Enforcement of Land Taxes in West Virginia

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ENFORCEMENT OF LAND TAXES IN WEST VIRGINIA

In general, if any owner of land or of any undivided interest therein fails to have his interest entered in the land books of the county in which the land is situate, and it has not been charged on the land books with state, county and district taxes for five successive year, he forfeits it to the state. If the property has been properly entered in the land books, it is assessed annually at its true and accurate value as of the first day of January of the year for which the assessment is made. A lien for the taxes and

3 Code 1931, c. 11, art. 3, § 1; Acts 1933, c. 40; Code 1937, § 670. Actually assessments are made during the first several months in the year. But the values are supposed to be those existent on January 1.
interest at the rate and for the period prescribed by law attaches at the same date.4

Since 1933 taxes have been payable in two equal installments: the first due November first of the year for which the taxes were assessed, the second, May first of the following year.5 It is the duty of the sheriff on December 1 to proceed to collect the first installment, and on June 1 of the following year to collect the second installment.6 If the installments have not been paid by the date at which the sheriff proceeds to make collection, they become subject to interest of nine per cent;7 but if they are paid on or before the date they become payable (November 1 and May 1) they are subject to a discount of two and one-half per cent.8 If a joint owner of real estate pays the whole tax due, he is subrogated to the lien of the state for so much of the tax as should have been paid by the co-owner.9 But this lien is lost unless within one year after the tax becomes due, he files a written claim together with a tax receipt or duplicate with the clerk of the county court.10

After the last day of November of the year for which the taxes were assessed for the first installment, and after the last day of May of the next year for the second installment, the power

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4 Code 1931, c. 11, art. 10, § 1; Code 1937, § 799. Such a lien is a cloud on title within the ordinary covenant against encumbrances. But usually an agreement is made between the parties when land is sold as to payment of current taxes. See Code 1931, c. 11, art. 9, § 17; Code 1937, § 799.

5 Acts 1933, c. 39; Acts 2d Ex. Sess. 1933, c. 57; Code 1931, c. 11, art. 9, § 7; Code 1937, § 773. Before 1933 taxes were payable in one lump sum due November 30.

6 Acts Ex. Sess. 1932, c. 12; Acts 1933, c. 39; Acts 2d Ex. Sess. 1933, c. 57; Code (1931) c. 11, art. 9, § 7; Code 1937, § 773. The sheriff receives a commission on all taxes collected above 85 per cent of all taxes assessed. Acts 2d Ex. Sess. 1933, c. 56; Code 1937, § 773 (1).

7 Code 1931, c. 11, art. 9, § 7; Acts Ex. Sess. 1932, c. 12; Acts 1933, c. 39; Acts 2d Ex. Sess. 1933, c. 57; Code 1937, § 773. Prior to 1932 interest was at the rate of ten per cent per year.

8 Acts Ex. Sess. 1932, c. 12; Acts 1933, c. 39; Acts 2d Ex. Sess. 1933, c. 57; Code 1931, c. 11, art. 9, § 7; Code 1937, § 773.

9 Code 1931, c. 11, art. 9, § 8; Code 1937, § 774.

10 Code 1931, c. 11, art. 9, § 8; Code 1937, § 774. This statutory provision has the effect of doing away with the doctrine of Van Horne v. Fonda, 5 Johns. Ch. 388 (N. Y. 1821) in West Virginia as applied to payment of whole taxes by one co-owner. By a so-called blind amendment the legislature provided that "Whenever in chapter eleven or chapter thirty-seven the words land or lands or tract or tracts of lands, or lot or lots, or real estate, or part or parcel of a tract or lot, or estate or estates in land or aliquot part in land, are used, they shall be read to include an undivided interest in land and an undivided interest in any estate in land . . .". This provision, if constitutional, abolishes the rule of Van Horne v. Fonda that purchase of tax title by one co-tenant enures to the benefit of other co-tenants.
of distraint for unpaid taxes is given by statute.\textsuperscript{11} The Code also provides for collection of taxes by garnishment proceedings.\textsuperscript{12}

