·HOUSING·
LEGAL DIGEST

Number 82 May 1941

I would like to go on record as stating my firm conviction that the elimination of slum conditions in this country is a vital element in national defense. People who live in broken-down, unhealthful homes and run-down, unwholesome neighborhoods cannot possibly give their best to the country. Bad environment injures both morale and physique.

Hon. Vincent F. Harrington of Iowa
in the House of Representatives.

DECISIONS : OPINIONS : LEGISLATION
RELATING TO HOUSING CONSTRUCTION AND FINANCE
ISSUED MONTHLY BY THE
CENTRAL HOUSING COMMITTEE WASHINGTON, D. C.

HOUSING LEGAL DIGEST

Issued monthly by

the Central Housing Committee on
LAW AND LEGISLATION
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The Board of Editors announces the resignation from its membership of Mr. Wilbur A. Schmidt of the Reconstruction Finance Mortgage Company, and of Mr. Lawrence E. Mullally of the Farm Credit Administration, and expresses its appreciation of their valuable contributions to the Housing Legal Digest.

Mr. Bernard Koteen of the Farm Credit Administration is welcomed as a new member.

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DECISIONS

CONSTITUTIONAL LAW - MORTGAGES - DEFICIENCY JUDGMENTS
(Gelfert vs. National City Bank of New York, ---U. S.--- April 28, 1941)
An act limiting the amount of a deficiency judgment upon the foreclosure of a mortgage, is constitutional even as to a mortgage executed prior to the date of enactment. This is only true, however, where the mortgagee buys the property at a foreclosure sale.

This action was brought by respondent to foreclose a mortgage made in December 1932. At that time section 1083 of the New York Civil Practice Act provided that the amount of the deficiency judgment was to be measured by the residue of the debt remaining unsatisfied after a sale of the mortgaged property and the application of the proceeds pursuant to the directions contained in the judgment. In December a foreclosure sale was had of the mortgaged property and respondent's nominee purchased the property for $4,000 leaving a deficiency of $16,162.12. When respondent sought to have the sale confirmed the petitioner took exceptions and made a cross- motion to have the court fix the value of the property for the purpose of determining the amount of the deficiency judgment on the ground that the sale price was inequitable and unconscionable. In April 1938, a new section 1083 took effect which provided in substance that the court in determining the amount of a deficienty judgment should, on appropriate motion, "determine upon affidavit or otherwise as it shall direct, the fair and reasonable market value of the mortgaged premises" and should deduct from the amount of the debt the "market value as determined by the court or the sale price of the property whichever shall be the higher." The right to recover any deficiency is made dependent on the making of such a motion. The court denied petitioner's cross-motion, and directed entry for a deficiency judgment of $16,612.12. The judgment of the Appellate Division, which denied respondent a deficiency judgment because it had not made a motion for one under the new section 1083, was reversed by the Court of Appeals which held that the new section 1083 as applied to mortgage contracts previously made violated the contract clause of the Federal Constitution.

The Court of Appeals stated that the measure of a deficiency under the new section 1083 is in substance the same as that prescribed by the New York moratory deficiency judgment act, which was sustained by the U. S. Supreme Court in Honeyman v. Jacobs, 306 U. S. 539. The Court of Appeals stated, however, that the new section is not addressed to a declared public emergency and is unrestricted in its application. It held that the new section 1083 could not be applied to mortgage contracts

previously made without violation of the contract clause of the Federal Constitution. The Supreme Court of the United States took a different view (only in the case where the application of the statute applied to situation where the mortgagee purchased the property at a foreclosure sale) and in reversing the New York Court of Appeals said:

> "The formula which a legislature may adopt for determining the amount of a deficiency judgment is not fixed and invariable. That which exists at the date of the execution of the mortgage does not become so embedded in the contract between the parties that it cannot be constitutionally altered. As this Court said in Home Building & Loan Assn. v. Blaisdell, 290 U. S. 398, 435, 'Not only are existing laws read into contracts in order to fix obligations as between the parties, the reservation of essential attributes of sovereign power is also read into contracts as a postulate of the legal order.' And see Voeller v. Neilston Warehouse Co., 312 U. S. --. It is that reserved legislative power with which we are here concerned.
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> "The control of judicial sales of realty by courts of equity and by legislatures in order to prevent sacrificial prices has a long history. **** And it is quite uniformly the rule in this country, as in England, that while equity will not set aside a sale for mere inadequacy of price, it will do so if the inadequacy is so great as to shock the conscience or if there are additional circumstances against its fairness, such as chilled bidding. Cocks v. Izard, 7 Wall 559; Graffam v. Burgess, supra; Ballentyne v. Smith, 205 U. S. 285. Beyond that a number of states by statute have endeavored to prevent property going for a song at judicial sales. Provisions that the property shall not be sold at less than a designated percentage of its appraised value, and requirements that a stated percentage of the appraised value above the sales price must be credited on the debt are illustrative. 3 Jones, Mortgages (8th ed. 1928) sections 1695 et seq.; 2 Bonbright, Valuation of property, pages 839 et seq.
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> "Mortgagees are constitutionally entitled to no more than payment in full. Honeyman v. Jacobs, supra. They cannot be heard to complain on constitutional grounds if the legislature takes steps to see to it that they get no more than that. As we have seen, equity will intervene in individual cases where it is palpably apparent that gross unfairness is imminent. That is the law of New York. 284 N. Y. 13, 20. And see Fisher v. Hersey,

78 N. Y. 387. But there is no constitutional reason why in lieu of the more restricted control by a court of equity the legislature cannot substitute a uniform comprehensive rule designed to reduce or to avoid in the run of cases the chance that the mortgagee will be paid more than once. Cf. Suring State Bank v. Giese, 210 Wis. 489. Certainly under this statute it cannot be said that more than that was attempted. **** To hold that mortgagees are entitled under the contract clause to retain the advantages of a forced sale would be to dignify into a constitutionally protected property right their chance to get more than the amount of their contracts. Honeyman v. Jacobs, supra. The contract clause does not protect such a strategical, procedural advantage.

"In conclusion, the statute in question, like the one involved in Richmond Mortgage & Loan Corp. v. Wachovia Bank & Trust Co., supra, p. 130, 'cannot fairly be said to do more than restrict the mortgagee to that for which he contracted, namely, payment in full.' Here, as in that case, the obligation of the mortgagee's contract is recognized; the statute does no more than limit 'that right so as to prevent his obtaining more than his due.' Id., p. 130. To be sure, the mortgagee retained in that case an alternative remedy while in the instant one the Court of Appeals has said that under New York law there remained no alternative remedy 'substantially coextensive' with that which had been removed. But it is clear from Honeyman v. Hanan, 302 U. S. 375, that a requirement that the right to a deficiency judgment should be determined in the foreclosure proceeding or that a mortgagee is not entitled to a deficiency judgment unless he moves for one raises no substantial federal question. As stated by this Court in that case (302 U. S. at p. 378), the Federal Constitution does not prevent the states from determining, on due notice and opportunity to be heard, 'by what process legal rights may be asserted or legal obligations' enforced. The principles of those cases are applicable here. The fact that an emergency was not declared to exist when this statute was passed does not bring within the protective scope of the contract clause rights which were denied such protection in Honeyman v. Jacobs, supra. See Home Building & Loan Association. v. Blaisdell, supra."

(Ed. Note. For a similar holding in a Michigan case decided on March 11, 1941, by the Supreme Court of Michigan, see Guardian Depositors Corporation v. Powers, 296 N. W. 675. A Michigan statute similar to the above New York Statute was involved. The Michigan court, in deciding the case as it did, held, as did the U. S. Supreme Court, that the application of

the statute applied to a situation where the mortgagee purchased the property at a foreclosure sale.)

COURTS - BANKRUPTCY
(Chapman v. Federal Land Bank of Louisville, Ky., 117 F. 2d 321, C.C.A. 6th)
Where a right of appeal has expired, it cannot be resurrected by a petition for rehearing. Once the Ohio Probate Court consented to a deceased farmer's administrator filing a petition under section 75 of the Bankruptcy Act, the Federal Court was granted thereby plenary power to afford the estate of the debtor all remedies which in its judgment the Federal statutes allow. An administrator of a farmer-debtor may amend a petition and have the estate adjudged bankrupt under Section 75s even though, in the judge's opinion, no offer was made by the debtor which could be construed as an offer in good faith for extension and composition under subsections a to r of Section 75.

The court stated:

"These two farmer-debtor proceedings under Section 75 of Chapter VIII of the National Bankruptcy Act, 11 U.S.C.A. Sec. 203, were filed simultaneously in the District Court on July 18, 1938. In case no. 8400, George Bronson Chapman, administrator of his deceased wife, Martha W. Chapman, and in case No. 8720, the husband individually and his two sons, as heirs at law of their deceased mother, were the petitioners. ***"

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"On September 27, 1938, a few days after these motions were filed, the debtors' petitions were amended to seek the benefits provided in sub-section s of section 75 of the Bankruptcy Act. The District Judge ordered immediately in each case that action on the petition for adjudication under Section 75, sub. s, be stayed pending decision on the motions to dismiss; and on October 10, 1938, the judge referred hearing of evidence on the motions to the Supervising Concilation Commissioner for the District, with direction that the named official report to the court his findings and recommendations. Some six and a half months later, the Conciliation Commissioner filed his report, recommending denial of relief to the debtors under Section 75, sub. s, on the basis of his fact findings that (1) 'the debtors did not make offers of composition or extension to their creditors which were equitable and feasible from the standpoint of the secured creditors, nor were the proposed

plans to the best interests of all creditors,' and that (2) 'the debtors were without reasonable hope of rehabilitating themselves' under the provisions of the Act.

