

January 1921

Masthead Volume 27, Issue 2

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Recommended Citation

Masthead Volume 27, Issue 2, 27 W. Va. L. Rev. (1921).

Available at: <https://researchrepository.wvu.edu/wvlr/vol27/iss2/1>

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West Virginia Law Quarterly

And THE BAR

Published by the Faculty of the College of Law of West Virginia University, and issued in November, January, April and June of each academic year. Official publication of The West Virginia Bar Association.

Subscription price to individuals, not members of The West Virginia Bar Association, \$2.00 per year. To those who are members of the Association the price is \$1.50 per year and is included in their annual dues. Single copies, 50 cents.

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BASIS OF CONSTITUTIONALITY OF COUNCIL OF DEFENSE ACTS.—

During the recent war unprecedented conditions presented themselves not alone to the fighting forces in the field but to the different departments of federal and state government as well. Resulting therefrom a number of statutes were passed of an emergency nature of which the Council of Defense acts of the several states are a part.¹ Now that the emergency is passed even the courts have begun to weigh and question the source from which the power came which was all-sustaining during the great crisis; some going so far as to declare the acts unconstitutional.²

¹ The West Virginia Act follows in part:

"Section 2. From the time this act becomes effective, and thenceforward until six months after the termination of the present war between the United States and the Imperial German Government, any able bodied male resident of this state between the ages of sixteen and sixty, except bona fide students during school term, who shall fail or refuse to regularly and steadily engage for at least thirty-six hours per week in some lawful and recognized business, profession, occupation or employment, whereby he may contribute to the support of himself and those legally dependent upon him, shall be held to be a vagrant within the meaning and effect of this act, and shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one hundred dollars for each offense, and as a part of such sentence and punishment . . . shall be by the trial court ordered to work not exceeding sixty days upon the roads or streets, or upon some other public work being done by and in the county in which such person shall be convicted, or by any municipality therein." ACTS OF 1917, c. 12

² *Ex Parte Hudgins*, 103 S. E. 327 (W. Va. 1920).