On or before the first Monday in June of the year following that for which the taxes were assessed, the sheriff or collector must make out a delinquent list.\textsuperscript{13} This must be posted and published as prescribed by law.\textsuperscript{14} Delinquent lists are then presented by the sheriff or the collector to the county court for its examination as to correctness.\textsuperscript{15} These taxes bear interest at the rate of three-fourths

\textsuperscript{11} This right of distraint is rarely, if ever, exercised. \textit{Code} 1931, c. 11, art. 9, § 10; Acts Ex. Sess. 1932, c. 12; Acts 1933, c. 39; Acts Ex. Sess. 1933, c. 53; Code 1937, § 776. Where land is located in more than one county, the sheriff or collector of the assessing county may distraint on that part of the land lying in the other county. \textit{Code} 1931, c. 11, art. 9, § 11; Code 1937, § 777. A tenant in possession claiming under the party or estate assessed is subject to distraint to the extent of the rent owed on such lands for the year or years during which he is in possession. If rent is payable in a share of the crops, such share is likewise subject to distraint. \textit{Code} 1931, c. 11, art. 9, § 12; Code 1937, § 778; Code 1931, c. 11, art. 9, § 17; Code 1937, § 783. 'No trust deed, mortgage upon, or sale of, goods or chattels shall prevent the same from being distrained and sold for taxes assessed against the grantor in such deed, or the former owner thereof, while such goods and chattels remain in the grantor's or owner's possession, nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for taxes assessed thereon, no matter in whose possession they may be found.' \textit{Code} 1931, c. 11, art. 9, § 13; Code 1937, § 779.

\textsuperscript{12} This remedy also is rarely, if ever, exercised. \textit{Code} 1931, c. 11, art. 9, §§ 14, 15, 16; Code 1937, §§ 780, 781, 782.

\textsuperscript{13} \textit{Code} 1931, c. 11, art. 9, § 20; Acts Ex. Sess. 1933, c. 17; \textit{Code} 1937, § 786. It would appear that when the first Monday of June falls on the first day of the month, the sheriff or collector would have difficulty in preparing a delinquent list by the statutory date, as the second installment of taxes for the preceding year does not become delinquent until June 1. However, it was held in \textit{Imboden} v. \textit{Hornage}, 57 W. Va. 206, 49 S. E. 1036 (1905), that failure to make out and swear to a list of lands delinquent for taxes by the first Monday in June, as required by the statute, will not invalidate a deed under a tax sale. But in \textit{Woodward} v. \textit{Woodward}, 117 W. Va. 300, 185 S. E. 231, 232 (1936), it was said, 'Although the statute (\textit{Code}, 11-9-22, as amended by the acts of 1935, c. 53), authorizes the publication of delinquent lists as late as two weeks prior to the August levy-session, another section (\textit{Code}, 11-9-20), as amended by Acts First Extra Session 1933, c. 17, art. 9, § 20) is mandatory in its requirement that the sheriff shall prepare and make oath to such delinquent lists on or before the first Monday in June. This, of course, furnishes ample time for the county court to cause such lists to be published and paid for within the current fiscal year.' \textit{Quaeret}: Should not the 1935 amendment being the later legislative enactment apply and thus permit publication as late as August? The local levying body meets on the first Tuesday in August, and then adjourns until the third Tuesday of the same month. \textit{Code} 1931, c. 11, art. 8, §§ 9, 10; Acts 1933, c. 39; Acts 2d Ex. Sess. 1933, c. 67, § 9; id. c. 69; \textit{Code} 1937, §§ 760, 761.

\textsuperscript{14} \textit{Code} 1931, c. 11, art. 9, § 22; Acts 1935, c. 53; \textit{Code} 1937, § 788.

\textsuperscript{15} \textit{Code} 1931, c. 11, art. 9, § 23; Acts Ex. Sess. 1933, c. 17; Acts 1935, c. 92; \textit{Code} 1937, § 790.