"On July 29, 1939, in each case the District Judge entered an order overruling objections to the farmer-debtors and fully approving the report of the Conciliation Commissioner. ***

"The two cases have been consolidated for hearing on appeal. In case No. 8400, the administrator unquestionably perfected his appeal seasonably; but in case No. 8720, the petitioners took no steps toward review until February 28, 1940, when they filed in the District Court a petition for rehearing grounded on three decisions of the Supreme Court announced since the entry of the order of dismissal. John Hancock Mutual Life Insurance Co. v. Bartels, 308 U.S. 180, 60 S. Ct. 221, 84 L. Ed. 176; Gray v. Union Joint Stock Land Bank, 308 U. S. 523, 60 S. Ct. 291, 84 L. Ed. 443; Morrison v. Federal Land Bank, 308 U. S. 524, 60 S. Ct. 292, 293, 84 L. Ed. 443."

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"The true test has been stated clearly by the Supreme Court in a very recent case, Bowman v. Lopereno, 61 S. Ct. 201, 203, 85 L. Ed.---, decided December 9, 1940: 'The filing of an untimely petition for rehearing which is not entertained or considered on its merits, or a motion for leave to file such a petition out of time, if not acted on or if denied by the trial court, cannot operate to extend the time for appeal. ***"

Concerning the allowing of relief under section 75 s, the court went on to say:

"They point out that in Ohio the real estate of an intestate descends to his legal heirs, subject only to the right of the administrator to sell the land for the payment of debts and that the heirs are entitled to possession and rents until the actual sale of the land by the administrator (Overturf v. Dugan, 29 Ohio St. 230); that an Ohio administrator is not even permitted to invest funds belonging to a decedent's estate in land (Ohio General Code, Sec. 10506-41); and that an administrator cannot directly, or indirectly, purchase any property of an estate administered by him. (Piatt v. Longworth's Devisees et al., 27 Ohio St. 159; Caldwell v. Caldwell, 45 Ohio St. 512, 15 N. E. 297)."

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"(But) The Ohio statute invests the Probate Court with authority to permit an administrator to continue the decedent's business for such time, in addition to an allotted one month, as the court may authorize. Ohio

General Code, Sec 10509-9. The Probate Court has sweeping statutory authority 'to direct and control the conduct *** of executors and administrators.' Ohio General Code, Sec. 10501-53."

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" *** Once the Ohio Probate Court gave its consent that the administrator might file his petition under Section 75, which he did in conformity with General Order 50(9), 11 U.S.C.A. following section 53, the federal court was granted thereby plenary power to afford the estate of the debtor all remedies which in its judgment the federal statutes allow."

*****

"These decisions definitely decree the right of a farmer-debtor, who has failed to obtain in proceedings under subsections a to r, requisite acceptance of his composition or extension proposal, to amend his petition, be adjudged a bankrupt pursuant to subsection s, and have his property rights protected by Federal Court supervision thereunder.". (Citing John Hancock Mutual Life Insurance Co. v. Bartels, supra, Gray v. Union Joint Stock Land Bank of Detroit, supra, Morrison v. Federal Land Bank, supra.)

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"Subsection r, immediately preceding subsection s, defines the word 'farmer' to include 'the personal representative of a deceased farmer.'

"Sebsection s expressly gives to any farmer who fails to effectuate a composition or extension agreement with his creditors the right to amend his petition and be adjudged a bankrupt.

"The District Judge denied the appellant as personal representative of the deceased farmer this valuable statutory right. In this, we think there was manifest error. Accordingly, in case No. 8400, the District Court is directed to set aside its order of July 29, 1939, reinstate this proceeding and permit the administrator of the deceased farmer-debtor to proceed to obtain the relief prayed in his amended petition filed September 27, 1938, pursuant to Section 75, subsection s, of the National Bankruptcy Act.

"For reasons heretofore given, the appeal in case No. 8720 is dismissed."

EMINENT DOMAIN

(Housing Authority of New Orleans v. Merritt et al., ---La.---, 200 So. 311)

The Housing Authority of New Orleans expropriated a parcel of land and a church building thereon, the property of the Oriental Baptist Church in the City of New Orleans to carry out a housing project.

The Supreme Court of Louisiana held that where unincorporated church, which retained services of pastor, but owned no property, was merged with incorporated church owning property, whose charter provided for government by Board to be elected every five years and by pastor as ex officio president, funds awarded for expropriation of church property were properly paid to church through former pastor of unincorporated church, who, since merger, had managed affairs of merged church and raised money to meet payments on mortgage on church property, as against claim of group whose conflicting testimony failed to establish that they constituted the entire membership and officers of church.

(In Re Housing Authority of City of Newark, Court of Errors and Appeals, N. J., 17 A. 2d 812)

In eminent domain proceedings, there is no constitutional right to a jury trial.

The Housing Authority of the City of Newark, New Jersey, made application for the appointment of commissioners to condemn property belonging to Julia M. Ryan and others. The Commissioners were appointed and held a hearing and made an award of $13,000. The Housing Authority appealed to the Circuit Court, Essex County, which tried the issue of damages before a struck jury, and from a judgment entered on an award of $7,015 by the jury. Julia M. Ryan and others appealed.

The Court of Errors and Appeals of New Jersey affirmed the judgment of the circuit court and held

(1) In a proceeding for the ascertainment of compensation for the taking of private property by virtue of the power of eminent domain, there is no constitutional right of trial by jury.

(2) In a proceeding for the taking of land for public use where it is sought to prove the value of other lands similar in character, for purposes of comparison, mere offers to sell, whether oral or written, not binding on the prospective purchaser, are not competent as evidence of the value of such other lands.

(3) In a proceeding for the taking of vacant land for public use, expert evidence of the value of other vacant land similarly situated is relevant; but where such other land is improved by buildings, and the value of the land alone is sought to be shown by a process of subtracting building value from total value, it is not legal error to refuse to receive such evidence.

FORECLOSURE - PLEADING - INTEREST - ACCELERATION.
(Joe P. Tackett, et al. vs. HOLC, Court of Appeals of Kentucky. Decided in April, 1941)
An Answer denying that no installments had been paid except the payments averred in petition but failing to allege other payments amounts to nothing. Where no issue is raised there is no obligation on foreclosing mortgagee to explain method of calculating interest. Entire debt having been declared due, it remains due notwithstanding subsequent small payment during pendency of foreclosure suit.

The following is an opinion of the Court of Appeals of Kentucky in an HOLC foreclosure suit:

"The appellee, Home Owners' Loan Corporation, filed this action against the appellants, Joe P. Tackett and his wife, seeking judgment on a note for $2,097.71 and the enforcement of a mortgage by which the note was secured. The note was payable in monthly installments of $16.59 and the mortgage contained a precipitation clause providing that in default of payment of any installment for a period of ninety days the holder might declare the entire debt due. Certain payments were alleged to have been made, leaving installments more than ninety days overdue and the entire debt was declared to be due. It was also alleged that HOLC had paid out $46.56 in insurance premiums for insurance it was entitled to take out pursuant to the terms of the mortgage and judgment was sought for this amount also.

"Appellants answered claiming the credits should be $397.89, somewhat more than the credits set out in the petition. They further alleged that HOLC had incorrectly calculated interest and denied that they should be charged with the $46.56 insurance premium since they had kept the property insured and paid the premium themselves.

"HOLC demurred to the answer and this demurrer was sustained to all paragraphs except that paragraph denying the propriety of the $46.56 insurance premium paid by HOLC.

"After the action was filed the property covered by the mortgage was damaged by fire and appellants agreed on a settlement with the insurance company by which $138 was paid to HOLC to be credited on the note.

"After the payment of the insurance money HOLC filed amended petition setting out its payment as a credit and also crediting appellants with other payments aggregating $397.89, the exact amount claimed by appellants in their answer. By this amendment judgment was sought for the principal amount of the mortgage note with interest at five per cent from date, the interest rate provided in the note, subject to the credits, and for the insurance premium.

"By amended answer appellants denied that none of the installments had been paid except those payments set out in the amended petition but failed to allege any other payments than those with which they were credited - a denial which, of course, amounted to nothing. They also denied that payments were in default more than ninety days and denied that the balance due on the mortgage was as alleged by HOLC. This was also a denial amounting to nothing as it was a mere conclusion of law - undenied allegations of facts showed that payments were more than ninety days overdue. By the second paragraph they put in issue HOLC's right to charge them with the insurance premium and by the third paragraph they claimed credti for the $138, insurance money, for which they had been given credit in the amended petition. Demurrer was sustained to the answer as amended and judgment was rendered for $2,097.71, the face of the note, with interest at five per cent from its date, December 7, 1934, subject to the credits set out in the amended petition - this judgment did not include the $46.56 insurance premium. The lien of the mortgage was ordered enforced. The property was duly sold by the Commissioner and report of sale filed and confirmed without exceptions; deed was executed to HOLC, the purchaser. On this appeal it is contended by appellants that error was committed in sustaining the demurrer and in denying them an opportunity to plead further. It is also contended that the payment of the $138 insurance money to HOLC after the action was filed deprived it of the right to continue to avail itself of the precipitation clause in the mortgage.

