to remember that the law being amended is the law which will be in effect immediately prior to noon, July 1, 1971. That includes the law which was enacted by the General Assembly of 1970. Those measures which were adopted by the last session of the General Assembly to take effect in due course became effective on June 26, 1970. However, there are a number of acts which took effect on special dates. Some, emergency measures, took effect when signed by the Governor. Others, by their own terms, were delayed in becoming effective until sometime subsequent to June 26, 1970. It is important not only to consider the Code as it will exist at the beginning of the 1971 session, but as it has been amended or will be affected by legislation enacted at both the 1970 and 1971 sessions.

PRIVATE, SPECIAL AND LOCAL LEGISLATION—City charters and most other private, special and local acts are not found in the Code. Nevertheless, this material is included in the general responsibility of the Code Commission in its present undertaking. Of course, the Commission itself could not review every city charter or every special act of whatever nature, but it did attempt to put the proper persons on notice to review their own areas of responsibility and also has, in those instances in which it appeared appropriate, recommended general legislation to avert statutory lapses.

EFFECT OF 1970 CENSUS—The legislation recommended in this report would become effective at noon on July 1, 1971. At that time the population will have changed legally in many localities and for many purposes within the provisions of the Code. At the time of this report, all of the figures which will be effective at noon on July 1, 1971, are not available, because the United States census for all such purposes has not been confirmed. Local governments should give particular attention to recent legislation by population classification which employed United States census figures which will be obsolete on July 1, 1971.