\textsuperscript{16} \textit{Code} 1931, c. 11, art. 9, § 23; Acts Ex. Sess. 1933, c. 17; Acts 1935, c. 92; \textit{Code} 1937, § 790.
of one per cent per month. If the taxpayer pays the tax due plus interest before the sale as provided in the Code, he receives duplicate receipts, one of which is filed with the county clerk, who records payment on the margin of the record of delinquency.

An owner of a part of a tract or of an undivided interest may pay his proportion of taxes upon complying with special statutory provisions, provided that if the part upon which a co-owner desires to pay taxes is a city lot, the sheriff shall ascertain the taxes on the lot, and payment discharges the lot from delinquency without any other proceeding. If there is no data on the land books from which the sheriff can ascertain the taxes on a part, the party desiring to redeem a part may secure from the assessor a certificate showing its value, and from this the sheriff shall compute the proper proportion of taxes to be paid.

In addition to all other remedies, the officer whose duty it is to collect the taxes has a right of action in personam against the delinquent party at law or in equity within five years of the time the action accrued, namely the time the taxes became delinquent.

The auditor may within two years of the date when the tax lien attaches institute a suit to enforce the lien. In this suit

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17 Code 1931, c. 11, art. 9, § 23; Acts Ex. Sess. 1933, c. 17; Acts 1935, c. 92; Code 1937, § 790. Prior to 1935 such delinquent taxes bore interest at the rate of one per cent per month from date of certification to the date of sale.


19 Code 1931, c. 11, art. 9, § 23; Acts Ex. Sess. 1933, c. 17; Acts 1935, c. 92; Code 1937, § 789. Code 1931, c. 11, art. 10, §§ 32, 33; Code 1937, §§ 730, 731, provide for a survey of the part to be redeemed from which a plat and description is made to which is appended an affidavit of the surveyor, or an appointment by the assessor in the case of an undivided interest.


21 Code 1931, c. 11, art. 9, § 30; Code 1937, § 796. Cf. the limitation on the state’s right to sue for the tax within the statutory period of five years, along with the owner’s right to redeem for nonentry within maximum of twenty years, when he is under a disability at the time of forfeiture. W. Va. Const. art. 16, § 6; Code 1931, c. 37, art. 3, § 1; Code 1937, § 3604. See also Code 1931, c. 11, art. 10, § 27; Code 1937, § 825, as to right of infants and lunatics to redeem land sold for delinquent taxes within one year of the removal of disability.

Apparently there are six remedies available for the collection of delinquent land taxes in this jurisdiction: (1) a suit in personam, n. 21; (2) distraint by sheriff, n. 11; (3) garnishment by sheriff against funds of debtor in possession of another, n. 12; (4) foreclosure of tax lien, n. 23; (5) sale of delinquent land for taxes, n. 28; (6) sale of lands forfeited and irredeemable, n. 52.

22 Code 1931, c. 11, art. 10, § 1; Code 1937, § 799. A lien for taxes attaches on the first of January of the year for which the taxes were assessed. See n. 4, supra.

23 Code 1931, c. 11, art. 10, § 1; Code 1937, § 799.
the land may be sold, and out of the proceeds the costs of the sale (including a reasonable compensation not exceeding five per cent of the amount collected to the counsel prosecuting the suit) are first paid; then taxes and interest are paid into the state treasury; and lastly, the surplus, if any, is paid to the owner of the property.  

Within ten days of the first of November of the year in which the land is returned delinquent the sheriff must compile and publish under statutory regulation a list of delinquent lands. So much of the land as will satisfy taxes and interest must be auctioned off by the sheriff at the front door of the courthouse between the hours of ten A.M. and four P.M. on the second Monday in December. The purchaser is given a receipt by the sheriff who also sends a list of the sales to the county clerk. When it appears that land should not be sold for the amount stated in the list, the sheriff has the power to suspend the sale and report his reasons to the county court.