"In insisting that the demurrer was improperly sustained appellants are proceeding on the theory that an issue was made by the answer and that it was the duty of HOLC to explain its method of calculating interest. In this there is no merit. The amended petition merely sought judgment for the amount of the note with five per cent interest from its date, as provided in the note. This amount was admitted by the answer and no credits were claimed except those given by the petition as amended. No issue was raised by the answer and there was no obligation on HOLC to explain the method of calculating interest - the law itself prescribed the proper method of interest calculation. The

petition as amended contained all that was necessary for the entry of a valid judgment. An issue was raised as to the insurance premium of $46.56 but judgment was not taken for this item so it passed out of the picture. The judgment as entered was for the exact amount due and owing by appellants and the amount admittedly due and owing by the pleadings.

"The complaint that no opportunity to plead further was given is without merit since the judgment recites that appellants failed to plead further when the demurrer was sustained and the record shows no offer of an amended pleading.

"Nor is there any merit in the contention that the payment of $138 after the action was filed deprived HOLC of its right to rely on the precipitation clause. The entire amount of the note was due by reason of HOLC's exercise of the option given it. The entire amount remained due and could only be satisfied by payment in full in the absence of express agreement to the contrary - no such agreement was alleged. Even after the payment of this sum appellants were in default more than ninety days and HOLC was entitled to continue to regard the entire note as due.

"Appellants insist that they were ready and willing at all times to pay the correct amount due, and thereby save their home. The judgment was for the correct amount due, admittedly due by the pleadings. A payment of the judgment would have prevented the sale. Judgment affirmed."

FORECLOSURE SALE - CONDEMNATION

(Viola E. Petoskey, Admrx. et al vs. HOLC, Circuit Court, Wayne County, Michigan. Decided in April, 1941.)

Where property consists of two lots not occupied as one parcel each lot should be sold separately at foreclosure sale. Receipt by HOLC of condemnation award for part of property condemned during period of redemption where HOLC had bid in the property does not affect the foreclosure.

In a suit to set aside an HOLC foreclosure the opinion of the court was as follows:

"This case is before this Court on a motion by the defendant to dismiss the amended Bill of Complaint.

"The Bill of Complaint discloses that the defendant in 1939 commenced statutory proceedings on a mortgage held by it against property in the City of Dearborn owned by the Plaintiff. Under these proceedings the Sheriff's sale was held on December 22, 1939, and the property was offered for sale by the Sheriff and purchased by the Defendant as mortgagee in two parcels, one consisting of the easterly 60 feet of the property

mortgaged and the other consisting of the westerly 40 feet thereof. On each of said parcels is located a residence, the one on the 60 foot parcel being occupied and used at the time of said sale and for some years past by the Plaintiff as a home and the one on the 40 foot parcel being rented at the time of the said sale and for some years past to tenants.

"Prior to the commencement of said foreclosure proceedings, condemnation proceedings were commenced in the Wayne Circuit Court to take a strip off the rear of the mortgaged property for use as a public alley, in which proceedings the verdict roll, awarding as damages the sum of $682.00 for that portion of the property taken, was filed on December 22, 1939. Subsequently and during the period of redemption on the aforesaid mortgage foreclosure, the Home Owners' Loan Corporation filed a motion in said condemnation proceedings for the purpose of securing the payment of the condemnation award to it and, after a hearing thereon, an order was entered in said case directing the payment of the award to the Home Owners' Loan Corporation, the same to be applied as a credit on the principal of the amount due.

"On December 20, 1940 (two days prior to the expiration of the redemption period on the aforesaid mortgage foreclosure), the original Bill of Complaint in the principal case was filed, setting forth all of the aforesaid facts and praying that the foreclosure proceedings and the sheriff's sale pursuant thereto be set aside and declared void, for the reason that the property should not have been divided and sold as two separate parcels at said sale and because of the acceptance by the Home Owners' Loan Corporation, during the redemption period, of the condemnation award.

"A motion to dismiss said original Billof Complaint on the ground that it did not state facts sufficient to constitute a cause of action or entitle the plaintiff to the relief sought because it failed to set forth any damage to the plaintiff by the reason of the alleged facts was filed by the defendant and, after due hearing, this Court on January 22, 1941, entered its order dismissing the Bill of Complaint for the reasons set forth in the motion unless the Plaintiff within 5 days filed an amended bill. An amended Bill was duly filed by the plaintiff and the case is again before this court on a motion to dismiss the Bill of Complaint on the same grounds as in the previous motion and, on the further ground that the amendments made to the Bill of Complaint did not cure the defects found by the Court to exist in the original Bill of Complaint.

"The plaintiff has specifically set forth in her Bill of Complaint that at the time of the Sheriff's sale there were two residential buildings on the mortgaged property, one being on the easterly 60 feet thereof and the other being on the westerly 40 feet thereof and,

and, further, that at that time and for many years past one of said houses was occupied by the plaintiff as her home and that the other was rented to tenants.

"Section 14431, C. L. of 1929, (Mich. Stat. Ann. Sec. 27.1227) which governs Statutory Foreclosure Sales provided as follows:

"'If the mortgaged premises consist of distinct farms, tracts, or lots not occupied as one parcel, they shall be sold separately, and no more farms, tracts, or lots shall be sold than shall be necessary to satisfy the amount due on such mortgage at the date of the notice of sale, with interest and the costs and expenses allowed by law but if distinct lots be occupied as one parcel, they may in such case be sold together.'

"This statute is for the benefit and the protection of mortgagors, and from the facts as alleged the mortgaged property was property divided and sold in separate parcels at the Sheriff's sale. The allegations covering the use of the property for some 35 years prior to the Sheriff's sale and that the property was legally subdivided and described as a single lot have no bearing on the legality of the sale, it being clear from the plaintiff's own allegations that at the time of Sheriff's sale the property was in fact separately used and occupied as two parcels. The Court cannot accept the Plaintiff's contention that the Home Owners' Loan Corporation had any obligation to ask the Condemnation Court to divide the premises into parcels, for in such proceedings, there is no law known to this Court providing for a division in separate parcels of property owned by one person as in mortgage foreclosure sales. And in any event the Court is of the opinion that the plaintiff has failed to allege or demonstrate any damage resulting to it by reason of the sale in parcels.

"The Court is also of the opinion that the acceptance of the condemnation award by the Home Owners' Loan Corporation during the redemption period was not in itself inconsistent with its role as purchaser at the Sheriff's sale, for as such purchaser, it was entitled to any award for the taking of all or any part of the property purchased and to which it held title under the Sheriff's Deed subject to the rights of redemption in the mortgagor. In ordering the award applied to the principal due, the Condemnation Court was merely protecting the mortgagor in her right of redemption and was in effect reducing the amount required to redeem by the amount of the award, and it is not claimed that the Home Owners' Loan Corporation actually intended, in accepting said condemnation award, to upset its previous foreclosure or reinstate its mortgage.

"It is the opinion of this Court that the Amended Bill of Complaint fails to set forth sufficient facts to constitute a cause of action or to entitle the Plaintiff to the relief sought, and fails to set forth any damage to plaintiff by reason of the facts alleged, and the Amendments made to the original Bill of Complaint fail to cure it of the difficulties previously found by the Court to exist therein. An order may be entered forthwith dismissing the Amended Bill of Complaint."

HOMESTEAD

(Coleman et al. v. Williams, ---Fla. ---, 200 So. 207)

The Constitution of the State of Florida creates homestead exemptions in a limited amount of land owned by the head of a family, but it does not limit the estates in land to which exemptions apply. A homestead exemption right exists in an estate by the entirety subject to the wife's right of survivorship in the estate and such exemption will continue when the head of the family becomes the sole owner of the beneficial interest following divorce from the wife.

The complainant, claiming a homestead exemption, had paid for a lot and house (Lot 12), title being taken in the name of his then wife. Subsequently, the adjoining lot (Lot 11) was conveyed to him and his then wife, both lots being occupied and used as a home by complainant and his family. Two judgments were obtained against complainant and his then wife, sale under execution being enjoined by reason of a homestead exemption. Later the complainant and his wife were divorced, she then conveying the first lot with recital in the conveyance that its purpose was to merge her bare legal title with his equitable ownership. She conveyed whatever interest she had in the second lot.

In affirming a decree for complainant, the Supreme Court of Florida said:

"The Constitution limits the homestead land area that may be exempted, but it does not define or limit the estates in land to which homestead exemption may apply; therefore, in the absence of controlling provisions or principles of law to the contrary, the exemptions allowed by section 1, article 10, may attach to any estate in land owned by the head of a family residing in this state, whether it is a freehold or less estate, if the land does not exceed the designated area and it is in fact the family home place. When the estate or interest of the owner in the homestead land terminates, the homestead exemption of such owner therein necessarily ceases.' Menendez v. Rodriguez, 106 Fla. 214, text page 221, 143 So. 223, text page 226.

"There may be homestead exemption rights in estates by the entireties subject to the wife's right of survivorship in such estates.***

"'The exemptions "from forced sale under process of any court," of certain homestead property "owned by the head of a family residing in this state," have reference to the beneficial interests as owned by the head of a family in the specified classes of property.' Pasco v. Harley, headnote 9, 73 Fla. 819, 75 So. 30, 31. See annotations, 89 A.L.R. 526; 26 Am. Jr. 37, Sec. 58."

