

ADVANCE CHAPTERS

ACTS

OF THE

LEGISLATURE

OF

WEST VIRGINIA.

Regular and Extra Sessions

1907.



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ERRATA

Chapter 70, page 278 in seventh line from bottom of Section 40, "nor" should read "or."

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ACTS OF 1907.

CHAPTER 1.

(House Bill No. 308.)

AN ACT to amend and re-enact section two of chapter two of the acts of one thousand nine hundred and five, which act amended and re-enacted chapter forty-four of the acts of one thousand eight hundred and eighty-two, entitled "An act to incorporate the city of Benwood in the county of Marshall, as amended and re-enacted by chapter eight of the acts of one thousand eight hundred and eighty-five, as further amended and re-enacted by chapter twelve of the acts of one thousand eight hundred and eighty-nine, and as further amended and re-enacted by chapter sixty-three of the acts of one thousand eight hundred and ninety-five."

[Passed February 18, 1907.

In effect from passage.
- February 22, 1907.]

Approved by the Governor

SEC. 2. Corporate limits and boundaries.

Be it enacted by the Legislature of West Virginia:

Boundaries.

Sec. 2. The boundaries of said city shall be as follows: Beginning at a point on the west side of the Ohio river in the state line, where the line between Ohio and Marshall counties intersects the same; thence with the Ohio and Marshall county lines crossing the river; south 85° east to a stake in the hill side; thence south $24^{\circ} 25'$ west 142.5 poles to a point in the middle of Bogg's run located south $47^{\circ} 45'$ east 9.1 poles from a notch cut in the face and top of the east wing of the abutment of the turnpike bridge over said run; thence following a line which passes through the center of the top (at its north end) of the river hill south of the run, south $12^{\circ} 45'$ west 53.15 poles to a point north of and near the top of the said hill; thence south 37° west 33.22 poles to a stake; thence south $27^{\circ} 30'$ west 43 poles to a stake; thence south

14° west 17 poles to a stake; thence south 10° east 34.5 poles to a white oak; thence south 3° 30' west 35 poles to a stake; thence south 8° east 12 poles to a stake; thence south 3° west 55.5 poles to a stake; thence south 2° east 73 poles to a red oak; thence south 11° 30' east 24 poles to a stake; thence south 2° 30' west 25.5 poles; thence south 24° east 34.25 poles to a stake; thence south 11° east 38 poles to a stake; thence south 30° 30' east 51.5 poles to the south east corner of the original corporation on top of the river hill; thence with the top of the ridge of the said hill, south 1° west 930 feet to a stake; thence south 37° 45' west 560 feet to a double honey locust tree on the south point of the hill; thence south 23° 30' west 398 feet to a honey locust on the point of the hill above the hill road; thence leaving the ridge south 21° 15' east 384 feet to a stake on the north side of McMechen's run located south 21° 15' east 7.5 feet from a large sycamore standing on the said bank; thence down the run south 71° 15' west 132 feet; south 70° 15' west 92 feet; south 68° 45' west 209.5 feet; north 85° 45' west 116 feet; south 74° 45' west 400 feet; south 52° west 108 feet; south 86° west 185 feet; south 88° 30' west 247 feet; north 64° 30' west 107 feet; north 78° west 212 feet; south 89° 15' west 179.5 feet; north 84° 15' west 140 feet; south 86° 15' west 148.5 feet; west 91 feet south 69° 30' west 178 feet to the mouth of said McMechen's run; thence crossing the Ohio river south 81° 15' west to a point in the mouth of Pinch run, at its intersection with the state line; thence up the river with the said state line, to the place of beginning.

All acts and parts of acts coming within the provisions of this act and inconsistent herewith, are hereby repealed.

CHAPTER 2.

(Senate Bill No. 109.)

AN ACT to amend and re-enact sections eight, ten, sixteen, twenty-six, thirty-nine, fifty-seven, fifty-nine, sixty-five, sixty-six, and seventy-three of chapter three of the acts of the legislature of West Virginia of one thousand nine hundred and five, amending the charter of the city of Bluefield.

[Passed February 18, 1907. In effect from passage. Approved by the Governor
February 25, 1907.]

<p>SEC. 8. Election of council. 10. Qualification and oath of Mayor. board of supervisors, members of council. 16. Salary of council, board of super- visors. 26. Levy and collection of taxes.</p>	<p>SEC. 39. Paving and sewers. 57. Removal of appointive officers. 59. Qualifications of officers. 65. Duties of Mayor. 66. Duties of treasurer. 78. Overseer of the poor.</p>
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Be it enacted by the Legislature of West Virginia:

That sections eight, ten, sixteen, twenty-six, thirty-nine, fifty-seven, fifty-nine, sixty-five, sixty-six, and seventy-three of chapter three of the acts of one thousand nine hundred and five, be amended and re-enacted so as to read as follows:

Election of Council.

Sec. 8. On the first Tuesday in May, one thousand nine hundred and seven, there shall be elected by the qualified voters of said city, two members of council of said city, to be known as councilmen at large, whose term of office shall begin on the first day of June, one thousand nine hundred and seven, and the one receiving the highest number of votes in the election shall hold office for the term of two years from the first day of June, one thousand nine hundred and seven, and the one receiving the next highest number of votes in such election shall hold office for the terms of one year from the first day of June, one thousand nine hundred and seven. On the first Tuesday in May in each year after the year one thousand nine hundred and seven there shall be elected one councilman at large by the qualified voters of said city, whose term of office shall be for two years from the first day of June following his election, and on the first Tuesday in May, one thousand nine hundred and eight, there shall be elected in each ward by the qualified voters of said ward in said city, one member of the council

of said city, whose term of office shall begin on the first day of June, one thousand nine hundred and eight.

The members elected from wards numbers one, three, five and seven, shall hold office for one year from the first day of June, one thousand nine hundred and eight, and until their successors are elected and qualified. The members elected from wards numbers two, four, six and eight shall hold office for two years from the first day of June, one thousand nine hundred and eight, and until their successors are elected and qualified. And on each year after the year one thousand nine hundred and eight, there shall be elected four members of council of said city by the qualified voters of said city, as hereinbefore provided, for a term of two years.

Qualifications and Oath of Mayor, Board of Supervisors and Members of Council.

Sec. 10. The mayor, each member of the board of supervisors, and each member of the council shall be qualified voters of the city, and each member of the council shall be a qualified voter of the ward from which he is elected. They shall each respectively be inhabitants of said city for at least one year prior to their election, and they shall each respectively be the owner of a free-hold in said city for at least one year prior to their said election; such ownership to be evidenced by proper deeds of record in the county court clerk's office of Mercer county, West Virginia. Before entering upon the duties of their respective offices they shall severally take and subscribe an oath that they possess the above qualifications and are not subject to any of the disqualifications prescribed in this act; that they will support the constitution of the United States and the state of West Virginia and will faithfully discharge the duties of their respective offices to which they are elected, which oaths shall be filed with and preserved by the auditor. Each member of the board of supervisors shall give bond payable to the city, in a penalty to be prescribed by the council, conditioned for the faithful performance of the duties of the office and for the paying to said city of any sum or sums of money expended by his order or permission without proper authority therefor.

Salary of Council and Board of Supervisors.

Sec. 16. Each member of the council shall receive for his services of every kind during his term of office, a sum to be fixed

by the council, not to exceed three dollars for each meeting at which he is in attendance, not to exceed, however, the sum of one hundred dollars per annum. Each member of the board of supervisors shall receive a salary of three hundred dollars per annum. At each meeting of the council the roll shall be called and the names of those present shall be entered on the journal, but if there is no quorum present it shall not be a meeting entitling members to salary as above provided.

Levy and Collection of Taxes.

Sec. 26. The council shall have authority to levy and collect an annual tax on real and personal property in said city, and a capitation tax on the male citizens thereof, and upon all other subjects of taxation under the general laws of the state; *provided*, that such tax does not exceed forty cents on the one hundred dollars of assessed valuation of such property, or one dollar capitation tax on each male citizen of said city over the age of twenty-one years, which taxes shall be equal and uniform upon the person and property within the city, and the said council may also impose license taxes as hereinafter prescribed, all of which taxes shall be for the use of said city; *provided*, that the taxes so levied, other than upon licenses, shall be payable on the first day of October of the year in which the levy is made. The bills for all such taxes, other than licenses, shall be made off each year from the assessor's books by the auditor and delivered to the treasurer on or before the first day of October of the year in which the levy is made; and at the same time the auditor shall publish a notice in one or more of the newspapers of said city to the effect that said tax bills are in the hands of the treasurer for collection, and any person owing taxes may pay the same to said treasurer, who shall deliver to the party so paying his receipt therefor. The treasurer shall allow two and one-half per cent discount on all taxes paid prior to the first day of December in the year in which said taxes shall be levied. On and after the first day of January of the year succeeding the year in which said levy is made, the treasurer shall immediately proceed to collect all taxes which shall then remain unpaid, in the manner hereinafter provided, adding to the face thereof a penalty of five per centum and interest at the rate of six per centum per annum from the first day of January, which penalty and interest shall be for the use of the city.

Paving and Sewers.

Sec. 39. The council of the city of Bluefield, by a vote of two-thirds of all the members elected thereto, may order any street or alley or any part of any street or alley, to be paved between the sidewalks with some suitable material, and a sewer to be constructed therein, or to have such paving done without the construction of a sewer, or a sewer constructed without such paving being done, under such regulations as may be prescribed by ordinance, concurred in by the board of supervisors, upon the lowest and best terms to be obtained by advertisements for bids therefor by the board of supervisors. And two-thirds of the cost of such paving to be paid for by the abutting property owners, and the whole cost of such sewer shall be paid for by the said city. Two-thirds of the cost of such paving shall be assessed against the property owners of the lots or the fractional parts of lots abutting or abounding that part of the street or alley so paved in proportion to the length or frontage owned by each. One-third of such assessment shall be paid within thirty days from the completion of the work and the remainder in two equal installments in sixty and ninety days respectively from the completion of such work; the other one-third of the cost of such paving shall be borne by the city. The intersection of streets or of a street and alley paved under this section shall be correspondingly paved at the sole expense of the city.

It is *further provided*, that it shall be the duty of the council and said board of supervisors, upon a petition of a majority of the property owners abutting on any street or alley or any block between any street or alley, to have the same paved on the same terms and conditions as hereinbefore provided for in this section. The assessments made for the paving as aforesaid shall be a lien on the lots or parts of lots upon which they are assessed, which lien may be enforced by a suit in equity in the name of the city, in any court having jurisdiction thereof, and the same or any installment thereof, may be recovered in an action at law before any justice or in any court having jurisdiction.