The owner of land sold for tax delinquency, anyone to whom the owner’s interest has passed, or any person having a claim against the land, may redeem by paying to the purchaser or to anyone to whom his interest has passed within the period provided by statute the amount paid by the purchaser plus any taxes later paid with interest at the rate of twelve per cent from the date of payment. If the purchaser refuses to accept the money, the statute sets up a procedure for paying the money to the clerk of the county court.

The purchaser of the land may procure a deed by complying with the following procedure: (1) after one year and before one

\[24\text{ Ibid.}\]
\[25\text{ Ibid.}\]
\[26\text{ It is presumed that taxes do not become subjects of the delinquent lists until the second installment is past due.}\]
\[27\text{ CODE 1931, c. 11, art. 10, § 4; CODE 1937, § 802.}\]
\[28\text{ CODE 1931, c. 11, art. 10, § 4; CODE 1937, § 802. If the sale is not completed on this day, it is continued from day to day excepting Sundays and legal holidays. CODE 1931, c. 11, art. 10, § 5; CODE 1937, § 803.}\]
\[29\text{ CODE 1931, c. 11, art. 10, § 8; Acts Ex. Sess. 1933, c. 17; CODE 1937, § 806.}\]
\[30\text{ CODE 1931, c. 11, art. 10, § 8; Acts Ex. Sess. 1933, c. 17; CODE 1937, § 807; CODE 1931, c. 11, art. 10, § 11; Acts Ex. Sess. 1933, c. 17; CODE 1937, § 809.}\]
\[31\text{ CODE 1931, c. 11, art. 10, § 8; CODE 1937, § 803.}\]
\[32\text{ Expenses incurred by the purchaser before the expiration of one year in procuring a survey and notice in preparation to the securing of a deed must also be paid. CODE 1931, c. 11, art. 10, § 12; CODE 1937, § 810.}\]
\[33\text{ If the purchaser disputes the right to redeem of him who pays the money to the clerk, he may within one year of the payment by notice prescribed by law require the party redeeming to prove his right to redeem in the circuit court. CODE 1931, c. 11, art. 10, § 13; CODE 1937, § 811.}\]
year and six months from the date of sale, a surveyor's report or survey must be filed in the office of the county clerk; (2) if the party desiring a deed is an assignee, a written assignment must be filed; and (3) certain requirements of notice to the original owner or others having an interest in or claim against the land must be met. Redemption may be made at any time before the date fixed in the notice for the making of the deed. If there is no redemption the county clerk issues a deed, whose form is prescribed by statute. Apparently the time within which a deed must be obtained is between the first and second year after the date of sale. If the owner of real estate sold for delinquent taxes claims the taxes were not in arrears, he has five years after the deed is made in which to set aside the sale. Infants and lunatics whose realty was sold during disability have one year after their disability is removed in which to redeem.

When no bid sufficient to cover the taxes and interest is received, the sheriff buys in the land for the state for the amount of taxes due plus interest. In such a case the same title as would vest in an individual purchaser vests in the state, but without the necessity of a deed or other conveyance, and subject to a right to redeem. This right of redemption exists for one year from the date of sale and may be exercised by the previous owner or any other person having an interest in or claim against the land by following the procedure prescribed by statute. Redemption by one having merely an undivided interest may be accomplished by