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"The above statement from the record clearly shows that Robert R. Williams was the beneficial owner of Lot 12, Block 1, which had been conveyed to his wife; and that Robert R. Williams had an interest in the title to Lot 11, Block 1, which gave him a homestead exemption right in Lot 11, subject to the wife's right of survivorship in the lot, when it was conveyed to the husband and wife in 1938 as above stated. After the couple were divorced, the former wife, as a single woman, conveyed both lots to her former husband; and as to Lot 12, the conveyance to the former husband stated that the beneficial ownership of the property was has and not that of his former wife to whom it was conveyed in 1937, as above stated. The conveyance of Lot 11 by the former wife to her divorced husband gave him the entire estate in Lot 11, discharged of any interest of the former wife therein. This made Robert R. Williams the sole owner of the beneficial interest in the two lots. He was the head of the family living thereon with homestead exemption rights therein when the judgments were obtained in 1938. As Robert R. Williams owned a beneficial interest with homestead exemption rights in both lots, and has, with members of his family, occupied both lots, as his homestead, before and since said judgments were obtained, the sales of such lots under the judgment executions were properly enjoined on the ground that the lots constituted the homestead of Robert R. Williams and were exempt from forced sale under the constitution of this State.***"

INJUNCTION - NUISANCES
(De Blasiis et ux. v. Bartell et al., Superior Court of Pa., 18 A. 2d 478)
Adjoining property owners who will be damaged by construction in violation of a zoning ordinance have such a substantial interest as to make them "proper parties" in a suit to compel observance of the restrictions.

It appears that the defendants made application to the Bureau of Zoning of Philadelphia for a permit to construct an addition to the second story of the defendants' building, that covered practically all

of the 144 square feet of space required to be left open for dwelling purposes. The application was refused because it violated the zoning ordinance; said properties being in district designated as Class A, Commercial. The defendants made application for a permit to excavate the cellar and underpin the foundation, which was granted. Under color of this permit the defendants proceeded to do that which they had been refused a permit to do. Their attention was promptly directed to the illegality of this construction. The proper city authorities ordered them to stop the unlawful work and remove what had been so constructed. The plaintiffs brought a bill in equity to enjoin the erection and maintenance of such unlawful structure. The City of Philadelphia had a summons issued against Bartell out of a Magistrate's Court to impose the money penalty prescribed by the zoning ordinance for its violation. The magistrate found him guilty and imposed the fine. He appealed to the Municipal Court - said appeal is still pending. Defendants applied to the Bureau of Zoning for a permit authorizing a variance from the provision of said ordinance, that would allow said illegal structure to remain. Permit was refused. The defendants appealed to the Board of Adjustment, which refused to grant the variance, and an appeal therefrom to the common pleas was dismissed. The court entered a decree nisi in the suit in equity enjoining the illegal construction, and ordering its removal. The next day the City filed its petition for the removal of the unlawful building under the summary proceedings authorized by the Building Code. A decree nisi was entered in accord with said petition on April 11, 1939, which on June 22, 1939, was made final.

This resume shows a flagrant and defiant attempt on the part of defendants to violate the zoning regulations of the City respecting the air space to be left open for dwellings, persisted in without interruption and maintained by an appeal from every decision upholding the ordinance. But they did not stop there. They then applied to City Council for an amendment to the zoning ordinance, specially changing the designation of the northeast corner of 16th and Ritner Streets (Bartell's property) from Class "A" Commercial to Class "C" Commercial, which they thought would permit the maintenance of the illegal structure they had been ordered to remove, and, by some means, were able to secure the passage of such an ordinance which became effective as of September 21, 1939, by reason of the failure of the Acting Mayor to approve or disapprove it.

The Superior Court of Pennsylvania held that adjoining property owners who are or will be damaged by construction in violation of a zoning ordinance have such a substantial interest in the enforcement of the zoning restrictions as to make them "proper parties" in a suit to compel observance of restrictions and for injunctive relief in equity.

The Court further held that an ordinance amending a zoning ordinance so as to change the designation of defendant's corner property from Class A commercial to Class C commercial passed to enable defendant to maintain an illegal addition to the second story of his building in violation of the zoning regulation respecting airspaces to be left open for dwellings which defendant had previously been ordered to remove by city authorities and by court action by owners of adjoining properties used solely for residence purposes, was void as discriminatory and unreasonable, and decree enjoining continuation of work on such addition and requiring removal of part already constructed was proper.

JURISDICTION - DIVERSITY OF CITIZENSHIP - JOINT STOCK LAND BANKS
(Dallas Joint Stock Land Bank v. American Employers' Ins. Co., District Court, N. D. Texas, 35 F. S. 927)
Congress not having intended that the joint stock land banks should have a local citizenship status, the Dallas Joint Stock Land Bank, with its office and place of business in Dallas, Texas, was not a citizen of Texas and therefore could not bring an action in a Federal court against a Massachusetts corporation by reason of diversity of citizenship.

The plaintiff joint stock land bank, organized under the Federal Farm Loan Act, 12 U.S.C.A. Sec 641 et seq., with its office and place of business in Dallas, Texas, on the allegation that it was a citizen of that state brought suit in the District Court on the claim of diversity of citizenship. The defendant, an artificial citizen of the State of Massachusetts, asserted that plaintiff was a citizen of the United States by reason of its incorporation under the Federal statute, but that it was not a citizen of any particular state.

The court, examining the legislation establishing the joint stock land banks comparing it with legislation establishing other banks, held:

"Plaintiff also suggests that since the wording of subdivision 16 of 28 U.S.C.A. Sec. 41, is as follows: 'All national banking associations established under the laws of the United States shall, for purposes of all other actions by or against them, *** be deemed citizens of the States in which they are respectively located,' and since Joint Stock Land Banks are obviously associations and are designated 'banks,' that they are banking associations established under the laws of the United States, and shall come within the broad language just quoted."

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"Later on in the same chapter, Section 1021, Title 12 U.S.C.A., there is a provision for Federal Intermediate Credit Banks. There are to be twelve of such institutions. They have many of the functions of a commercial bank which are not permitted to Joint Stock Land Banks. Such Federal Intermediate Credit Banks have been classified in Federal Intermediate Credit Bank of Columbia v. Mitchell, 277 U. S. 213, 48 S. Ct. 449, 72 L. Ed. 854. That case definitely shows that such Intermediate Bank is given citizenship in the state in which it operates. In the reasoning it is pointed out that the government owns stock to the extent of more than one-half of its capital, and it, therefore, comes under Section 12 of the Act of February 13, 1925, 28 U.S.C.A. Sec. 42.

"Such domiciling has not been attempted by Congress for the benefit of the Joint Stock Land Bank."

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"Citation is made to Bankers' Trust Company v. Texas & Pacific Railway Co., 241 U. S. 295,36 S. Ct. 569, 60 L. Ed. 1010, which determined that the creation of a corporation by Congress without designation of its location as fixing its citizenship results in simply making it a citizenship of the United States but of no particular state."

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"In 1923, came the statute, shown in the same chapter 7, Title 12 U.S.C.A. Sec. 1023, relating to Federal Intermediate Credit Banks, which provides that, 'And for the purposes of jurisdiction shall be deemed a citizen of the State where it is located.' That provision is in the same Act as the provision for the creation of Joint Stock Land Banks."

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"We are driven to wonder why Congress did not fix the citizenship of the Joint Stock Land Bank as it did the Intermediate Credit Bank, in the same chapter, if it really meant that the Joint Stock Land Bank should have a local citizenship status. We must conclude that no such local status was intended.

"Diversity not appearing, the cause must be dismissed. This is without reference to any other ground of jurisdiction.

"Since the above opinion was written, but prior to its filing, the plaintiff has further considered a phrase in 12 U.S.C.A., Sec. 813,

which provides that, 'Each stockholder of any such bank (Joint Stock Land Bank) shall have the same voting privileges as holders of shares in national banking associations,' and that possibly such language indicates that Congress did not consider a Joint Stock Land Bank a national banking association, and, therefore, asks that the cause be dismissed without prejudice, which order is accordingly entered."

LANDLORD AND TENANT - INJUNCTION

(Wolfe et al. v. United States Housing Authority et al., District Court, Western District, New York, 36 Fed. Supp. 580)

Tenants in public housing authority's property must come within its statutory limits or be evicted.

An action was brought and motion was made for an injunction pendente lite to restrain the United States Housing Authority and other defendants from taking proceedings to dispossess certain lessees of "Kenfield" a public housing project.

The District Court for the Western District of New York held that where a public housing project was leased by United States Housing Authority to Buffalo Municipal Housing Authority, and Authority's Board of directors adopted resolution that income limit for continued occupancy of residents of project should be established at statutory limit for apartment occupied by each resident or $1,750 per annum, whichever was lower, and it was not claimed that plaintiff tenants in project had annual incomes lower than $1,750, plaintiffs were not entitled to injunction pendente lite restraining Authorities from dispossessing plaintiffs. United States Housing Act of 1937, Sections 1, 2, 42 U.S.C.A. Sections 1401, 1402; Public Housing Law N.Y. sections 1 et seq; 156, subds. 3, 4.

MORTGAGES

(Carpenter & Carpenter, Inc., v. Kingham, ---Wyo.---, 110 P. 2d 824)

The Supreme Court of Wyoming held that where mortgagee who had taken possession of mortgaged land looked after the property after indebtedness to mortgage was paid, mortgagee was entitled to receive reasonable compensation for looking after property unless mortgagee had been negligent or was guilty of mismanagement.