Upon completion and acceptance of any paving contract constructed by virtue thereof, the council shall direct the auditor to immediately cause to be published a notice which shall name and describe the location of the streets or alleys upon which said

paving shall be constructed, give the name or names of the owners of each lot abutting or abounding on such street or alley, if known, and if the name or names of the owner or owners of any lot or part of a lot are unknown, such lot shall be described with reasonable certainty for identification, and the fact that the name or names or the owner or owners are unknown shall also be stated; the number of feet that each lot or fractional part of a lot abuts on such street or alley shall be stated as well as the amount assessed against each lot or part of a lot. Said notice shall require all the owners of lots abutting on the street or alley aforesaid to appear before the board of supervisors at a meeting thereof, within thirty days from the first publication of such notice and show cause, if any they can, why said assessment should not become final, which notice shall be published once a week for two successive weeks in some newspaper published in said city. The board of supervisors, upon the request of any one or more owners of said lots or parts of lots, shall appoint a day to hear grievances of said owner or owners, and they may alter or amend any assessment made against any such owner or owners for good cause which may be shown therefor. The auditor shall give notice to all persons claiming to be injured by said assessment, of the time and place for holding said meeting, which shall be held within ten days after the expiration of the thirty days mentioned in the published notice above provided for. The hearing may be adjourned from time to time. In case any of the owners of such lots shall fail to appear before the board for the purpose of having such assessment corrected within the time aforesaid, the said assessment against such owner or owners shall become final. The findings of the said board shall be conclusive and final. The rights conferred by this section are cumulative and shall not be exhausted as to any particular street or alley by reason of having been once exercised.

The lien upon any real estate created by virtue of this section shall be void as to any purchaser of any such real estate, for value and without notice, who shall have purchased such real estate at any time after a period of twelve months has elapsed after the paving has been accepted by the city, unless an abstract of such assessment, giving the location of the real estate affected, the name of the owner or owners thereof and the date and the amount of the assessment shall have been first recorded in

the office of the clerk of the county court of Mercer county, in a well bound book to be furnished by the city for the purpose and preserved in said office, and it is hereby made the duty of the said county clerk to record such abstracts, the said clerk to be paid a fee of twenty-five cents by the said city.

The council shall have the authority to regulate by ordinance, the manner in which connections are to be made with the sewers of the said city by the owners of property therein and shall have the authority to compel the owners of any property abutting upon a street or alley, in which there is a sewer, to connect their sewer pipes therewith under the regulations prescribed by the council, and may charge such person or persons a reasonable amount therefor, to be fixed by the council by ordinance; and in case of the failure of the owner of any such property to so connect his sewer pipe with any such sewer when required, the council may provide by ordinance such fines and penalties as in its discretion may be necessary to effect a compliance with its regulations. The amount fixed by the council for the connection with such sewer shall be paid by the owner in advance of such connection and shall be paid into the city treasury to the credit of the fund to be used for sewers and shall be used for no other purpose.

Removal of Appointive Officers.

Sec. 57. Any appointive officer of said city may be removed at any time by the power appointing him, without any cause being assigned or shown therefor.

Qualifications of Officers.

Sec. 59. All officers who are elected by the voters of the city of Bluefield, except as is otherwise provided in this act, shall possess the following qualifications: They shall have been citizens of the United States and the city of Bluefield for at least one year next prior to their election, and all appointive officers shall be residents of said city, and no officer whether appointed or elected, shall be interested directly or indirectly in any contract with the city for work to be performed; all supplies purchased for said city shall be open to competitive bids when the amount to be purchased shall exceed twenty-five dollars at any one purchase. Such officers, unless otherwise provided, shall hold their offices until their successors are duly qualified. They shall take and subscribe an oath

in the same manner, form and effect as is prescribed for the mayor and board of supervisors.

Duties of Mayor.

Sec. 65. The mayor shall be *ex officio* a conservator of the peace; he shall be the chief executive officer of the city and preside at the meetings of the council, and in case of a tie in the vote he shall cast the deciding vote; he shall see that the laws and ordinances of the city are respected and enforced within the limits of said city; he shall have the power to appoint an investigating committee to examine into the affairs of any department of the city when he shall deem it necessary; the cost of said examination and report to be paid by order of the council out of the contingent fund of the city.

The mayor shall receive a salary of three hundred dollars per annum.

Duties of Treasurer.

Sec. 66. The council may allow the treasurer such deputy or deputies as it may deem proper. The board of supervisors shall, however, consent to and confirm the appointment of every such deputy before he enters upon and assumes the duties of his position, and the treasurer shall be responsible for the acts of his deputies, in the same manner and to the same extent as the sheriff of Mercer county is responsible and liable for the acts of his deputies. He shall be charged with the aggregate of all licenses, taxes, fines and assessments levied for the benefit of said city; and he shall be credited with all the moneys paid by him upon warrants or orders drawn upon the said city by order of the council or board of supervisors or both, as the case may be; also with any delinquent taxes, fines, assessments or other moneys with which he has been charged, and which cannot be collected by due and proper diligence, as well as all discounts allowed by said treasurer as provided by section twenty-six of this act.

He shall collect all fines imposed for violation of the law and ordinances of said city and shall account for the same in the same manner that other moneys of the city are accounted for.

All other officers of the city whose duty it is or who may be or are authorized to receive money for said city, or revenues of the city from any sources whatever, are and shall be required to pay

the same to the city treasurer within three days from the time the same is collected or received by them. The treasurer shall receive as compensation, five per centum commission on all personal property and real estate taxes collected by him, and one and one-half per centum on all fines and licenses collected by him and on all moneys collected from the state auditor for said city.

Overseer of the Poor.

Sec. 73. The city shall care for and maintain its paupers and shall appoint an overseer of the poor, who shall have charge and care of the poor of said city under such regulations as the council may, by ordinance provide, and he shall receive for his services such compensation as the council, with the concurrence of the board of supervisors, may provide. *Provided, however,* that the said city of Bluefield shall not keep nor maintain the paupers of said city until such time as the county court of Mercer county shall relieve the said city of Bluefield from the payment of all taxes for the support of the paupers residing outside the corporate limits of said city.

CHAPTER 3.

(House Bill No. 316.)

AN ACT to amend and re-enact the act of the legislature of West Virginia passed on the thirteenth day of February, one thousand eight hundred and ninety-five, entitled "An act to amend and re-enact the charter of the city of Charleston, and to change the corporate limits of said city so as to include Elk City and other additional territory," and being chapter fifty-eight of the acts of said year, as amended by chapter one hundred of the acts of the legislature for the session of the year one thousand eight hundred and ninety-seven, and as further amended by chapter thirty-six of the acts of the legislature for the session of the year one thousand eight hundred and ninety-nine, and as further amended by chapter one hundred and fifty-two of the acts of the legislature for the session of the year one thousand nine hundred and one, and as further amended by chapter sixty-three of the acts of the legislature for the session of the year one thousand nine hundred and three, and to change the corporate limits of said city so as to include additional territory and consolidate into one act the whole charter of said city.

[Passed February 18, 1907. In effect from passage. Approved by the Governor February 26, 1907.]

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16. Election of councilmen, term of office.	48. }
17. Councilmen to be residents of ward, members, board of affairs, residents of district; jurisdiction by mandamus.	49. } Taxes; how collected; lien upon
18. No officer to be interested in any city contract; penalties.	50. } real estate.
19. Oath of mayor.	51. Money, how appropriated.
20. Oath of other officers.	52. } Sewers, paving and curbs; manner
21. } Vacancies and removals.	53. } of; how paid.
22. }	54. } Sewers, sewerage assessment; liens
23. }	55. } upon real estate.
24. }	56. } Refunding bonded indebtedness.
25. }	57. } Hospitals, libraries, etc.
26. }	58. } Health; regulation sale of poison-
27. }	59. } ous drugs; penalty for violation;
28. }	60. } health commissioner; board of
29. }	61. } health.
30. }	62. } Police department; how appointed;
31. }	63. } term of office; suspension or re-
32. }	64. } moval.
33. Meetings of council.	65. Fire department.
34. Quorum.	66. No free passes or other gifts.
35. Salaries.	67. Existing officers and ordinances.
36. Appointive officers.	68. Inconsistent acts repealed.
37. No salary for members of council.	
38. Duties of mayor.	

Be it enacted by the Legislature of West Virginia:

That the act of the legislature of West Virginia passed on the thirteenth day of February, one thousand eight hundred and ninety-five, entitled "An act to amend and re-enact the charter of the city of Charleston, and to change the corporate limits of said city so as to include Elk City and other additional territory," and being chapter fifty-eight of the acts of said year, as amended by chapter one hundred of the acts of the legislature for the session of the year one thousand eight hundred and ninety-seven, and as further amended by chapter thirty-six of the acts of the legislature for the session of the year one thousand eight hundred and ninety-eight, and as further amended by chapter one hundred and fifty-two of the acts of the legislature for the session of the year one thousand nine hundred and one, and as further amended by chapter sixty-three of the acts of the legislature for the session of the year one thousand nine hundred and three, be amended and re-enacted so as to read as follows:

ARTICLE I.

The City of Charleston.

Sec. 1. That the inhabitants of so much of the county of Kanawha as are within the boundaries prescribed by article two of this act, and their successors, shall constitute, be and remain a municipal corporation by the name of "The City of Charleston."

ARTICLE II.

Corporate Limits.

Sec. 2. The corporate limits of the city of Charleston shall be as follows, to-wit:

Beginning at the lower or west property line of Patrick street at its intersection with the Kanawha river at low water mark; thence following the property lines on the west side of said street northeast to a point on the northeast side of the Charleston and Point Pleasant turnpike, common corner to Littlepage and Gardner land; thence with the line dividing the land on Littlepage and Gardner up the hill six hundred feet from the northeast side of Charleston and Point Pleasant turnpike to a stake; thence a straight line in an easterly direction to a stake at the extreme

northern end of Carr street; thence with a straight line in an easterly direction to Magazine road on Magazine branch at a point on the southeastern corner of a lot belonging to W. A. Hoffman; thence with line of same across Magazine road up the hill fifty feet to a stake; thence in a southerly direction parallel with Magazine road fifty feet from the east side of said road to a point within two hundred feet of the Crescent road; thence in a line two hundred feet distant and parallel with the Crescent road to Gill hollow; thence with the Gill hollow with a line extended across the Elk river and up the hill one hundred feet; thence in a line one hundred feet distant from and parallel with the county road to a point in the center of Rock Quarry hollow; thence in a line up the hill to the rear of the Capitol Hill property as shown on the map and recorded in the office of the clerk of the county court of Kanawha county; thence with a line so as to include Spring Hill cemetery; thence by a line to a point in Ruffner hollow two hundred feet from Piedmont road; thence in an easterly direction parallel with the Piedmont road and two hundred feet northeast of same to the center of the branch in Wilson's hollow on the center line of the culvert under the K. & M. railroad extended; thence with said center line of said culvert extended to lower water mark in Kanawha river; thence with low water mark of Kanawha river to a point opposite Porter's hollow; thence across said river to the mouth of said hollow; thence up Porter's hollow south $53^{\circ} 30'$ west 427.6 feet; south 47° west 200 feet; north 73° west 215 feet; south $84^{\circ} 30'$ west 490 feet; south 47° west 475 feet; south $23^{\circ} 30'$ west 500 feet; south $49^{\circ} 9'$ west 185 feet; $23^{\circ} 30'$ west 165 feet; south 56° west 200 feet; south $75^{\circ} 30'$ west 230 feet; north $59^{\circ} 30'$ west 322 feet; north $78^{\circ} .09'$ west 151 feet; north $89^{\circ} 30'$ west 174.9 feet; north $69^{\circ} 45'$ west 416 feet; north 74° west 1005 feet; north 85° west 340 feet; south 88° west 510 feet; south $44^{\circ} 30'$ west 279 feet; south 50° west 260 feet; thence leaving Porter's hollow north 70° west $307\frac{1}{2}$ feet; north 47° west $94\frac{1}{2}$ feet; thence with line of lands of South Side Improvement Company and James Paulain north $33^{\circ} 30'$ west 180 feet to the corner of said James Paulain's fence; thence north $35^{\circ} 30'$ east 565 feet; north 36° west 495 feet; north 4° west 235 feet; north 75° west 275 feet; thence with the meanders of the eastern side of the main county road north 18° east 175 feet; thence leaving said road north $71^{\circ} 30'$ west 649 feet; south $71^{\circ} 30'$ west 138 feet; south $64^{\circ} 30'$ west 200 feet; to the line