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34 Code 1931, c. 11, art. 10, § 16; Code 1937, § 814.
35 Code 1931, c. 11, art. 10, § 16; Code 1937, § 814.
36 If the clerk refuses to execute a deed or correct an insufficient deed, the purchaser may by petition to the circuit court compel the clerk to act, or secure the appointment of a commissioner to execute the deed. Code 1931, c. 11, art. 10, § 19; Code 1937, § 817; Code 1931, c. 11, art. 10, § 16; Code 1937, § 814. At this sale purchaser gets but a derivative title.
37 Reviser's Note to Code 1931, c. 11, art. 10, § 16; Code 1937, § 814, which cites Code 1931, c. 11, art. 10, § 21; Code 1937, § 829, to support this stand. It would seem that if the purchaser does not secure his deed within the statutory time limit, his remedy will be by intervention in a suit for the sale by the state of land as forfeited under Code 1931, c. 37, art. 3, § 13; Code 1937, § 3616. If there is no possession, there apparently is no remedy at all, unless there be some right by way of subrogation to the state's lien.
38 Code 1931, c. 11, art. 10, § 24; Code 1937, § 822.
39 Code 1931, c. 11, art. 10, § 27; Code 1937, § 825. There seems to be no limit to duration of this extension of time to redeem because of disability, unless Code 1931, c. 55, art. 2, § 4; Code 1937, § 5396, applies.
40 Code 1931, c. 11, art. 10, § 28; Acts Ex. Sess. 1933, c. 17; Code 1937, § 826.
41 Code 1931, c. 11, art. 10, § 29; Code 1937, § 827.
42 Code 1931, c. 11, art. 10, § 30; Code 1937, § 828.
having the tax assessment divided by the assessor and the proportionate share of each interest certified to the auditor.\textsuperscript{43}

At least once in every two years the state commissioner of forfeited lands must file with the circuit court a list of lands forfeited to the state under the constitutional penalty for nonentry, or which have been purchased by the state and have become irredeemable.\textsuperscript{44} At least four months prior to the filing of this report, the commissioner must publish notice of the date that lands will be sold.\textsuperscript{45} After the list is filed, suits in chancery looking forward to a decree of sale must be commenced for the state commissioner of forfeited lands by the prosecutor of the county in which the lands are located.\textsuperscript{46} Before a decree of sale may be made, the prosecutor must file with the circuit court a report setting forth a description of the land, names of former owners, occupants or claimants, the year or years for which the lands are forfeited, the amount of taxes, interest and costs chargeable, and the names of all parties entitled to redeem.\textsuperscript{47} Ten days' notice must be given to the attorneys of record of any interested parties before the report is filed.\textsuperscript{48} Exceptions to the report may be made to the prosecutor, or at any time in court before final decree of sale.\textsuperscript{49} If there are any exceptions, it is necessary that there be a reference of the cause to a commissioner in chancery, who must give notice to all interested parties.\textsuperscript{50} The court finally decrees sale of all lands which it deems legally subject to sale.\textsuperscript{51} The sheriff then

\textsuperscript{43} Code 1931, c. 11, art. 10, § 32; Acts 1935, c. 91; Code 1937, § 830. A person having the right to redeem may redeem a part of the land by following the procedure provided by statute. Code 1931, c. 11, arts. 10, §§ 22, 33; Acts 1935, c. 91; Code 1937, §§ 830, 831.

\textsuperscript{44} Code 1931, c. 37, art. 3, § 8; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; Code 1937, § 3611. This and the following sections also specifically apply to escheated lands.

\textsuperscript{45} Code 1931, c. 37, art. 3, § 8; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; Code 1937, § 3611.

\textsuperscript{46} Code 1931, c. 37, art. 3, § 10; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; Code 1937, c. 3613. All tracts may be included in the same suit, or separate suits may be instituted for each tract of land exceeding in quantity one thousand acres.

\textsuperscript{47} Code 1931, c. 37, art. 3, § 19; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; Code 1937, § 3622.

\textsuperscript{48} Code 1931, c. 37, art. 3, § 19; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; Code 1937, § 3622.

\textsuperscript{49} Code 1931, c. 37, art. 3, § 19; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; Code 1937, § 3622.

\textsuperscript{50} Code 1931, c. 37, art. 3, § 19; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; Code 1937, § 3622.