QUO WARRANTO - STATUTES - MUNICIPAL CORPORATIONS
(Jackvony v. Berard, ---R.I.---, 18 A. 2d 889)
Although a statute states that a mayor's certificate of appointment of municipal housing authority commissioners is "conclusive evidence" of proper appointment, there must first have been vacancies to which appointments could be made, and by petition in equity in the nature of quo warranto, prior appointees may show no such vacancies existed by sustaining the burden of establishing that they were illegally removed from offices to which they were legally entitled.

The petitioners were appointed commissioners of the Housing Authority of the city of Woonsocket, pursuant to the provisions of Rhode Island General Laws 1938, c. 344. Charges of inefficiency, neglect of duty, and misconduct of office were made against them, and at a hearing held by the mayor, he ordered the petitioners removed and purported to appoint the respondents as commissioners of the Housing Authority.

The Rhode Island Supreme Court said:

"It is not seriously questioned that in these proceedings, being in equity in the nature of quo warranto, the petitioners have the burden of establishing that they were illegally removed from their offices and that they are legally entitled thereto. See McGroarty v. Ferretti, 56 R. I. 152, 184 A. 508. They contend that there were no vacancies in these offices and that the certificates of appointment of the respondents, as filed by the mayor, were therefore invalid and of no effect. On the other hand, the respondents contend that the express provisions of Sec. 5 of Chap. 344, supra, make the certificate of appointment of any commissioner, as filed by the mayor, conclusive evidence of such commissioner's due and proper appointment.

"While the words 'conclusive evidence' do appear in the section in question, it is obvious that this provision can not be given the literal and sweeping construction for which the respondents argue, without defeating other express provisions of the statute. It is well established that a statute will be so construed as to reasonably give effect to all its express provisions, if possible.

"If the occasion arises when it is admittedly lawful and proper for the mayor to make appointments of commissioners, then by the terms of the statute the certificates are made conclusive evidence of the latters' due and proper appointment. However, in the situation before us, it is clear that there must first have been vacancies in the offices in question, brought about by the proper and legal removal of the

petitioners, before the respondents can rely upon the above provision of the statute. The construction contended for by them would make the hearing by the mayor upon charges preferred a useless formality. Therefore, the statute in question, standing alone, is of no aid to the respondents. The facts and circumstances in evidence relating to the alleged removal of the petitioners from office must first be considered, in order to determine the correctness of such removal, because upon that rests entirely the validity of the respondent's alleged appointments."

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"In petitions in equity in the nature of quo warranto, if questions of fact are involved, we can, and it is our duty, to weigh the evidence. ***"

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"We find that the petitioners have sustained the burden of showing that they were unlawfully and improperly removed from their offices as commissioners of the Woonsocket Housing Authority. In our opinion the evidence presented at the hearings held by the mayor, in so far as it relates to what may be construed as material and substantial charges against the petitioners in connection with the performance of their official duties, did not substantiate such charges and did not warrant or justify the petitioners' removal by the mayor from their aforesaid offices. His action in that regard was, therefore, improper.

"Such being the case, no vacancy was created or existed which it was necessary or proper for the mayor to fill at the time he attempted to appoint the respondents. Such appointments were therefore illegal and void."

SUBROGATION

(HOLC vs. James H. Williams, et al., Supreme Court, Queens County, New York. Decided in April, 1941.)

HOLC is entitled to be subrogated to lien of mortgage it refunded and to lien of taxes paid from proceeds of its loan.

In a foreclosure suit in which HOLC relied on the doctrine of subrogation the facts were as follows:

On January 2, 1923, the property involved was conveyed to "James H. Williams and wife." At that time Eva M. Williams was the wife of James H. Williams. On January 7, 1929, James H. and Eva M. Williams mortgaged the property to the Title Guarantee & Trust Company. On July 22,

1933, Eva M. Williams was granted a divorce from James H. Williams, and on December 31, 1935, she conveyed an undivided one-half interest in the property to Josephine T. Lange. This deed, however, was not filed for record until April 8, 1936. In the meantime James H. Williams married again, this wife being Elsie M. Williams. The above-mentioned mortgage being in default and the assignee of the Title Guarantee & Trust Company threatening to foreclose it, James H. Williams and wife, Elsie M. Williams, on March 10, 1936, got a loan from HOLC for the purpose of refinancing and saving the property from foreclosure. They were living in the property at the time. At the closing of the loan the old mortgage to the Title Guarantee & Trust Company was released of record and the new mortgage to HOLC was recorded. The proceeds of the loan from HOLC were used to pay off the old mortgage, to pay taxes on the property and to do some needed repairs and reconditioning work on the property. James H. Williams represented to HOLC that Elsie M. Williams was the only wife he had ever had and at the time HOLC closed the loan it had no knowledge or notice of the deed which the first wife, Eva M. Williams, had executed to Josephine T. Lange.

In the foreclosure suit, James H. and Elsie M. Williams, being in default on their mortgage indebtedness to HOLC, Josephine T. Lange claimed to be the owner of an undivided one-half interest in the property free and clear of any lien in favor of HOLC, but the court held that HOLC was entitled to be subrogated to the lien of the old mortgage in favor of Title Guarantee & Trust Company which was revived for its benefit and to the lien of the taxes above mentioned.

TAXATION - CONSTITUTIONAL LAW

(State ex rel. Grubstein v. Cambell, Tax Assessor, et al.,---Fla.---, 1 So. 2d 483)

A city housing authority's property used exclusively for slum clearance purposes is exempt from taxation.

This is a proceeding by the State, on the relation of Philip Grubstein, for a writ of mandamus to W. H. Cambell as assessor of taxes for the City of Tampa, and the Housing Authority of such city, commanding that lands belonging to such authority be entered on the tax rolls and assessed for taxes.

The Supreme Court of Florida held that a city housing authority's property, used exclusively for low rent housing and slum clearance purposes, as provided in act creating such authority, is exempt from taxation as held exclusively for "municipal purposes" within constitutional tax exemption provisions.

The Court further held that a city housing authority's property is not subject to taxation for payment of principal of, and interest on, city's bonds and other obligations incurred before effective date of act exempting such authorities' properties from taxation as held exclusively for municipal purposes within constitutional tax exemption provisions, of which all purchasers of city's securities were put on notice.

TAXATION - USURY - BANKS AND BANKING
(McGovern v. Federal Land Bank of St. Paul, ---Minn---, 296 N. W. 473)
The Minnesota mortgage registry tax is a revenue measure and the Federal Farm Loan Act exempts mortgages from this tax. State usury statutes are inapplicable to notes or mortgages executed under the Federal Farm Loan Act.

This was an action by plaintiffs to set aside the foreclosure of a mortgage on their home and have it adjudged usurious. The first assignment of error was that the court erred in refusing to vacate the foreclosure because no registry tax was paid upon the mortgage. The defendant was organized and operates under the Federal Farm Loan Act of Congress and in making the loan to plaintiffs, defendant made it under the act mentioned. The court said in this regard that:

> "Our mortgage registry tax is a revenue measure (Mason Minn.St. 1927, Sec. 2323). First State Bank of Boyd v. Hayden, 121 Minn. 45, 140 N. W. 132. The federal farm loan act, 12 U.S.C.A. Sec. 931, made this mortgage immune from state tax. And we think these two decisions of the Supreme Court of the United States conclusively determine the first assignment of error against plaintiff: Federal Land Bank v. Crosland, 261 U.S. 374, 43 S. Ct. 385, 67 L.Ed. 703, 28 A.L.R. 1; Pittman v. Home Owners' Loan Corp., 308 U.S. 21, 60 S. Ct. 15, 84 L.Ed. 11, 124 A.L.R. 1263. The mortgage was duly recorded and entitled to be foreclosed."

The other assignment of error was that the court erred in holding that the provision for interest at a higher rate after default than before did not forfeit all interest. It appears that in 1932 the plaintiffs obtained a loan from defendant and agreed to repay the same with five and one-half per cent interest under an amortization plan. In 1933 the Federal Farm Loan Act was amended so as to permit a reduction of interest to three and one-half per cent, and in January 1934, pursuant to such amendment, the parties executed a written agreement stating the amount that was then due and reamortizing the same. Default occurred in the condition of the mortgage and defendant began foreclosure

proceedings. The Federal Farm Loan Act contains this provision: "Every borrower shall pay simple interest on defaulted payments at the rate of 8 per centum per annum," etc., and the mortgage in this case contained a clause conforming to this provision of the law. It may be conceded that the provision of the mortgage violated the Minnesota statute, if it applies, but the Court held that it did not apply and said:

> "Usury is determined by the statutory provisions applicable to the transaction. This mortgage and loan are governed by the act of Congress, to which our statutes and decisions must yield. In Smith v. Kansas City Title Co., 255 U. S. 180, 41 S.Ct. 243, 65 L.Ed. 577, the federal farm loan act was held constitutional. It is therefore clear beyond dispute that when this mortgage contains the very language of the act requiring a higher rate of interest after default than before, there is nothing unlawful or usurious about such higher interest. Such is the ruling in respect to usury or unlawful interest exacted by the national banks operating under acts of Congress. Schuyler Nat. Bank v. Gadsden, 191 U. S. 451, 24 S.Ct. 129, 48 L.Ed. 258; McCollum v. Hamilton Nat. Bank, 303 U.S. 245, 58 S.Ct. 568, 82 L.Ed. 819. State courts are in accord. Federal Land Bank of Columbia v. Shingler, 174 Ga. 352, 162 S. E. 815; Federal Land Bank of Spokane v. Statelen, 191 Wash. 155, 70 P.2d 1053."