of the properties of the South Side Improvement Company and Augustus Paulain to the corner of said Paulain's fence; north 68° 30' west 234 feet; north 34° 30' west 180 feet; north 81° west 130 feet; north 29° 30' west 195 feet; north 21° west 130 feet; north 8° 15' east 660 feet; north 7° west 264 2-5 feet; north 1° 30' west 215 feet; north 15° west 140 feet; north 7° 30' east 194.1 feet; north 29° east 370 feet; north 31° east 349.7 feet; north 18° west 390 feet; north 37° 30' west 280 feet; north 40° 30' west 200 feet; north 30° 30' east 315 feet; north 1° 30' east 294 feet; north 50° 34' east 200 feet; north 41° east 781 feet; north 79° east 400 feet; north 1° 30' west 810 feet to low water mark on the said Kanawha river, at the mouth of Ferry branch; thence down the Kanawha at low water mark, on the south side of said river, to a point opposite the lower or west line of said Patrick street; thence across said Kanawha river to the place of beginning.

ARTICLE III.

Boundaries of Wards.

Sec. 3. The said city shall consist of ten wards, which shall be bounded as follows:

First ward—To include that territory lying between the lower or western corporation line, the center of Park avenue of Glenwood addition, extended to the corporate line, northeast of Charleston and Point Pleasant turnpike, and to low water mark in the Kanawha river.

Second ward—To include that territory east of the eastern line of the first ward as above described to center of Elk river and between Kanawha river and the center of Hale street, formerly in Elk City, extended to corporation line.

Third ward—Remainder of territory west of the center of Elk river and east or northeast of center of said Hale street so extended.

Fourth ward—That territory east of the center of Elk river to center of Court street and between center of Donnally street and Kanawha river at low water mark.

Fifth ward—That territory lying between the center of Court street, center of Donnally street, center of Elk river, center of Summers street, extended to corporation line and Summers and Court streets extended to low water mark in Kanawha river.

Sixth ward—That territory lying between the center of Summers street, extended to corporation line and center of Broad street, extended to corporation line and both extended to low water mark in Kanawha river.

Seventh ward—That territory between center of Broad street and Morris street, both extended to corporation line on hill and low water mark in Kanawha river.

Eighth ward—That territory between center of Morris street and Ruffner avenue, both extended to corporation line on hill and low water mark in Kanawha river.

Ninth ward—Remainder of the territory east of the center line of Ruffner avenue, extended to corporation line on hill and low water mark in Kanawha river.

Tenth ward—All of said territory south of said low water mark on the north side of said Kanawha river.

ARTICLE IV.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Charleston shall be a mayor, and two councilmen from each ward, who together shall constitute the common council.

ARTICLE V.

Officers.

Sec. 5. In addition to the municipal authorities mentioned in article four of this act, said city of Charleston shall have a board of affairs, a treasurer, recorder, sergeant, police judge, city attorney, city engineer, commissioner of streets, chief of police, chief of the fire department, building inspector, auditor and health commissioner, and such other officers and agents as the council may from time to time create or employ.

ARTICLE VI.

Corporate Powers.

Sec. 6. All of the corporate powers of said city shall be exercised by the said council or under its authority, except as otherwise provided herein.

Sec. 7. The mayor and councilmen, when elected and qualified as hereinafter provided, shall have, possess and exercise corporate powers as a body politic by the name of "The City of Charleston," and shall have perpetual succession and a common seal, and by that name may sue and be sued, implead and be impleaded, and may purchase and hold or sell real estate and personal property necessary to enable them to discharge its corporate duties, or needful or convenient for the good order, government and welfare of said corporation.

Sec. 8. The municipal authorities of said city acting under the powers and in the manner herein specified, shall have and are hereby granted power to have said city resurveyed; to open, vacate, broaden, widen and repair streets and alleys, to curb and pave streets, sidewalks and gutters for public use, and to alter, improve and light the same, and construct and maintain public sewers and laterals, and shall in all cases have power and authority to assess upon and collect from the property benefitted thereby such part of the expense thereof as shall be fixed by ordinance except as hereinafter provided; to have control of all streets, avenues, roads and alleys for public use in said city, and to have the same kept in good order and free from obstruction on or over them; to have the right to control all bridges within said city, and the traffic passing thereover; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks and footways for public use in said city to be done and kept in good order by the owners of adjacent property; to enter into a contract with any internal improvement company for the joint ownership of any bridge by the city and said company, upon such terms as may be prescribed in the contract, but such bridge shall be a public highway, and the interest of such company shall be only such proportionate part thereof as it may pay for; to control the construction and repair of all houses, bridges, culverts and sewers, and to prescribe and enforce all reasonable regulations affecting the building of all buildings and structures, and to require permits to be obtained for such buildings and plans and specifications thereof to be first submitted to a city architect or building inspector, and to prescribe and enforce regulations controlling the erection of such buildings and to secure the safety and health of the public; to control the opening and construction of ditches, drains, sewers,

cesspools and gutters; to deepen, widen and clear the same of stagnant water or filth, and to determine at whose expense the same shall be done; to build and maintain station houses, police stations and police courts and regulate the management thereof; to purchase, lay off, appropriate and control public grounds, squares or parks, either within or without the city limits as hereinafter defined, and, when council determines that any real estate is necessary to be acquired by said city for any such purposes, or for any public purpose, the power of eminent domain is hereby conferred upon said city and it shall have the right to institute condemnation proceedings against the owners thereof in the same manner, to the same extent and upon the same conditions as such power is conferred upon public corporations by chapter forty-two of the code of West Virginia of the edition of one thousand nine hundred and six; to provide, contract for and take care of all public buildings and structures deemed proper for the use of such city; to provide for the regular building of houses or other structures, and to determine the distance that they shall be built from any street or alley; to cause the removal of unsafe walls or buildings; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances; to regulate the keeping of gunpowder and all other combustibles; to provide and maintain proper places for the burial of the dead; to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees and the protection of the same; to provide for the making of division fences and for draining of lots by proper drains and ditches; to make proper regulation for guarding against danger or damage from fires; to provide for the poor of the city; to organize and maintain fire companies and to provide necessary apparatus, engines and implements for the same; to levy taxes on persons, property, and licenses; to provide revenue for the city and appropriate the same to its expenses; to provide for the valuation of property as often as may be deemed proper and the assessment of taxable persons and property; to adopt rules for the transaction of business and for the government and regulation of its corporate bodies; to promote the general welfare of the city and to protect the persons and property of citizens therein; to appoint such officers as they may deem proper, and require and

take from them bonds with such security and in such penalty as may be determined, conditioned for faithful discharge of their duties; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof through the streets; to establish and regulate markets; to prescribe the time for holding the same and what shall be sold only in such market and to acquire and hold property for market purposes if deemed proper; to regulate the placing of signs, billboards, posters, and advertisements in, on, or over the streets, alleys and sidewalks of said city; to preserve and protect the peace, order and health of the city and its inhabitants; to appoint and fix the places of holding city elections; to erect, own, lease, regulate, authorize or prohibit the erection of gas works, electric light works or water works in or near the city and to operate the same, and sell the products thereof and to do any and all things necessary and incidental to the conduct of such business; to build, hold, purchase, own and operate toll bridges and free bridges; to provide for the purity of the water and the health of the city; to prescribe and enforce ordinances for the purpose of protecting the health, decency, morality and order of the city and its inhabitants, and to punish violations of such ordinances even if the offenses under and against such ordinances shall also constitute offenses under the laws of the state of West Virginia or the common law; to have and exercise all the rights, privileges and powers provided by chapter forty-seven of the code of West Virginia of the edition of one thousand nine hundred and six, not inconsistent with this act, and shall retain, keep and succeed to all rights, privileges, property, interest, claims and demands heretofore acquired by, vested in or transferred to said city of Charleston.

Sec. 9. To carry into effect these enumerated powers and all other powers conferred upon said city expressly or by implication in this and other acts of the legislature, the municipal authorities of said city shall have power in the manner herein prescribed to adopt and enforce all needful orders, by-laws and ordinances not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment, and, with the consent of the county court of Kanawha county entered of record, shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs.

Sec. 10. The municipal authorities shall have the right to establish, construct and maintain landings, wharves and docks on any ground which does or shall belong to said city, or which it shall acquire by condemnation proceedings, and to repair, alter, or remove any building or dock which has been or shall be so constructed, and to levy and collect reasonable duty on vessels and other crafts coming to or using same, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used.

ARTICLE VII.

Qualification of Voters.

Sec. 11. Every person qualified by law to vote for members of the legislature of the state, and who shall have been a resident of the territory within said city as bounded by this act, at least sixty days preceding the day of election, and of the territory in the ward in which he offers to vote at least ten days, and a *bona fide* resident of the election precinct in which he offers to vote, shall be entitled to vote at all elections held by the voters of said city or the corporate authorities thereof.

Sec. 12. The council shall by ordinance provide for such regulations for the registration of voters as may be rendered necessary by state laws, but the first election held under this act shall be subject to chapter forty-three of the acts of the legislature of one thousand nine hundred and five.

Except, however, that for the first election held under this act the council shall, in an equitable manner, by a majority vote at its first meeting after this act is passed, appoint two persons in each voting precinct, of opposite political parties, as registrars, who shall register the voters of their respective precincts, using the poll lists of the state election in one thousand nine hundred and six as a basis, so far as practicable. They shall list alphabetically the voters of each precinct, and such lists shall be sent out respectively and delivered to the election commissioners in each precinct, and this provision shall so far as applicable, be in lieu of and shall supersede all regulations by state law concerning the registration of voters at said first election; but any legal voter, not registered, may register or vote on election day by complying with the provisions of chapter forty-three of the acts of one thousand nine

hundred and five. All subsequent elections shall be held in the manner as may now or hereafter be provided by law; notwithstanding the existing law concerning certificates of nomination for office, at the first election held under this act, but if no other nominations may be made, certified and filed and all other duties of officers and political parties and voters in relation to such nominations, may be done within at least ten days prior to such election.