\textsuperscript{51} Code 1931, c. 37, art. 3, § 21; Acts Ex. Sess. 1933, c. 18; Code 1937, § 3624.
offers the land for sale to the highest bidder.\textsuperscript{52} If no bid equals or exceeds the combined amount of taxes, interest and costs, the sheriff bids the land in for the state for that amount, and title to the land, which is thereafter administered by the public land corporation of West Virginia, vests absolutely in the state.\textsuperscript{53}

An individual purchaser may pay for the land by cash or by installments.\textsuperscript{54} The sheriff conveys the land and joins in a deed to the purchaser.\textsuperscript{55}

If any person having an interest in the land at the time of the forfeiture to the state files his claim within two years after the sale is confirmed, he may recover in whole or in part any surplus over the taxes, interest and costs with interest at the rate of twelve per cent per year, and the costs of the suit.\textsuperscript{56} Moreover the former owner or any person holding a claim against the land (the latter in behalf of the former) may even redeem the land itself by paying the taxes, interest and costs, if this be done before the sale is confirmed.\textsuperscript{57}

The public land corporation, which administers the land, title to which finally vests in the state, was created in 1933.\textsuperscript{58} It is composed of the governor as chairman, the commissioner of agriculture as secretary, the auditor as state commissioner of forfeited lands, the attorney general and the director of the engineering experiment station at West Virginia University.\textsuperscript{59} It was set up to administer lands which are now or may hereafter become vested in the state.\textsuperscript{60} Since under the procedure described above, the title

\textsuperscript{52} CODE 1931, c. 37, art. 3, §§ 21, 22; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; CODE 1937, §§ 3624, 3625.

\textsuperscript{53} CODE 1931, c. 37, art. 3, § 22; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; CODE 1937, § 3625.

\textsuperscript{54} CODE 1931, c. 37, art. 3, § 22; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; CODE 1937, § 3625.

\textsuperscript{55} CODE 1931, c. 37, art. 3, § 27; Acts Ex. Sess. 1933, c. 18; CODE 1937, § 3630. The effect of this second sale is to vest in the purchaser a so-called original as distinguished from a derivative title. CODE 1931, c. 37, art. 3, § 32; CODE 1937, § 3635.

\textsuperscript{56} CODE 1931, c. 37, art. 3, § 28; Acts Ex. Sess. 1933, c. 18; CODE 1937, § 3631.

\textsuperscript{57} CODE 1931, c. 37, art. 3, § 29; Acts 1931, c. 49; Acts Ex. Sess. 1933, c. 18; CODE 1937, § 3632.

\textsuperscript{58} Acts Ex. Sess. 1933, c. 54; CODE 1937, § 3603 (1).

\textsuperscript{59} Acts Ex. Sess. 1933, c. 54, § 1; CODE 1937, § 3603 (1).

\textsuperscript{60} Acts Ex. Sess. 1933, c. 54, § 2; CODE 1937, § 3603 (2). This legislation marked a radical departure from the state's prior policy against public ownership of lands, akin to the policy of the old "mortmain" statutes. The motive behind this change is believed to be a desire for systematic reforestation of sub-marginal lands for flood control value, the value of the timber itself, and
to land forfeited for tax delinquency becomes absolute, land so acquired can be administered in the public interest. The corporation may acquire from individuals or from the state commissioner of forfeited lands by purchase, lease or agreement any lands that may be necessary for public use.\textsuperscript{61} For the purpose of consolidating public holdings it may sell, purchase or exchange lands or stumpage.\textsuperscript{62} It has the authority to dedicate public lands to such uses as forestation, stock grazing, agricultural rehabilitation and homesteading, or it may contract or lease for the development of oil, gas, mineral and water rights within or upon them.\textsuperscript{63} All income derived from the land which it holds is to be used solely in liquidating indebtedness incurred for its acquisition or development until such indebtedness is discharged.\textsuperscript{64} Any income thereafter is to be paid into the general school fund.\textsuperscript{65}

The functioning of the public land corporation has been delayed by virtue of a moratorium established about the same time as it was created.\textsuperscript{66} It was amended in 1935\textsuperscript{67} and again in 1936.\textsuperscript{68} The moratorium terminated June 30, 1937.