TORTS - LANDLORD AND TENANT

(Bella Cohen vs. HOLC, Municipal Court, City of New York, Borough of Brooklyn, Seventh District. Decided in April, 1941.)

Multiple Dwelling Law of New York does not require landlords to artificially light exterior stoops or steps of multiple dwellings.

Plaintiff, a tenant in the second floor of a three-story, three-family dwelling owned by HOLC, sued HOLC for damages for personal injuries sustained by her in a fall down the outside front stoop or steps of the property. The accident happened at night and there was no light burning in the vestibule or entrance hall of the property as required by the Multiple Dwelling Law. Large trees in the front of the property both to the right and left obstructed the light from the street and the front stoop or steps down which plaintiff fell were quite dark. Moreover, plaintiff offered proof tending to show that on a previous occasion and because of darkness she had fallen down the front stoop or steps and had informed agents of HOLC of her fall.

The Court recognized that under the common law there is no duty upon the part of the owner of realty to maintain lighting for any portion of the premises. Stacy vs. Shapiro, 212 App. Div. 723, 209 N. Y. S. 305; Lindsley vs. Stern, 203 App. Div. 615, 197 N. Y. S. 106; Kunder vs. Purchase Holding Co., 188 App. Div. 94, 176 N. Y. S. 315. Therefore, in the absence of statutory mandate, HOLC was under no duty to maintain lighting over the front stoop or steps down which plaintiff fell.

Section 40 of the Multiple Dwelling Law provides that "in every multiple dwelling the owner shall provide a light or lights which shall each be of not less than fifteen watts or equivalent photometric rating for the vestibule and entrance hall," but since it had been held in Indinali vs. Lerner, 243 App. Div. 735, 277 N. Y. S. 445 and Flanagan vs. Rosoff, 23 N. Y. S. (2d) 980, that this provision does not require lighting for exterior stoops or steps but only for interior portions of multiple dwellings, the decision was in favor of HOLC.

ZONING - MUNICIPAL CORPORATIONS
(Perelman et al. v. Board of Adjustment of Borough of Yeadon et al., Superior Court of Pa., 18 A 2d 438)
A Court cannot set aside findings of zoning board unless it is arbitrary and against weight of evidence.

This is an appeal from decree of Court of Common Pleas, Delaware County, Pennsylvania, setting aside the action of the Board of Adjustment of the Borough of Yeadon, Delaware County, in refusing application to change a certain vacant lot from Class B residence district to Class C business district and thus permit the parking of automobiles thereon.

The Superior Court of Pennsylvania in reversing the lower court held that a court cannot set aside findings of borough zoning board of adjustment in refusing or granting variance from zoning ordinance provisions and decide factual question itself, if such findings are supported by substantial evidence and not otherwise erroneous as matter of law; but is authorized to and should make its own ruling, if board's determination is shown to be arbitrary and contrary to weight of evidence.

ORDERS, REGULATIONS AND OPINIONS

FARM CREDIT ADMINISTRATION: The Land Bank Commissioner, by regulation filed March 26, made applicable to joint stock land banks certain rules and regulations pertaining to the Federal land bank system. See 6 Fed. Reg. 1643.

FARM SECURITY ADMINISTRATION: The Acting Administrator, by regulation March 28, designated the localities in Natchitoches Parish, Louisiana, in which loans may be made under Title I of the Bankhead-Jones Farm Tenant Act. See 6 Fed. Reg. 1696.

The Acting Administrator, by regulation filed April 2, amended the regulation with respect to releases of real estate security for Rural Rehabilitation loans. See 6 Fed. Reg. 1766.

The Administrator, by regulation filed April 3, (1) designated the localities in De Soto Parish, Louisiana, in which loans may be made under Title I of the Bankhead-Jones Farm Tenant Act; and (2) delegated certain authority to the Director of the R. P. Division. See 6 Fed. Reg. 1787-1788.

The Administrator, by regulation filed April 17, designated the localities in Arkansas County, Arkansas, in which loans may be made under Title I of the Bankhead-Jones Farm Tenant Act. See 6 Fed. Reg. 2009.

FEDERAL HOME LOAN BANK BOARD: The Federal Home Loan Bank Board, by resolution filed March 24, amended its regulations to provide for advances in amounts not in excess of the face value of Federal Home Loan Bank debentures posted as security. See 6 Fed. Reg. 1624.

The Federal Home Loan Bank Board, by resolution filed April 14, provided for inter-bank borrowing. See 6 Fed. Reg. 1964.

Home Owners' Loan Corporation: The General Manager and General Counsel, by regulation filed March 24, provided a procedure for the handling of insurer's certificates upon full payment of a home owner's loan. See 6 Fed. Reg. 1624.

The General Manager and General Counsel, by orders filed April 8, (1) authorized Regional Managers to designate Service Representatives to receive collections, and (2) further amended the collection procedure. See 6 Fed. Reg. 1860.

The General Manager and General Counsel promulgated a procedure, filed April 22, for the conveyance of properties purchased under installment contracts. See 6 Fed. Reg. 2080.

The General Manager and General Counsel promulgated a procedure, filed April 22, for the granting of miscellaneous credits upon application of the home owner. See 6 Fed. Reg. 2189.

FEDERAL HOUSING ADMINISTRATION: The Administrator, with the approval of the Acting Secretary of the Treasury, by a notice filed March 27, called certain 2-3/4 percent Mutual Mortgage Insurance Fund debentures, Series B. See 6 Fed. Reg. 1680.

The Administrator, by regulation filed March 31, provided administrative rules for Defense Housing Insurance under Title VI of the National Housing Act. See 6 Fed. Reg. 1746-1752.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION: The Board of directors, by resolution filed April 7, required annual statements of condition of Federal savings and loan associations to be made available to their respective members. See 6 Fed. Reg. 1841.

RURAL ELECTRIFICATION ADMINISTRATION: The Administrator, by order filed March 25, allocated funds to designated projects in Alabama, California, Colorado, Kentucky, Louisiana, Missouri, Nebraska, Ohio, and Texas. See 6 Fed. Reg. 1637.

The Administrator, by order filed March 27, allocated funds to a designated project in Ohio. See 6 Fed. Reg. 1679.

The Administrator, by order filed March 28, amended previous administrative orders with respect to the projects designated therein. See 6 Fed. Reg. 1696.

The Administrator, by order filed March 29, allocated funds to designated projects in Georgia, Iowa, Michigan, Minnesota, and Nebraska. See 6 Fed. Reg. 1726.

The Administrator, by orders filed April 2, amended previous administrative orders with respect to designations of projects and amounts allocated. See 6 Fed. Reg. 1777.

The Administrator, by orders filed April 10, (1) reduced the allocation made to a designated project in Kansas, and (2) amended previous administrative orders with respect to the projects designated therein. See 6 Fed. Reg. 1900-1901.

The Administrator, by orders filed April 17, allocated funds to designated projects in Alaska, Arizona, Arkansas, Florida, Illinois, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin. See 6 Fed. Reg. 2009.

UNITED STATES HOUSING AUTHORITY: The Administrator, by regulations filed April 22, set forth the policy considerations involved in setting income limits and rents for United States Housing Authority-aided projects, discussing the general principles involved, the market limits, the division of the low-income group into grades, the setting of rents for the various income grades, income limits and rents for specific projects, the assignment of rents to specific dwelling units, and income limits after admission. See 6 Fed. Reg. 2080-2083.

LEGISLATION

Federal

S. 296 Introduced on February 20, 1941, by Mr. Davis (R.; Pa.). This bill would amend the National Housing Act so as to give protection to certain mortgagors in military service. Referred to the Committee on Banking and Currency, passed the Senate on March 24, 1941.

S. 1125 Introduced on March 17, 1941, by Mr. Mead (D.; N.Y.). A bill to limit the power of the Home Owners' Loan Corporation to obtain deficiency judgments. Referred to the Committee on Banking and Currency.

S. 1268 Introduced on March 31, 1941, by Mr. Bailey (D.; N.C.). A bill to permit members of savings and loan associations and similar institutions to report and pay tax upon their earnings in such institutions in the taxable year in which such earnings accrue, and to require such institutions to make an information return as to earnings of their members as is required for interest, rents, and salaries. Referred to the Committee on Finance.

S. 1278 Introduced on March 31, 1941, by Mr. Sheppard (D.; Texas). Permits any Federal Credit Union to waive payments of interest by members in military service. Referred to the Banking and Currency Committee.

S. 1279 Introduced on March 31, 1941, by Mr. Sheppard (D.; Texas). Subjects Federal Credit Unions to taxation imposed under State unemployment compensation laws. Referred to the Banking and Currency Committee.

S. 1458 Introduced on May 6, 1941, by Mr. Reynolds (D.; N.C.). A bill to amend the District of Columbia Alley Dwelling Act. Referred to the Committee on the District of Columbia.

H.R.3934 Introduced on March 10, 1941, by Mr. Coffee (D.; Neb.). A bill to increase to $5,000 the amount of, and to 5 years and 32 days the maturity of, a loan with respect to which

insurance may be granted under Title I of the National Housing Act, as amended. Referred to the Committee on Banking and Currency.