ARTICLE VIII.

Elections.

Sec. 13. The first election under this act shall be held on the third Monday in March in the year one thousand nine hundred and seven and thereafter on the same day in each subsequent year. Such first election and all subsequent elections shall be held in such manner as is or shall be prescribed by law, unless otherwise provided in this act for the first election, except, however, that for the first election held under this act the council shall pass a resolution at the first regular meeting thereof held after the passage of this act, or at least ten days prior to the first election, providing for the division of the several wards of said city, as constituted by this act, into election precincts, number the same, establish the boundaries thereof, designate the voting place in each precinct and name the commissioners and challengers to hold the said first election.

Provided, That council may after April first, one thousand nine hundred and seven, change the names and boundaries of precincts; may create more precincts in each ward and may rearrange all or any of the precincts in any of the wards, but the new arrangement shall be so made as to have as nearly as practicable, not more than two hundred voters residing in one precinct.

Provided, further, That such changes or rearrangement shall be made by ordinance, passed in the manner prescribed for passing an ordinance herein, and it shall be the duty of council to arrange said precincts, if after any election more than two hundred votes be cast at a precinct, so that the new precincts will as far as practicable, contain not more than two hundred voters each.

And in all county and state elections, the election precincts for the territory in Kanawha county, embraced in the city of Charleston, shall be as herein designated, and the county court of said

county shall from time to time so arrange the election precincts in said county, as to make the above named precincts, or any changes or rearrangements thereof, election precincts respectively of said county. And the commissioners of election for the first election to be held hereunder shall be appointed by council before the eighth day of March, one thousand nine hundred and seven.

Special election for any purpose must be authorized by the council, concurred in by the board of affairs as herein provided, and called by the mayor. Notice of all special elections must be given by publication in two newspapers of opposite politics of general circulation published in the city of Charleston, at least thirty days before the date fixed for such special election, and by posting such notice in such manner as the council may prescribe.

The common council shall sit on the fifth day, Sunday excepted, after every election as a board of canvassers, each member of council having one vote; and as such board of canvassers, they shall canvass, ascertain, publish and declare the result of any election held; and the circuit court of Kanawha county shall have power to control proceedings of said board of canvassers by *mandamus* and prohibition. The said board shall keep in a separate book a record of its proceedings and shall take down and record any evidences, motions or paper filed or offered by any candidate, which book and record shall be open to the public and shall be kept in the custody of the recorder.

ARTICLE IX.

Election of Officers.

Sec. 14. On the third Monday in March, one thousand nine hundred and seven, and on the same day in every succeeding two years, there shall be elected by the qualified voters of the city a mayor, recorder and treasurer, who shall hold their offices from the first of April succeeding in the year in which they are elected, and until their successors are elected and qualified.

Sec. 15. No person shall be eligible to the office of mayor, recorder, treasurer or councilman except citizens entitled to vote at the election at which they are elected, and no person shall be elected to such office or retain and hold the same who shall be or become an officer or employee of any person, firm or corporation holding any franchise or contract under or with said city.

Sec. 16. At the first election held under this act one councilman shall be elected from each ward of said city as constituted under this act, except that in each of the first, fifth, seventh and tenth wards two councilmen shall be elected, and in the sixth ward no councilman shall be elected. One of the councilmen so elected in each of said first, fifth, seventh and tenth wards shall hold his office for the term of one year and the other councilmen so elected from each of said wards shall hold their office for the term of two years, to be determined by lots to be drawn at the first meeting of the council held after the first day of April, one thousand nine hundred and seven. At each annual election thereafter ten councilmen, that is to say, one from each ward, shall be elected by the qualified voters thereof for the term of two years from the first day of April following their election; *provided, however*, that the councilmen serving shall continue to represent as such councilmen the ward as constituted by this act in which they were elected and now reside, and shall hold their office until their respective terms expire, and, *provided, further*, that in the sixth ward at the election in one thousand nine hundred and eight, one councilman shall be elected for one year and one for two years, and thereafter one councilman shall be elected every year in said ward, except that elections to fill vacancies shall necessitate the election of two councilmen in any ward.

Sec. 17. Councilmen must be residents of and voters in the wards from which they are elected, and members of the board of affairs of the district from which they were elected, respectively, and upon ceasing to be residents of such wards or districts after April first, one thousand nine hundred and seven, and during the terms for which they were elected they shall *ipso facto* vacate their office and the vacancy thereby created shall be filled by council until the next election for councilmen, at which election it shall be filled for the unexpired term thereof; and the circuit court of Kanawha county is hereby given jurisdiction by *mandamus* or *quo warranto* at the suit of any taxpayer of the city to declare and enforce such vacancy.

ARTICLE X.

No Officer to be Interested in any City Contract.

Sec. 18. If any officer, member of board of affairs or council-

man shall in any way become personally interested in any contract for labor, work, material or articles of any kind, done, performed or purchased for said city or in any contract, to which said city shall be a party, he shall be deemed guilty of a misdemeanor and shall be fined not to exceed five hundred dollars or imprisoned not to exceed three months, or both fined and imprisoned at the discretion of the court, and the judgment of conviction shall operate to vacate his office and the judgment shall so state, and it shall also operate to render such contract void, and no money shall be paid thereon. Jurisdiction to try, determine and sentence for a violation of this section is hereby conferred upon the circuit, intermediate and criminal courts of Kanawha county.

ARTICLE XI.

Oath of Mayor.

Sec. 19. The mayor before taking his seat or performing any of the duties of such office shall take and subscribe an oath or affirmation that he possesses the qualifications prescribed by this act to hold such office, and is not subject to any of the disqualifications prescribed therein, and that he will support the constitution of the United States, the constitution of this state and will honestly discharge the duties of his office to the best of his skill and judgment; which oath shall be filed and preserved by the recorder.

ARTICLE XII.

Oaths of Other Officers.

Sec. 20. The members of the board of affairs, recorder, treasurer and members of the council and all other officers elected or appointed under this act, shall make and subscribe an oath or affirmation in the time, manner, form and effect prescribed for the mayor.

ARTICLE XIII.

Vacancies and Removals.

Sec. 21. If a vacancy shall occur in the office of mayor, recorder, or treasurer, the council shall, as soon as practicable, fill the vacancy by the appointment of some qualified person. If any

vacancy occurs in a city office appointed by the mayor, then such vacancy shall be filled by the appointment by the mayor of some qualified person, with the concurrence of the council, subject to the regulations for the original appointment.

Sec. 22. All vacancies occurring in the council shall be filled by the council. All vacancies in the board of affairs shall be filled by the board of affairs unless two vacancies exist at once, in which event the council shall fill both vacancies by appointment. All vacancies in the board of affairs shall be filled by appointment from the district in which they occurred.

Sec. 23. All persons appointed to fill vacancies in elective offices shall hold office until the next city election, at which time the vacancy shall be filled for the unexpired term by the election of some qualified person. Vacancies occurring in appointive offices shall be filled for the unexpired term.

Sec. 24. The council shall and it is hereby granted power and authority to remove from office the mayor, recorder, treasurer, or member of the board of affairs, for any of the causes mentioned in section six of article four of the constitution of West Virginia, or for any violation of section seventeen of article nine and section eighteen of article ten of this act, upon written charges preferred by a member of the council or by any responsible person to the council, but to remove from office under this provision, two-thirds of the number of which the council consists shall concur in such removal, and the officer against whom charges are preferred shall be served with reasonable notice of the time of the hearing to be had upon such charges, together with a copy of such charges and shall have the right to be represented before the council in person and by attorney and the right to require all witnesses to be sworn and testify under oath before the council.

ARTICLE XIV.

Must hold no Other Office.

Sec. 25. No member of the council, the mayor, recorder, treasurer or member of the board of affairs or any other elective or appointive officer shall during the time for which he is elected, be eligible or appointed to any other office under the city, nor shall any such officer, while such, be an employee of the city in any other capacity whatever.

ARTICLE XV.

To Keep Journal.

Sec. 26. The council and board of affairs shall each keep a journal of its proceedings, which shall at all times be open to the inspection of any taxpayer of the city, and be a public record, and the ayes and nays of the members on any question shall at the request of any member, be taken down and entered thereon.

ARTICLE XVI.

Meetings of Council.

Sec. 27. The council shall hold regular meetings on the first and third Thursdays of each month of the year and such special meetings as the business to be transacted may require, at such place or places in said city as the council shall from time to time ordain and appoint, and the council shall have the power by proper ordinance or resolution entered of record to vest in any officer of the city or any member or number of members of their body authority to call special meetings, and in like manner prescribe the mode in and by which such special meetings shall be called.

All questions put, except as to such matters as are herein otherwise provided, shall be decided by a majority of the members present; *provided, however*, that a quorum for the transaction of business shall consist of a majority of all members elected to the council. No business shall be transacted at any special meeting of the council unless specially mentioned in the call for such meeting.

Quorum.

Sec. 28. A majority of the whole number of members elected to the board of affairs or to the council shall constitute a quorum to do business, but a smaller number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as either body may by rules provide.

ARTICLE XVII.

Salaries.

Sec. 29. The mayor, recorder, members of the board of affairs

and treasurer, and all other officers and appointees, shall receive for their official services such salary as the council shall from time to time by ordinance fix and establish, but the salary of any of such officers shall not be increased or diminished during the term for which he was elected; *provided*, that the salaries of officers elected on the third Monday of March, one thousand nine hundred and seven, shall be fixed by the municipal authorities in office on and after the first day of April, one thousand nine hundred and seven. All fees and charges allowed heretofore or hereafter by any law or ordinance shall be paid into the city treasury, and no officer, elective or appointive, shall receive any compensation, whatever, except his salary. Council shall pass suitable ordinances securing to the city all such fees and charges.

ARTICLE XVIII.

Appointive Officers.

Sec. 30. The council shall after the first day of April, one thousand nine hundred and seven, and every two years thereafter, appoint a sergeant, city engineer, and building inspector, and prescribe the duties and fix the salaries of such officers, and also fix the salaries of all other officers, not otherwise provided for in this act.

Sec. 31. The members of the council shall receive no salary for their official services.

ARTICLE XIX.

Duties of Mayor.