Under certain circumstances the title which has become vested in the state because of forfeiture for nonentry, escheat, or purchase by the state of delinquent tax lands which have become irredeemable, is automatically transferred to persons other than those in default for nonentry or delinquency.\textsuperscript{69} The first class of persons who thus take are those who have had actual and continuous possession for ten years under color or claim of title, and have paid taxes during any five of those years.\textsuperscript{70} If there is no such person, then title vests in anyone who, but for the title forfeited, would have had title through a grant from Virginia or West Virginia, and who has paid taxes for any five successive years after

the value to be gained by scenic improvement toward building a tourist trade as a major state business. Despite "swapping" provisions of the statute, the accomplishment of this objective seems doubtful because of the scattered location of forfeited, escheated and irredeemable lands.

\textsuperscript{61} Acts Ex. Sess. 1933, c. 54, § 3; Code 1937, § 3603 (3).
\textsuperscript{62} Acts Ex. Sess. 1933, c. 54, § 5; Code 1937, § 3603 (5).
\textsuperscript{63} Acts Ex. Sess. 1933, c. 54, § 8; Code 1937, § 3603 (8).
\textsuperscript{64} Acts Ex. Sess. 1933, c. 54, § 6; Code 1937, § 3603 (6).
\textsuperscript{65} Idem.
\textsuperscript{67} Acts 1935, c. 54, 55.
\textsuperscript{68} Acts Ex. Sess. 1936, c. 19.
\textsuperscript{69} W. Va. Const. art. 6, § 6; Code 1931, c. 37, art. 3, § 1; Code 1937, § 3604.
\textsuperscript{70} W. Va. Const. art. 13, § 3; Code 1931, c. 37, art. 3, § 1; Code 1937, § 3604.
1865, or after the date of the grant, if it is later.\textsuperscript{11} If neither of these classes is in existence, then title vests in any person who has had actual and continuous possession under color or claim of title for any five successive years since 1865, and has paid taxes for those year.\textsuperscript{12}

Because of the moratoria on the collection of delinquent taxes by foreclosure or other statutory methods and because of the numerous changes in the West Virginia statutes dealing with the enforcement and recovery of delinquent taxes on land, it is with a great deal of trepidation that this note is written. Its purpose is to set forth in an elementary fashion the maze of statutory provisions on the subject. An absence of judicial interpretation makes makes much of what is hazarded herein of doubtful validity. It is hoped that this warning will be kept firmly in mind.

J. G. McC.

\textsuperscript{11} W. VA. CONST. art. 13, § 3; Code 1931, c. 37, art. 3, § 1; Code 1937, § 3604.
\textsuperscript{12} W. VA. CONST. art. 13, § 3; Code 1931, c. 37, art. 3, § 1; Code 1937, § 3604.

A party who gets title in this manner apparently asserts his claim in the suit instituted in behalf of the commissioner of forfeited lands.

* * * * * *

There follows a very brief tax calendar, which may aid in summarizing in a general way the above note. A tax calendar may most easily be understood if applied to a particular year. The year 1935 will be taken for illustration.

\begin{tabular}{|c|c|}
\hline
January 1, 1935 & Property assessed as of this date, and tax lien applies. \\
November 1, 1935 & First half of tax becomes due and payable. Prior to 1933 the whole tax became due November 30. \\
December 1, 1935 & First half of tax becomes subject to nine per cent interest. \\
May 1, 1936 & Second half of tax becomes due and payable. \\
June 1, 1936 & Second half of tax becomes subject to nine per cent interest. \\
Second Monday in December, 1936 & Tax sale held. If no private purchaser offers the amount of the taxes, accrued interest and costs of the sale, the sheriff bids in the land for the state. A list of lands so bid in is sent to the state auditor. \\
Prior to December, 1937 & Owner may redeem land from the state auditor within one year of sale by paying the amount of the tax sale certificate, plus twelve per cent interest thereon, plus a recording fee. He must at the same time pay all taxes for subsequent years which have accrued, and interest on them at twelve per cent from January 20 in the year following that in which the tax was levied. \\
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\end{tabular}