H.R.4058 Introduced on March 18, 1941, by Mr. Sacks (D.; Pa.). A bill to amend section 203(b)(2)(B) of the National Housing Act so as to provide mortgage insurance up to 90 per centum of the appraised value where the obligation does not exceed $6,750. Referred to the Committee on Banking and Currency.

H.R.4309 Introduced on March 27, 1941, by Mr. Barry (D.; N.Y.). A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to defer payments of taxes and assessments and interest on, and principal of, mortgages upon small dwellings and to stay sales and actions and proceedings for sale of, or foreclosure of mortgages on, such dwellings by reason of the military service of certain persons. Referred to the Committee on Military Affairs.

H.R.4341 Introduced on April 10, 1941, by Mr. Randolph (D.; W.Va.). A bill to amend the District of Columbia Alley Dwelling Act. Referred to the Committee on the District of Columbia.

H.R.4542 Introduced on April 28, 1941, by Mr. Leland M. Ford (R.; Cal.). A bill to exclude service performed by certain real-estate salesmen from the definition of "employment" under the Federal Unemployment Tax Act. Referred to the Committee on Ways and Means.

H.R.4598 Introduced on April 30, 1941, by Mr. Sacks (D.; Pa.). A bill to permit the insurance under Title II of the National Housing Act, as amended, of mortgages on properties the construction of which was begun prior to January 1, 1937, on the same basis as properties the construction of which was begun after such date. Referred to the Committee on Banking and Currency.

H.R.4621 Introduced on May 2, 1941, by Mr. Steagall (D.; Ala.). A bill to amend the National Housing Act. Referred to the Committee on Banking and Currency. This bill extends the operation of the Federal Housing Administration under Title I, and for other purposes.

H.R.4669 Introduced, Reported and Passed on May 7, 1941. An additional Urgent Deficiency Appropriation Bill, 1941. Among other appropriations has an appropriation of $150,000,000 for permanent type defense housing and $15,000,000 for temporary type defense housing, such as trailers and portable units.

H.R.4685 Introduced on May 8, 1941, by Mr. Barry (D.; N.Y.). A bill to extend to closed building and loan associations and for the liquidation of assets of such associations the same assistance that is now extended to closed banks and for the liquidation of their assets. Referred to the Committee on Banking and Currency.

H.R.4688 Introduced on May 8, 1941, by Mr. Marcantonio (A.-L.; N.Y.). To provide a Nation-Wide system of social security and a Guaranteed minimum family income; to establish a program of Federal public works and services, and for other purposes. This bill has a provision to provide for low-rent housing and slum clearance projects in rural and urban communities. This bill provides for the construction of not less than one million dwelling units per year with an appropriation of $1,000-000,000 therefor. Referred to Ways and Means Committee.

H.R.4691 Introduced on May 8, 1941, by Mr. Patman (D.; Texas). A bill to amend the Federal Credit Union. This bill provides that Credit Unions may invest in shares of building and loan insurance associations insured by the Federal Savings and Loan Corporation. Referred to the Committee on Banking and Currency. Passed by the House on May 16, 1941.

H.R.4693 Introduced on May 8, 1941, by Mr. Steagall (D.; Ala.). Reported out of Committee on May 9, 1941. A bill to amend the National Housing Act. Referred to the Committee on Banking and Currency. (This bill is a substitute for H.R. 4621--see above). Passed by the House on May 16, 1941.

S.J.Res. 54 Introduced on March 17, 1941, by Mr. Sheppard (D.; Texas). Joint resolution proposing an amendment to the Constitution of the United States providing for tax exemption of certain homesteads. Referred to the Committee on the Judiciary.

H.Doc. 195 On May 1, 1941, the House received a message from the President of the United States transmitting a supplemental estimate of appropriation for the fiscal year 1941 in the amount of $15,000,000 for defense housing. Referred to the Committee on Appropriations.

PUBLIC LAWS

Public Law No.	
9 (H.R. 3204) (Approved March 1, 1941)	Defense Housing: Appropriates $5,000,000 for defense housing.
24 (H.R. 3575) (Approved March 28, 1941)	Amend National Housing Act. Adds new Title VI (Defense Housing Insurance). (See 81 HLD for analysis of Act).
42 (H.R. 3486) (Approved April 29, 1941)	Authorizes an additional appropriation of $150,000,000 for defense housing.

State

Housing

Minnesota - Needy Persons. Would establish the Minnesota Welfare Housing Fund by levying a sum of $200,000 upon all taxable property in the State for each of the taxable years 1942-1946, making a total of $1,000,000. Pending the levy and collection of these taxes, Certificates of Indebtedness could be issued not exceeding $1,000,000.

The Director of Social Welfare would determine the need for safe and sanitary quarters in buildings constructed or remodeled after standards set up in the Act. Dwelling quarters leased by the Director of Social Welfare would be allocated to needy persons by the County Welfare Board of the county in which the quarters are situated with the approval of the Director. Due allowance for the rental value of the quarters so allocated would be made in determining the total amount of relief granted and in allocation of relief funds by the State to the several counties and governmental subdivisions concerned. Where tax forfeited land remaining unsold after being appraised and offered at public sale is desired for constructing dwelling quarters to be leased to the State under this Act, the county board of the county wherein the land is situated may authorize the sale of the land. (S. F. 1397, Mr. Wright.)

Land Tenure

Homestead Exemption and Graduated Land Tax

Idaho - Tax Exemption. Would establish a $1000 tax exemption on homesteads. (H. B. 349, Com. on State Affairs.)

Pennsylvania - Exemption Rights. Would amend the Act which exempts property to the value of $300 from levy and sale on execution and distress for rent, by prohibiting persons from contracting or signing away their rights to an exemption. (H.B. 1011, Mr. Heatherington.)

Landlord-Tenant Relationships

New York - Foreclosure Actions. Would amend the Civil Practice Act in relation to receivers and provisions relating to appointments in actions to foreclose mortgages on real property. (S. B. 1384, Mr. Desmond.)

New York - Mortgage Loans. Would amend the real property laws by limiting the recovery of certain mortgage loans to the proceeds from the sale of the mortgaged property. (S.B. 1568, Mr. Farrell.)

Pennsylvania - Landlord-Tenant Relationships. Would amend and consolidate the law relating to landlord-tenant relationships. (H. B. 899, Mr. Boorse.)

Pennsylvania - Land Sale Restrictions. Would prohibit for certain periods the sale of property for debt obligations at less than its fair market value. Methods of fixing the property value are prescribed. (S. B. 361, Mr. Cox, et al.)

Wisconsin - Real Estate Actions. Would amend the procedure relating to real estate actions by changing the conciliation board, the method of conciliation, and the redemption period. The mediation board is changed to a conciliation board, the members of conciliation board to be selected instead of appointed.

Before any real estate action may be started, the lien creditor must attempt conciliation as a condition precedent to such action. Any action in law or equity may not be commenced until the conciliation process has been completed.

In any real estate action commenced prior to July 1, 1943, in which the right of redemption has not fully expired, the period of redemption is extended "from year to year beyond the normal period but not beyond July 1, 1944." In any real estate action in which the redemption period is extended voluntarily or otherwise for two years beyond the normal redemption period, further extensions may only be granted by the court upon application of the owner. (A. B. 615, Mr. Carlson.)

Succession and Transfer of Real Property

Florida - validating Title. Would provide for the establishment and quieting of titles to real property held in continued adverse possession for a period of seven years. (S. B. 82, Mr. Horne; H. B. 310, Mr. Dowda.)

Oklahoma - Mortgages. Would amend the Oklahoma Statutes of 1931 to impose a tax of ten cents on each $100 for each year (a major fraction of a year to count as a full year) where the mortgage was for five years or less and five cents on each $100 for each year the mortgage is effective over five years. Any extension agreement or substitute mortgage differing as to terms or amount would be taxable as a new mortgage. No abatement of the tax would be allowed because of installment maturities, the mortgage being deemed security for the whole debt. Mortgages of an indeterminate period would be taxed as of five years but after the termination of the five year period no judgment or final order in any action or proceeding would be allowed until the tax for the additional period was paid. (H. B. 516, Mr. Langley.)

Taxation of Real Property

Assessment, Levy, and Collection

Pennsylvania - Tax Sale Moratorium. Would authorize county treasurers to adjourn delinquent tax sales, pending enactment of legislation by the General Assembly, to alleviate the conditions of delinquent tax owners. These resolutions anticipate that legislation will be enacted to extend grace and other indulgences to delinquent taxpayers. (S. C. R. 111, Mr. Coleman; H. R. 43, Mr. Cordier.)

Zoning

Legislation and Ordinances

Minnesota - County Planning Commissions. These bills would authorize the creation of county planning commissions consisting of not less than four and not more than twenty members, in counties containing a city of the first class, the area of which city comprises at least 25 percent of the total area of the county.

The commission would have the following power and authority: (1) To propose a general comprehensive plan for the future physical development of the county or parts thereof outside of the limits of cities of first class, (2) to propose a plan concerning the marking of historical land marks, and (3) to propose a plan to divide the county into zones or districts and limit and regulate the construction, height, bulk, location, and use of buildings, structures, and lots. The electors of any town and the governing body of any city or village, other than cities of first class, would be authorized to vote and levy a sum not in excess of $1000 per annum to defray their proportionate expense in administering this Act. (S. F. 1165, Mr. Orr, et al; H. F. 1324, Mr. Memmer.)