Sec. 32. The mayor shall be the chief executive officer of the city and shall preside at all meetings of the council and shall have a vote as a member thereof; he shall have charge and control of the police, except as herein otherwise provided; he shall, except as otherwise herein provided, see that the laws and ordinances of the city are enforced; that the peace and good order of the city are preserved, and that the persons and property therein are protected, and to this end he may cause the arrest and detention of riotous and disorderly persons and shall perform such other duties and services as the council may ordain in addition to the duties prescribed by this act and not inconsistent therewith; he shall

from time to time at his discretion, submit to the council information relative to the state of the city and its several departments, and he shall submit to the council an annual message and from time to time recommend such measures for its consideration as he may deem expedient in the interests of the city; he shall have power to appoint a competent person to examine the affairs of any department or departments when he shall deem it necessary, the cost of which shall be provided for and paid by order of the council; he shall appoint, subject to the provisions of this act, a police judge, a city attorney, chief of police, policemen, all special police and a commissioner of streets. Whenever it shall be the duty of the mayor to make an appointment under this act, he shall at the first regular meeting of the council, make a nomination therefor to council, and the latter shall at that meeting, consider the same, and confirm, refuse to confirm or reject the same. If the nomination be not confirmed, then the mayor shall at the same meeting, make another nomination and the council shall then and there consider the same, and confirm, refuse to confirm or reject the same. If the second nomination be not confirmed, then the mayor shall make another nomination and the powers of the council in relation thereto shall be the same as with the other two nominations. If all the nominations be rejected the mayor shall not make any other nominations at that meeting without the request of the council, but at the next regular meeting of council the mayor's duties and powers and the council's duties and powers shall be the same in relation to such appointment as at the former meeting.

If, after the second regular meeting held as aforesaid, no such appointment be confirmed, then the mayor shall at once send the entire list of appointments made by him to council, to the board of affairs, and the latter shall at its first meeting thereafter, confirm or reject one of said appointments. If it reject all of them, then the mayor can make one more appointment to the board of affairs and if the latter be not confirmed, then the board of affairs shall appoint some one to fill such office.

The recorder, except as herein otherwise provided, shall perform the duties of mayor whenever and so long as the mayor is from any cause not able to perform his official duties. If the mayor and recorder are both absent from the city or otherwise disabled from performing the duties of mayor, the auditor shall

perform such duties, but while acting as mayor he shall not have a vote in council.

ARTICLE XX.

Election of Board of Affairs.

Sec. 33. The city of Charleston is hereby divided into three districts, as follows: The first, second and third wards of said city shall compose the first district; the fourth, fifth, sixth and tenth wards of said city shall compose the second district; and the seventh, eighth and ninth wards of said city shall compose the third district. At the first election under this act, to be held on the third Monday in March, one thousand nine hundred and seven, and at the elections to be held every second year thereafter, there shall be elected by the qualified voters of each of said districts one member of the board of public affairs from each of said districts for two years from April first after such election, who shall at the time of his election and during his entire term of office be and remain a *bona fide* resident and voter of the district so electing him and upon ceasing to be such, the office shall be vacant.

Duties of the Board of Affairs.

Sec. 34. The three members of the board of affairs elected as provided in the next preceeding section of this act, shall each be required to give an official bond in the penalty of five thousand dollars, and each member shall receive from the city a salary, to be fixed by the council. The said board of affairs shall have the management and control of any parks, wharves, and any public utility that the city may hereafter own; they shall also have charge of the maintenance, improvements and repair of all the streets, alleys, wharves, public grounds, sewers and other improvements owned by the city in or under such streets and alleys; they shall also have the management and control of the fire department, health department, commissioner of streets, city prison, crematory, cemeteries, hospitals, and other departments and institutions of like nature; they shall appoint the auditor and chief of fire department, to be confirmed by the council, whose term of office shall be respectively two years from the time of their ap-

pointment; they shall also appoint a health commissioner, who together with the board of affairs, shall constitute the board of health of the city, who shall manage and have control of the sanitation of the city. The board of affairs shall have power to suspend without pay or dismiss permanently the chief of fire department or any member of the fire department for incompetency, misconduct in office or gross imminality; but all such suspensions or dismissals shall be reported to the first regular meeting thereafter of council with the reasons therefor. The council shall confirm or revoke such suspension or dismissal as the facts of the case may determine. The board of affairs shall require the office of the city engineer to be so conducted and managed that all plats, notes of survey and other documents and records of like nature prepared by the city engineer in the city shall be the property of the city; and also may cause to be prepared for the permanent use of the city, a map of the city with necessary profiles, showing the location, alignment and grade of all the streets and alleys, boundaries and the location of sewers, water pipes, gas pipes, natural gas pipes, and electric and other subways with or under any such streets, alleys or public places; and provide for additions to and upon said map, showing the location of all such sewer pipes and subways as may be hereafter added, so as to make the same at all times conform to any alterations made in any such streets or in the improvements of a public nature made therein.

The said board shall not be authorized to inaugurate any new work without first reporting the plan of same to and obtaining the concurrence of the council. Any disregard of this provision will be ground for impeachment and removal of any member or members of said board guilty of such misconduct, and also for an action, or action on his, or their bonds for any damage occasioned to the city by reason of his or their corrupt discrimination, or at the election of the city for a joint action against two or all of the members of said board for such damages. The management and control over the various works intrusted to and the duties imposed upon them shall be in accordance with such lawful rules and regulations as shall be adopted by the council. Such rules and regulations shall be enacted as ordinances of the city, and whenever the council shall pass any ordinance, resolution or by-law providing for the comfort, health, convenience, safety,

peace and good order of the said city or of the inhabitants thereof, or providing for any work to be done, by virtue of any of the powers vested in the municipal authorities of said city, the said council shall provide that the board of affairs shall see that the provisions of such ordinance are enforced or carried out. But nothing herein shall be so construed as to divest the mayor of any of his powers.

The board of affairs shall be the purchasing committee of the city, under such regulations as the council, by ordinance, may prescribe, and shall audit and pay all accounts against the city and report the same to council. Any contract made or ordinance passed by council shall be certified by the recorder to the board of affairs and it shall become effective within ten days after its passage unless within said ten days the board of affairs shall veto the same, in which event they shall notify the mayor of their disapproval and their reasons for such disapproval endorsed thereon or attached thereto. The mayor shall lay the same and said reasons before council at its next meeting and thereupon the mayor shall put to council the question; "Shall the ordinance or contract become effective, notwithstanding the objections of the board of affairs?" If at least two-thirds of all the votes of the members elected to council are cast in the affirmative, the same shall be come effective; if less than such two-thirds be cast in the affirmative, the measure shall be lost.

ARTICLE XXI.

Duties of Recorder.

Sec. 35. It shall be the duty of the recorder to keep, and properly index a journal of the proceedings of the council, board of affairs and board of health, and have charge of and preserve the records of the city; he shall attend the police judge in all examinations, receive and issue his orders, swear witnesses and perform all the duties of a clerk in the council and in the police judge's court. In the absence of the police judge he shall exercise the functions of police judge; he shall perform all other duties required of him by order or by ordinance of the council; he shall receive a compensation for his services to be fixed by the council, which shall not be increased or diminished during his term of office.

ARTICLE XXII.

Duties of Treasurer.

Sec. 36. It shall be the duty of the city treasurer to keep all funds of the city in some bank or banks within said city which shall pay interest on such deposit and which shall pay interest on the average daily balance of such funds in all accounts of the per cent equal to that paid by state depositories on all funds of the state of West Virginia, and in the same manner and at the same times. If no bank within said city is willing at any time to receive deposits of the treasurer and to pay such interest thereon, the treasurer shall report this fact to the council who shall thereupon designate a bank or banks in which he shall deposit said funds for the time being and until some bank in said city will receive such deposits on such terms. Before receiving any such deposits such bank or banks shall give bond in such penalty as the council shall prescribe, and with sureties to be approved by said council conditioned for the prompt payment, whenever lawfully required, of all the city moneys or parts thereof, which may be deposited with them, which bonds shall be renewed at such times as council may require.

ARTICLE XXIII.

Duties of Auditor.

Sec. 37. The city auditor shall be chief accountant and auditing officer of the city and it shall be his duty to keep the accounts of said city in a detailed and systematic manner under proper classification, so as to show the bonded and other indebtedness of said city and the amounts and claims due the same as well from taxes, levies and assessments as from other sources.

Sec. 38. In addition to the other duties of the city auditor it shall be his duty on or before the first day of August in each year to make a copy from the real and personal property books of the assessor of Kanawha county of all property shown to be liable to taxation within the limits of the city of Charleston, and to certify such copy under his hand as a true and correct copy thereof, and to deliver the same to the council, to assist said council and the board of affairs in preparing the annual estimate of expenses to be certified to the council as a basis for the annual levy.

After such annual levy is made in each year it shall be the duty of the auditor to extend said levy upon said real and personal property books for said city and to prepare proper tax tickets therefrom against all owners of real and personal property subject to taxation in said city. And in addition to such duties the auditor shall perform such other duties as the council may prescribe.

ARTICLE XXIV.

Duties of City Attorney.

Sec. 39. The mayor shall appoint, subject to confirmation by the council, the city attorney, who shall be the legal advisor of the city and all its officers in all matters arising and in which legal proceedings may be taken; he shall prosecute all suits, actions and proceedings instituted on behalf of said city and defend all suits and actions against said city, and when requested in writing shall give his written opinion to the mayor and council, or any standing committee thereof upon such legal questions as may be referred to him affecting the city's interest; he shall perform such other duties as may be required or prescribed by the municipal authorities. It shall be his duty to attend sessions of the police court and prosecute all trials therein and all appeals that are taken from such court, and for his services he shall receive such compensation as the council shall provide.

ARTICLE XXV.

Duties of Police Judge.

Sec. 40. The mayor shall appoint, subject to confirmation by the council, a police judge for the city of Charleston, who shall hold his office for the term of two years from and after his confirmation by the council and until his successor is appointed and qualified. Before entering upon any of the duties of his office he shall take and subscribe an oath, to be filed with the recorder, that he will support the constitution of the United States and the state of West Virginia, and that he will, faithfully and impartially discharge the duties of his office to the best of his skill and judgment, and shall give bond in a penalty of a sum not exceeding five thousand dollars, as fixed by the council, conditioned for the faithful performance of his

duties as such police judge and the accounting for and paying over of all property and moneys that may come into his possession or under his control by virtue of such office, which bond and the sureties thereon shall be approved by the council and filed with the recorder; he shall receive a compensation to be fixed by the council, which salary shall be payable in monthly installments and which shall not be increased or diminished during his term of office. The police judge shall be *ex officio* a justice and a conservator of the peace, with authority to issue process for all offenses committed within the police jurisdiction of the city of Charleston of which a justice of the peace has jurisdiction under state statutes, and for all violations of any city ordinances, and shall have charge of and preside over the police court of such city; and may commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury of the circuit, intermediate or criminal courts of Kanawha county; he shall keep an accurate record of all his judicial proceedings in said court, showing the style of each case, which record shall be indexed and numbered. It shall be his duty to hold daily sessions of his said court, Sunday excepted. Before trying any person charged with any violation of an ordinance he shall issue his warrant specifying the offense or violation charged; he shall render judgment in any case as the law of the state or the ordinance of the city applying thereto may require; he shall also have the power to issue executions for all fines, penalties and costs imposed by him, and he may require the immediate payment thereof, and in default of such payment, may commit the party so in default to the jail of the county of Kanawha, or other place of imprisonment in said city, if there be one, until the fine and penalty and costs shall be paid or satisfied, to be employed during the term of imprisonment as hereafter provided, but the term of imprisonment in any such case shall not exceed thirty days, and in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more, such person shall be allowed an appeal from such decision to the circuit court of said Kanawha county upon the execution of an appeal bond, with surety deemed sufficient by the said police judge in a penalty double the amount of the fine and costs imposed by him, conditioned that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit

court on such appeal, and in no case shall judgment for a fine of less than ten dollars be given by the police judge if the defendant, his agent or attorney object thereto. If such appeal be taken the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by the said police judge to the clerk of the said circuit court and the court shall proceed to try the case as upon indictment or presentment and render such judgment, including that of costs, as the law and the evidence may require.

The expenses of maintaining such persons committed to the jail of the county by such police judge shall be paid by the city.

The police judge shall account for and pay over the amount of all fines collected by him weekly to the treasurer of the city and shall make monthly reports thereof and of all other matters pertaining to his office, to the council of the city. In the absence of the police judge the recorder of the city shall act as such police judge with the same power and authority.

Sec. 41. The police judge, if an attorney at law, shall not practice in said police court or as attorney or counselor in any case appealed or removed therefrom, but shall have the right to practice law as attorney in other courts and cases; *provided*, that he shall not practice law in criminal cases in Kanawha county.

ARTICLE XXVI.

Ordinance, General Provisions.

Sec. 42. The style of ordinance of the city shall be, "Be it ordained by the common council of the city of Charleston," but the ordinances now in force shall remain in effect until amended or repealed, except where the same are in conflict or inconsistent with this act.

Sec. 43. All ordinances shall be presented in writing and no ordinance shall be so amended in its passage as to change its general purpose. No ordinance shall be considered for final passage at the meeting at which it is introduced, nor unless the same shall have been reported upon by a committee, but a reference committee may be dispensed with by the affirmative vote of two-thirds of the members elected to the council. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; nor shall any ordinance be passed by the

council unless a majority of all the members elected to the council shall concur therein by yeas and nays when the question is put upon its passage.

Sec. 44. All ordinances passed by the council, and vetoes of the board of affairs shall be spread at large upon the minutes, and at the next regular meeting such ordinances and vetoes shall be read in open council and the mayor shall sign said minutes when found correct or corrected in the presence of the council. The council shall provide a well bound book in which shall be copied all ordinances in the order in which they are passed, which ordinances so copied shall be compared with the originals by the mayor and shall be signed by him when found correct. Such book shall be indexed so as to show in brief form the substance of the ordinance, all copies thereof, certified as hereinafter provided, shall be received by all courts and justices in this state as evidence. But the council may adopt, by ordinance properly designating and describing it, a code of laws and ordinances, which when adopted shall be printed in book form, or it may be adopted as a whole after it is printed, and the said code shall be and become the laws and ordinances of said city and shall be received as such in all courts of this state, and the printed volumes published under the orders of council shall be so received as evidence of what is printed therein till errors or omissions be affirmatively shown therein.

ARTICLE XXVII.

Franchises.

Sec. 45. All franchises granting the right of occupancy of any portion of the streets of the city for work of public utility and service shall be granted by the council, but no such franchise shall hereafter be granted except under the following restrictions and conditions:

No grant of any such franchise shall be made without, at the time of making it, providing that the grantee shall indemnify the city against all damages caused by construction, maintenance or operation of such works. All reasonable additional provisions and conditions may be made for the protection of the public, necessary damage or inconvenience by reason of the construction, maintenance or operation thereof.

No grant of a franchise for the extension of or an addition to any line or work of public service through, over or under any additional street or territory of the city shall be made for a period extending beyond the time limited for the expiration of the franchise of the principal work of which it is an extension, and if the franchise of the principal work is one granted before this act goes into effect and not limited as to time, any franchise granted for an extension or addition thereto shall nevertheless be made subject to the conditions hereof, including a time limit of not exceeding fifty years.

The council shall, in all franchises hereafter granted, embody therein a plainly expressed condition where the franchise is for work to be useful chiefly to the citizens of the city, that at the expiration of such franchise the grantee shall, if required by the council, sell to the city the plant at what it is then worth.

If the city and the owner of the plant can not agree upon its worth, then the value shall be ascertained by an impartial arbitration, one arbitrator to be selected by the city, one by such owner of the plant, these two to select the third, and the decision of any two to be binding upon both parties.

ARTICLE XXVIII.

Estimate of Expenses and Levy.

Sec. 46. The board of affairs shall on or before the first day of August in each year prepare and submit to the council, an estimate of the amount of money necessary and advisable to be expended for the purpose of the city for the current year next ensuing and to be provided for by levy of taxes as herein provided for such current year, in which estimate the board of affairs shall ascertain and present a detailed itemized estimate of the sum of money necessary to pay interest on the bonded indebtedness of said city, the amount required for the several sinking funds for the reduction of the principal thereof, the amounts to be expended severally for streets, alleys, curbing, wharf repairs, water works, police department, fire department, street paving, sewers, salaries, parks, real and personal property, contingent expenses and other expenses, together with an itemized statement of the estimated receipts, other than that to be derived by the annual levy, and after receiving such estimates and before making the levy, the council

shall apportion the rate thereof, including the estimated receipts for licenses and all other sources among the several funds so ascertained and provided for, which said apportionment, when adopted, shall be spread upon the records of the council.

Upon such estimate of expenses the council shall thereupon, by an ordinance, lay a levy for the ensuing tax year of a sum not to exceed fifty cents on each one hundred dollars assessed valuation of all taxable property, real and personal, subject to taxation in said city, as well as the capitation tax of not to exceed two dollars upon every male inhabitant of said city over the age of twenty-one years, who is subject to a capitation tax under the laws of the state of West Virginia, and said council is authorized to levy to such maximum of fifty cents on each one hundred dollars of valuation, notwithstanding any general laws now in force or which may be enacted restricting the powers of municipal corporations to levy taxes.

Sec. 47. Whenever anything for which a state license is required is to be done within said city or within two miles of the corporate limits thereof, the municipal authorities as herein provided may require a city license to be had for doing the same, and may in any case, require from the person licensed a bond, with sureties and in such penalty and with such conditions as it may deem proper, and the council, on notice, may revoke such license at any time if the condition of the said bond be broken; and no license to sell strong or spirituous liquors or wine or beer, ale, porter or drinks of like nature, within said city, or within two miles of the corporate limits thereof, shall be granted by the county court of Kanawha county, unless the person applying therefor shall produce to said county court the certificate of the council of said city, that said council has granted a city license authorizing said person to sell as aforesaid; and upon the production of said certificate before said county court, said court may at its discretion grant a state license to sell as aforesaid to the said person, upon his compliance with all the requirements of law in relation thereto.

A person assessed with a city license for the sale of strong or spirituous liquors, or wine or beer, ale, porter or drinks of like nature within said city or within two miles of the corporate limits thereof, shall pay said tax to the treasurer of the city before any such license be granted to him by said council. The municipal authorities may impose a license and assess a tax thereon on all

wheeled vehicles for public hire and upon all dogs kept within said corporate limits. The municipal authorities may prescribe, impose and enforce reasonable fines and penalties, including imprisonment, under the order of the police judge of said city, or the persons lawfully exercising his functions, upon any person carrying on, or attempting to carry on, any business for which a city license is required, without first obtaining a city license therefor and paying the city license tax assessed thereon. All licenses provided for in this chapter, shall be paid to the city treasurer, and for the purpose of enforcing the provisions of this section, the city shall have police jurisdiction for two miles beyond the corporate limits thereof.

Sec. 48. The license of any person issued by said city, who shall be convicted in any court of competent jurisdiction of the illegal sale of spirituous liquors or drinks of like nature, may be revoked at the pleasure of the council and in the event of a second conviction of the same person for any illegal sale of such liquor or drinks of like nature, such license shall be revoked by the council; *provided*, that for one such conviction of any person holding such a license of the violation of any law or ordinance forbidding the sale of such articles on Sunday, the council shall revoke such license and no license shall be thereafter granted him.

Council shall have power to make all regulations and pass all ordinances necessary and proper concerning the granting and revoking of all licenses.

ARTICLE XXIX.

Taxes, How Collected.

Sec. 49. The city taxes annually levied by said council shall be collected as follows: Immediately after the annual levy for city taxes is laid the city auditor shall extend the same on the property book made out by him, including thereon the proper capitation tax; he shall make out therefrom proper tax tickets in the following manner, that is to say, instead of a single ticket for the whole amount charged to any person, firm or corporation there shall be two tickets, each for one-half of said amount; these half tickets shall be severally numbered or designated "first" and "second", and the same, after being examined and compared by the council and found to be correct, shall be turned over to the city treasurer

on the first day of October following the levy, and the treasurer's receipt for the gross amount thereof shall be returned, entered upon its record and the treasurer charged therewith. The treasurer shall give notice by publication for twenty days in two newspapers of opposite politics published in said city, if there be two such papers, that said tax tickets are in his hands for collection, stating the penalty for non-payment thereof and the time and place when the same may be paid; *provided, however*, that the taxpayers shall have the right to anticipate the payment of the whole or any part of the taxes assessed against them.

The one-half tickets designated "first" may be paid to the city treasurer any time before the first day of November next succeeding said levy; the one-half tickets designated "second" may be paid to the city treasurer at any time before the first day of May next succeeding said levy. To all the half tickets designated "first" remaining unpaid in the treasurer's hands on said first day of November succeeding said levy a penalty of ten per cent shall be added and collectible from the taxpayers. To all half tickets designated "second" remaining unpaid in the treasurer's hands on the first day of May succeeding said levy a penalty of ten per cent shall be added and shall be collectible from the taxpayers. On said first day of November succeeding said levy, all such half tickets designated "first", and on said first day of May succeeding said levy all such half tickets designated "second", remaining unpaid in the treasurer's hands shall be taken up by said council and settlements had with said treasurer on said days, respectively, or on the next succeeding days, respectively, if said days shall fall upon Sunday, and thereupon said council shall place said tickets in the hands of the city sergeant for collection and shall take his receipt therefor; *provided, however*, that the council shall have the power any year, by resolution, to extend the time within which tickets may remain in the treasurer's hands and be paid to him without adding the penalty, for a period of not to exceed fifteen days.

The sergeant shall have the power to collect said tickets so placed in his hands, together with the penalties thereon hereinafter provided to be added thereto and the compensation of such sergeant for making such collection of the taxes aforesaid shall be fixed by the council.

The sergeant shall be charged with the gross amount of said

tax tickets so delivered to him for collection, including the penalties accrued thereon when so delivered, and no deduction therefrom shall be allowed, unless on or before the first day of August of each year he makes out and returns to the council a delinquent list of taxes uncollected for such year, with his oath attached thereto, stating that such list is correct and just and that he has received no part of the taxes mentioned therein, and that he has used due diligence to find property liable to distress for taxes and has found none, and that he could not collect the same.