Minnesota - Towns. These bills would provide for division of towns, which are located within a county having a population of more than 450,000 inhabitants and an assessed value in 1935 (exclusive of money and credits) of $280,000,000, into districts or zones by a resolution adopted by 50 percent of those voting. Power would be given to regulate and restrict the location, height, and bulk of buildings.

The provisions of any resolution so adopted would become operative and effective ten days after the date of the town meeting unless there was filed with the town clerk within the ten day period the written objections of 50 percent or more of the owners of real property located in the district, zone, or area affected by the resolution. (S. F. 1354, Mr. Miller; H. F. 1479, Mr. Erikson.)

Legislation and Ordinances

Missouri - County Planning. Would amend Article 5, Ch. 133, Revised Statutes, 1939, relating to county planning by making the provisions applicable to any county in which, or in a county immediately adjoining which, there is located a permanent camp, cantonment, post, fort, or training area of the United States Army or any ordnance or ammunition plant or factory owned or operated by the United States or owned by the United States and operated under contract with the United States.

No official master plan or zoning plan could be adopted, amended, or extended by the county planning commission without prior approval of the State planning board, commissioner of health, and chief engineer of the State highway commission. Pending the adoption of a master plan or zoning plan, the planning commission would be allowed to adopt a temporary or emergency plan after at least one public hearing and publication of five days' notice of the time and place of the hearing. (S. B. 172, Mr. Donnelly, et al.)

Oklahoma - Counties. Would create regional planning commissions and regional boards of adjustment to set up and enforce land use and building regulations for the regional district. Counties are authorized to cooperate with the regional boards and appropriate funds for their use. (S. B. 152, Mr. Thompson.)

Pennsylvania - Public Improvements. Would require the submission of all plans for public improvements to the county planning commission for approval and prohibit the recording of plans and sales of lots without their consent. (H. B. 1185, Mr. Goodwin.)

Pennsylvania - Townships. Would amend the "First Class Township Law" to permit the zoning of undeveloped portions of townships. (H. B. 832, Mr. Bretherick.)

SELECTED REFERENCES

HOUSING

-Defense.

Housing. Defense housing insurance, hearings, 77th Congress, 1st session on H. R. 3575, superseding H. R. 3162, to amend national housing act, Feb. 17-21, 1941. iii + 166 p. il. *Paper, 20¢.

---Defense housing insurance, report to accompany H. R. 3575 (to amend national housing act, submitted by Mr. Steagall. Feb. 27, 1941. 9 p. (H. rp. 169, 77th Cong. 1st sess.) *Paper, 5¢.

Housing. Authorizing appropriation of additional $150,000,000 for defense housing, report to accompany H. R. 3486; submitted by Mr. Lanham. Feb. 24, 1941. 2 p. (H. rp. 142, 77th Cong. 1st sess.) *Paper, 5¢.

--- Public buildings and grounds, hearings, 77th Congress, 1st session, on H. R. 3213, to amend act of Oct. 14, 1940 (54Stat. 1125), so as to expedite further provision of housing in connection with national defense, and to provide public works in relation to such housing and other national-defense activities, and H. R. 3570, authorizing appropriation for providing additional community facilities made necessary by national-defense activities, Mar. 4-13, 1941. ii + 340 p. (No. 2.) *Paper, 30¢.

---Public buildings and grounds, hearings, 77th Congress 1st session, on H. R. 3486, to authorize appropriation of additional $150,000,000 for defense housing, Feb. 21, 1941. ii + 16 p. (No. 1.) *Paper, 10¢.

Housing. Consideration of H. R. 3486, report to accompany H. Res. 137 (for consideration of H. R. 3486, to authorize appropriation of additional $150,000,000 for defense housing); submitted by Mr. Clark. Mar. 11, 1941. 1 p. (H. rp. 244, 77th Cong. 1st sess.) *Paper, 5¢

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*For sale by Superintendent of Documents, Government Printing Office, Washington, D. C.

---Consideration of H. R. 3575, report to accompany H. Res. 114 (for consideration of H. R. 3575, to amend national housing act, so as to provide for defense housing insurance); submitted by Mr. Sabbath. Feb. 27, 1941. 1 p. (H. rp. 163, 77th Cong. 1st sess.) *Paper, 5¢.

Housing. Defense housing insurance, hearing before subcommittee, 77th Congress, 1st session, on H. R. 3575, to amend national housing act, Mar. 14, 1941. iii + 56 p. *Paper, 10¢.

---Defense housing insurance, report to accompany H. R. 3575 (to amend national housing act); submitted by Mr. Bankhead for himself and Mr. Brown. Mar. 20, 1941. 2 p. (S. rp. 131, 77th Cong. 1st sess.) *Paper, 5¢.

-Private.

Rents. Suggested emergency fair rent legislation, report. 1941. v.+ 21 p. il. (Bulletin 10; Consumer Division.) Council of National Defense - Advisory Commission to Council of National Defense. Free.

MISCELLANEOUS

A Discussion of The Soldiers' and Sailors' Civil Relief Act of 1940. By Karl R. Bendeston, 2 Washington and Lee Law Review, Fall, 1940.

Clip sheet. Federal Housing Administration clip sheet, Mar. 7-28, 1941; v. 26, no. 4-7. Each 1 p. il. (Weekly.) Federal Loan Agency - Federal Housing Administration. Free.

Federal home loan bank review. Federal home loan bank review, v. 7, no. 6; Mar. 1941. cover title, p. 177-208, il. (Monthly.) *Paper, 10¢ single copy, $1.00 a yr.; foreign subscription, $1.60.

---Statistical supplement, Federal home loan bank review, v. 7, no. 6; Mar. 1941. cover title + 24 p. *Paper, 10¢.

NOTE:--This supplement provides statistical information covering period 1930-40, including all revisions made up to beginning of the current year.

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*For sale by Superintendent of Documents Government Printing Office, Washington, D. C.

Government contracts. Regulations applicable to contractors and subcontractors on public buildings and public work and on building and work financed in whole or in part by loans or grants from United States (kick-back statute). (1941.) 4 p. (Title 29, Labor, subtitle A, Office of Secretary of Labor, Code of Federal regulations, pt. 2.) Printed for official use only - Labor Department.

MORTGAGES

Decree of Sale in a Foreclosure Proceeding. By Elmer M. Leesman, The John Marshall Law Quarterly, March 1941, p. 314.

Extension Agreements In The "Subject-To" Mortgage Situation. By George Neff Stevens. 15 University of Cincinnati Law Review, January 1941.

Foreclosures. Non-farm real estate foreclosure report, Jan. 1941. Feb. 28, 1941. (4) leaves. (Research & Statistics Division.) (Monthly. Processed.) Federal Loan Agency - Federal Home Loan Bank Board. Free.

The Foreclosure Racket. By Thomas C. Desmond in Current History & Forum, May 1941.

Insured mortgage portfolio, v. 5, no. 3, 1st quarter 1941. cover title, 48 p. il. *Paper, 15¢ single copy, 50¢ a yr.; foreign subscription, 70¢.

Mortgages. Protection to certain mortgagors in military service, report to accompany S. 926; submitted by Mr. Bankhead. Mar. 21, 1941. 1 p. (S. rp. 134, 77th Cong. 1st sess.) *Paper, 5¢.

PROPERTY

Eminent Domain Damages. By J. B. Steiner, 6 Missouri Law Review, April 1941, p. 66.

Land policy review. Index, Land policy review, v. 3, Jan.-Dec. 1940 12 p. (Processed.) Agriculture Department - Agricultural Economics Bureau. Free.

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*For sale by Superintendent of Documents, Government Printing Office, Washington, D. C.

---Land policy review. Mar. 1941; v. 4, no. 3, 48 p. il. (Monthly.) *Paper, 5¢ single copy, 50¢ a yr.; foreign subscription, 75¢.

Land use. Digest of outstanding Federal and State legislation affecting rural land use, Mar. 1 and 15, 1941. 47 p. il. and 48 p. il. (L. E.-Bulletin 60 and L. E.-Bulletin 61.) (Semimonthly. Processed.) Agriculture Department - Agricultural Economics Bureau. Free.

Two States and Real Estate (Discussion of Conflict of Laws With Respect to Real Estate). By Herbert F. Goodrich, University of Pennsylvania Law Review, February 1941, p. 417.

STATE LAW INDEX

Current ideas in 1939 State legislatures, review of bills introduced and laws enacted during the year, 1941. 86 p. (Library of Congress, Legislative Reference Service, State Law Index, State Law Digest Report 5.) *Paper, 10¢.

TAXATION

Classification of Fixtures for Assessment (Chattel or Realty). By John W. Holmes, California Law Review, November 1940, p. 21.

Valuation of Real Property (Loan v. Tax Purposes). Address by E. Jones. Taxes 19:33-5, 53 January 1941.

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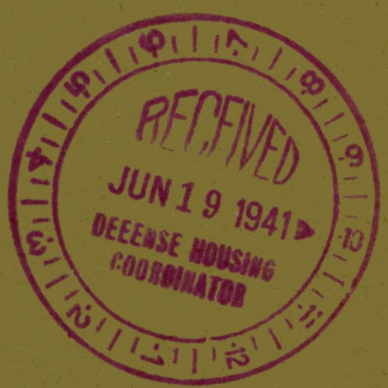
*For Sale by Superintendent of Documents, Government Printing Office, Washington, D. C.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