Penalties provided for in this section to be added to such taxes shall not be deemed or considered as any part of the limitation in this act hereinbefore prescribed restricting the annual city levy to fifty cents on each one hundred dollars of valuation.

Neither the treasurer nor the sergeant shall take or collect anything but money for payment of taxes.

Sec. 50. The sergeant shall have the power to collect the city taxes except as otherwise provided in this act, and he shall also have power to collect the city wharfage and other city claims which may be placed in his hands by the council for collection, except fines imposed.

Sec. 51. All goods and chattels belonging to a person, firm, corporation or estate, assessed with any city taxes, whether the same be a capitation tax or a tax upon real or personal property or an assessment for paving or other improvements, shall be liable for said tax, and may be distrained therefor in whosoever possession they may be found, and the sergeant shall have the same power to collect said tax or assessment from any person owing a debt to or having in his possession any estate belonging to a person assessed with any tax or assessment of any kind that the sheriff has to collect state taxes in such cases. The sergeant may distrain and sell for all city taxes and assessments and in all respects have the same power to enforce the collection thereof as the sheriff has to enforce the collection of state taxes.

Sec. 52. There shall be a lien upon all real estate within said city for the city taxes assessed thereon, including such penalties added thereto for non-payment thereof as are prescribed by this act, from the first day of January of the year in which said taxes are assessed. Said liens may be enforced by appropriate suit in any court of record in Kanawha county; *provided*, such suit be instituted within five years from the time the said liens attached

as herein provided, and such suit may either be instituted by and in the name of the city of Charleston as plaintiff, or said city may intervene by petition in any suit pending to sell or enforce liens against any real estate which is subject to such lien for said taxes. The liens herein created shall have priority over all other liens except those for taxes due the state.

Sec. 53. Said liens for city taxes and attendant penalties, as well as for improvement assessments, may also be enforced by certifying the same to the clerk of the county court of Kanawha for certification to the state auditor, and the same may be certified down by said auditor, and sold for the taxes, interest, penalties and commissions thereon, in the same manner, at the same time, and by the same officer as real estate is sold for the taxes, interest, damages, costs and commissions due the state thereon, which officer shall account therefor on settlement with the council, and pay same over to the city treasurer.

ARTICLE XXX.

Money—How Appropriated.

Sec. 54. No money shall be appropriated, and no debt shall be contracted, and no contract authorized, by the city except by an ordinance passed by the council as specified in article twenty-six, and no such ordinance shall be passed except where the funds to meet the same shall have been first provided by levy duly made in accordance with the provisions of this act. And no contract shall be entered into involving or anticipating future levies unless all questions connected with the same shall have been first submitted to a vote of the people and have received three-fifths of all the votes cast for and against the same.

ARTICLE XXXI.

Sewers, Paving and Curbs.

Sec. 55. The council shall have the right to establish the width of any sidewalk along any street, alley or public square or portion thereof, and to require that when such street, alley, square or portion thereof shall be prepared for laying of sidewalks by the setting of curb stones by the city, any owner of ground fronting on

such street, alley or public square shall in such manner as the council may reasonably prescribe, pave the sidewalk adjacent to his property, and in case of the failure or refusal of any such owner to pave the same, to cause the same to be properly paved by the city and levy and collect from such owner the whole cost of such paving adjacent to his or her property, with a penalty of ten per centum added thereto, and in like manner to require the owners of any property adjacent to any paved sidewalk heretofore or hereafter constructed to keep the same in repair, and in default of their doing so, to cause the same to be repaired and to levy and collect from said owners the whole cost thereof, with a penalty of ten per cent added thereto. And in all cases of such assessment, whether for the original or the repairing of sidewalks, payment thereof, including said penalty of ten per cent shall be made to the treasurer within thirty days after the completion of the work, and if not so paid the same shall be placed in the hands of the sergeant, who shall have power to collect the same from the owner or owners of any such property by distress and sale in the same manner in which taxes levied for the benefit of the city are authorized to be collected; and, in addition, there shall be a lien upon the real estate against which any such assessment has been levied for paving or repairing sidewalks, as herein provided, which lien may be enforced by appropriate suit in the circuit court of Kanawha county.

Sec. 56. Whenever the council may deem it expedient to cause any street or alley in said city, or portion thereof, to be paved in a permanent manner, it shall order the work done in the following manner and upon the following terms: The contract for such paving shall after due advertisement, in which the council shall reserve the right to reject any and all bids, be let, if let, to the lowest and best bidder. The contractor shall look only to the city for payment of the work and in no sense to the abutting land owners. The total cost of grading and paving any such street or alley, with the exception in the case of a street occupied by street car tracks of the distance between the rails and one additional foot outside of each rail, which portion shall be borne and paid entirely by the street car company operating such street railway, shall be borne by the owners of land abutting upon said street, alley or portion thereof, according to the following plan, that is to say, payment is to be made by all land owners on either side of such portion of a street

or block so paved in such portion of the total cost, less the portion, if any, chargeable to such street railway company, as the frontage in feet of his land so abutting bears to the total frontage of all land so abutting on such street, alley or portion thereof so paved as aforesaid. The cost of such paving chargeable to the abutting owners is not to include any portion or amount paid for curbing or for paving of squares at intersections of streets which shall in all cases be borne and paid by the city.

When the paving of any street, or alley, or portion thereof, shall have been let to contract, and the work done as hereinbefore provided, it shall be the duty of the city engineer to cause the several frontages abutting thereon to be measured and to calculate the assessment upon each and every land owner so abutting and to certify the same to the council, showing the proper amount to be determined as provided in the foregoing plan. It shall be the duty of the council to examine and compare such assessment, amounts and names so certified to it and thereupon said council shall give notice by publication for two successive weeks in some newspaper published in said city that an assessment under this section is about to be laid against abutting property for paving done on said streets or alleys, describing the location of such paving, and any owner or owners thereof shall have the right to appear before said council within three weeks from the first publication thereof and move said council to correct any apportionment or assessment excessive or improperly made as charged, which corrections said council shall have the power to make, and if found to be correct or when corrected by the council as aforesaid it shall enter the same, together with a description of the lots of land as to location, frontage, depth and ownership, so far as the same may be ascertained, upon its records and to enter in its records that such owners and lots be assessed and chargeable with the amounts so ascertained to be borne by them, respectively, and when so approved, certified and entered of record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. And it shall be the duty of the council to immediately certify such assessment to the treasurer for collection as herein provided. And a copy of said order shall be certified by the recorder to the clerk of the county court of Kanawha county, who shall be required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein.

The amount so assessed against any land owners as aforesaid shall be paid in four payments as follows: that is to say, one-fourth of said amount shall be paid to the city treasurer before the first day of May or the first day of November, whichever shall come first after said work is completed and said work is certified as aforesaid, and one-fourth of said amount before the first day of the one of said months next following the time herein fixed for the third payment aforesaid; *provided, however*, that any abutting owner so liable for any portion of the cost of such paving shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate and discount the payment on any or all of such installments to such owner and allow him six per cent per annum discount on any or all installments, the payment of which is so anticipated computed from the date of payment to the date fixed for the maturity of each of such installments, respectively.

To each of such installments of assessments remaining unpaid in the treasurer's hands on the days herein specified for the payment thereof, a penalty of ten per centum shall be added and any assessments so remaining unpaid in the treasurer's hands on such date shall be taken up by the council on such settlements had with the treasurer on such dates, and thereupon such council shall place such assessments with the penalty added thereto, in the hands of the city sergeant, to be treated and considered, and payment thereof enforced, in all respects as hereinbefore provided for the collection of any other taxes due the city, and they shall be a lien upon the property liable therefor the same as for other taxes, which lien may be enforced in the same manner as provided for other taxes.

The liens hereinbefore provided for shall have priority over all other liens except those for taxes due the state and city and shall be on a parity with other taxes and assessments due the city. Whenever any such assessments for paving, sewerage or sidewalks shall be paid to the treasurer he shall deliver to the party paying the same a release of the lien therefor, which may be recorded in the county court clerk's office as other releases or liens, and whenever any such assessments shall not be in the hands of the treasurer for collection, but the same shall be shown to the satisfaction of the city auditor to have been paid in full to any officer entitled to receive the same, such auditor may in like manner execute a release of such lien, which release may in like manner be recorded.

ARTICLE XXXII.

Sewers.

Sec. 57. Whenever the city council shall order the construction of any public sewer in said city, the owners of the property abutting upon any street in which such sewer shall be constructed shall be charged with and liable for sewerage assessment, as follows: When said sewer is completed, the city engineer shall report to the council in writing the total cost of such sewerage and a description of the lots of land as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, estimated on the basis of one dollar per foot for inside lots, and one dollar and twenty-five cents per foot for corner lots, frontage measures on said sewer being considered, except that such estimate as to corner lots fronting thereon and having a greater depth than one hundred and fifty feet shall be estimated at one dollar and fifty cents per foot frontage; and thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duties as to corrections by said council as are prescribed with reference to paving, which report shall, in like manner be examined by the council and if found to be correct or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer, it shall enter an order upon its records setting forth such location, depth, ownership and said amount of such sewer assessment, against each, respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots, and if after such advertisement, notice and hearing, said council shall find that such apportionment at such rate is unjust or inequitable it shall ascertain, fix and assess the cost thereof among and upon the abutting owners, respectively, fairly and equitably, and in like manner assess and enter the amounts so fixed, respectively, upon its records, and the council shall in either event thereupon certify the same to the treasurer for collection, and certify a copy of such order to the county clerk of Kanawha county, who shall record the same in the proper trust deed book and index the same in the name of each owner of any such lot so charged with

such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens except those for taxes due the state and city, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at the times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessment for paving streets and alleys in a permanent manner, and the parties liable therefor shall in the same manner and to the same extent have the right and be entitled to anticipate any or all of such installments and to receive the same discount thereon as in such case provided. The owner or owners of any lot abutting upon any street or alley in said city on which a public sewer is or may hereafter be laid and constructed upon which lot any business or residence building is or may hereafter be erected, not otherwise connected with a public sewer, may be required and compelled by the board of health to connect any such building with such sewer. Notice to so connect may be given by the board of health either to the owner, lessee or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, after ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and each such offense shall be punishable by a fine of not less than five nor more than twenty-five dollars. Jurisdiction to hear, try, determine and sentence for violation of this section is vested in the police court of said city.

Sec. 58. The liens herein and hereinbefore provided for street paving and sewerage assessments shall constitute liens upon the real estate upon which they are assessed, as against creditors of the owners thereof for purchaser for value, and without actual notice of such liens only from and after the time that the statement thereof, certified as aforesaid, shall be filed for record in the office of the clerk of the county court of Kanawha county.

ARTICLE XXXIII.

Refunding Bonded Indebtedness.

Sec. 59. The council may refund the lawful bonded indebted-

ness of said city by issuing bonds of the city, payable within twenty years, bearing no greater rate of interest than four per cent, but the indebtedness of the city shall not thereby be increased without the consent of the voters of said city being first had and obtained as provided by law.

Such bonds shall not be sold for less than par nor exchanged for the evidence of said indebtedness of said city, except dollar for dollar, and there shall be provided a sinking fund that will discharge said bonds as they shall become due. Said bonds shall express on their face that they may be paid at any time after five years at the pleasure of the city. A record shall be kept of all proceedings hereunder: *provided*, that nothing herein contained shall be construed to authorize an increase of the bonded indebtedness of said city beyond the amount now authorized by law.

ARTICLE XXXIV.

Hospitals, Libraries, Etc.

Sec. 60. The council shall have the authority to erect, buy, sell and lease all buildings necessary for the use of the city government and to provide for and regulate the same, and to establish and maintain public hospitals, libraries and reading rooms and to purchase books, papers and manuscripts therefor, and to receive donations, gifts or bequests for the same in trust or otherwise.

ARTICLE XXXV.

Health.

Sec. 61. The council shall have authority to ordain and enforce such regulations within said city as shall be necessary or proper to preserve the health of the inhabitants of said city and to secure them from disease; to require and compel the abatement and removal of all nuisances within said city at the expense of the person or persons causing the same or of the owner or owners of the grounds whereon the same shall be; to prevent or regulate slaughter houses within said city, or the exercise of any offensive or unhealthy business, trade or employment therein; to prevent the keeping of any stale meats, fish, vegetables or other matter, or depositing the same or dirt, rubbish or offal upon any lot, street, alley or square

within said city or upon the banks of any river within the limits thereof.

Sec. 62. The council shall have power by ordinance to regulate the sale of cocaine, morphine, opium and poisonous drugs within said city and to prescribe punishment, including fine and imprisonment for the violation of any such ordinance, and to provide that one or more convictions for violating the same shall operate as revocation of the license of any druggist or pharmacist holding a license under said city.

Sec. 63. The board of affairs shall in the month of April, one thousand nine hundred and seven, and in said month of every second year thereafter, appoint a suitable person, who shall be a practicing physician, as health commissioner, whose term of office shall be for two years and until his successor is appointed and qualified.

The board of affairs and health commissioner shall be the board of health of said city, and shall have the power to abate all nuisances within said city and the said board and the said health commissioner shall do and perform all such other duties and exercise such other powers as may be required of, or conferred upon them by legal ordinances of said city, and the council of said city shall provide by ordinance the way and method of trying and abating such nuisances and shall prescribe all penalties that may be proper and necessary for such purpose, and said board of health shall have power to summon witnesses, hear testimony and to do any and all other things necessary and proper to perform their duties under this act and the ordinances in such case made and provided.

ARTICLE XXXVI.

Police Department.

Sec. 64. The mayor shall from time to time, nominate a chief of police, and such number of policemen as may be authorized by ordinance, said nominations to be subject to confirmation by the council, which council shall prescribe by ordinance such mental and physical examinations for applicants for appointment to the police force as it shall deem proper. Policemen so nominated and confirmed by the council shall hold office during good behavior. The term of the chief of police shall be two years.

But no person shall serve or exercise any of the duties of a police officer until he shall have been confirmed as such by the affirmative vote of a majority of all the members elected to the council.

Policemen may be removed and discharged at any time by the council for good cause and upon notice; *provided, however*, that the mayor shall have the power to suspend the chief of police or any policeman without pay when in his opinion the good of the service may require, in which event he shall report such suspension, together with the reason therefor to the council at its next meeting thereafter, and the council shall consider such suspension and revoke such suspension and reinstate such policeman or confirm the same for such period as they may fix, and, *provided, further*, that the council shall have the power to suspend without pay, the chief of police or any policeman against whom charges are preferred. The council may by ordinance provide for the appointment of special police for such occasions and for such times as the ordinances may prescribe.

If the chief of police or any police officer shall engage in any primary election, convention, or election in which any officer in the city, county or state is to be nominated or elected, in such a way as to become offensive or obnoxious to any class of law abiding citizens, he shall be immediately discharged from the police force by the mayor or by the council. Any officer so dismissed shall not be eligible to reappointment as a police officer, or any other appointive officer of the city.

ARTICLE XXXVII.

Fire Department.

Sec. 65. The council shall appoint the members of the fire department, who shall be subject to the same regulations as policemen and who shall hold their office during good behavior and who may be removed or suspended in the same manner as police officers.

ARTICLE XXXVIII.

No Free Passes or Other Gifts.

Sec. 66. No person, firm or corporation shall give, or offer to give, to any city officer, employee or agent, nor shall any city officer, employee or agent accept, receive or solicit from any person,

firm or corporation any free pass or free transportation or free gift of the same for himself or other person on any railroad, street car or traction line, or any free gift of any water, light or heat, or any badge, ring, watch or other thing of value from any person, firm or corporation having any franchise or contract from, under or with said city, or from any other officer, agent or employee of said city, or from any other person whatsoever who may in any way or manner be affected by the performance or non-performance of any official duty or obligation by such officer, employee or agent of said city and the acceptance or solicitation of anything herein forbidden shall be absolute ground of removal or dismissal from office by the council in the case of an elective office and by the appointing power in case of an appointive office.

The circuit court of Kanawha county, upon the petition of ten voters of said city, shall have like power of removal of all officers, employees and agents as given in this act to any city officers in any way or manner; *provided*, that the health commissioner, and all policemen and firemen, together with the chiefs thereof, shall have the right to accept, and any street railway company shall have the right to give such health commissioner, policeman and fireman free transportation over any street railway in said city.

ARTICLE XXXIX.

Existing Officers and Ordinances.

Sec. 67. All officers, agents and employees of the city of Charleston shall remain in and hold their offices and discharge the duties thereof until the first day of April, one thousand nine hundred and seven, and thereafter until their successors are qualified, and all existing offices not provided for by this act shall be abolished as of the first day of April, one thousand nine hundred and seven, except this section shall not apply to councilmen elected on the second Monday of March, one thousand nine hundred and six, and firemen, who shall hold their offices until their successors are elected or appointed and qualified as provided in this act.

All valid ordinances and regulations passed and adopted by the council, on or before the first day of April, one thousand nine hundred and seven, and not inconsistent with this act, shall be and remain in full force unless and until repealed, and the council now

in office shall continue to exercise its powers as such until the first day of April, one thousand nine hundred and seven.

Sec. 68. All acts in conflict or inconsistent with this act are, to the extent of any such conflict, hereby repealed.

CHAPTER 4.

(Senate Bill No. 157.)

AN ACT to amend and re-enact sections eight, twenty-two, thirty-one, thirty-two and thirty-three of chapter one hundred and four of an act of the legislature of one thousand eight hundred and ninety-seven, entitled, "An act to charter the city of Hinton, and to include within the corporate limits of said city all the territory embraced within the corporate limits of the towns of Hinton and Upper Hinton in Summers county," and to add section thirty-three-a creating the office of police judge and prescribing and defining his powers and duties.

[Passed February 22nd, 1907. In effect July 1st, 1907. Approved by the Governor February 20th, 1907.]

SEC.
8. Qualification of mayor, recorder, councilmen and police judge.
22. Powers of council.
31. Powers and duties of mayor; compensation
32. Appeals from judgments by police judge.

SEC.
33. Duties of recorder; powers; compensation.
33-a. Creating office of police judge; term of office; compensation; powers and duties.

Be it enacted by the Legislature of West Virginia:

That sections eight, twenty-two, thirty-one, thirty-two and thirty-three of the charter of the city of Hinton, as contained in chapter one hundred and four of the acts of one thousand eight hundred and ninety-seven, be amended and re-enacted and section thirty-three-a be added thereto, so as to read as follows:

Sec. 8. The mayor, recorder, councilmen and police judge must be freeholders in said corporation and entitled to vote for members of the common council, and cannot hold any other office either elective or appointive in said city or Summers county, and the acceptance or retention of such other office in said city or county by the mayor, recorder, councilmen or police judge, after they enter upon their duties as a city official renders vacant at once, and without legal proceedings, any office they may hold with the city.

Sec. 22. To carry into effect these enumerated powers and all others conferred upon said city or its council, expressly or by implication, in this or any other acts of the legislature, or by general law, the council shall have power to adopt and enforce all needful orders, by-laws and ordinances not contrary to the laws and constitution of the state, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment, under judgment of police judge of the said city or the person lawfully exercising his functions; and the council with the consent of the county court of Summers county, entered of record, may have the right to use the jail of said county for any purpose necessary in the administration of its affairs.

Sec. 31. The mayor shall be the chief executive officer of the city, and shall take care that all by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed by those officials or persons whose duty it may be to execute the same.

He shall be *ex-officio* a justice and conservator of the peace within the city, and shall within the same have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except he shall have no jurisdiction to try cases civil or criminal in their nature; and all warrants of arrest, if any issued by him for the violation of any city ordinance, shall be made returnable before and heard by the police judge of said city, and also all other original process, if any, issued by said mayor shall be made returnable before and heard by some justice of said county.

Any warrant of arrest or other process so issued by the mayor may be executed at any place in said county; he shall have control of the police of the city and may appoint special police officers whenever he deems it necessary, subject to any ordinance of the council in regard to police officers, their appointment, powers and duties. And it shall be the mayor's duty especially to see that the peace and good order of the city are preserved, and that all persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly persons in the city before issuing his warrant therefor. The mayor shall at each regular meeting of the common council recommend for their consideration such measures as he may deem needful for the welfare of the city; he shall receive as full compensation for his services, to be fixed annually by the council, a sum not exceeding

twenty-five (\$25.00) dollars per month, which shall not be increased or diminished during the year, and any and all fees which may accrue or be payable to him by virtue of his office shall hereafter be the property of the city and be paid into the city treasury on the first of each month.

Sec. 32. From all judgments by the police judge, or any one exercising his functions for the violation of ordinances, or in criminal cases where a prisoner is sentenced to imprisonment, or to the payment of a fine of ten dollars or more, and in no case shall a judgment fine of less than ten dollars be given by the police judge if the defendant, his agent or attorney object thereto, appeals may be allowed from such judgment to the circuit court of Summers county upon the execution of an appeal bond with surety deemed sufficient by the said judge, in a penalty double the amount of fine and cost imposed by him, with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit court on such an appeal; if such appeal be taken the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by the said judge to the clerk of the said court, and the court shall proceed to try the case as upon indictment or presentment, and render such judgment, including that of costs, as the law and evidence may require, and in such costs shall be included an attorney's fee of ten dollars to the city attorney. If the judgment be for the defendant, he shall not recover his costs against the city. The expenses of maintaining such person committed to the jail of the city by him, except it be to answer an indictment or be under the provision of sections two hundred and twenty-seven and two hundred and twenty-eight of chapter fifty of the amended code of the state, shall be paid by the city. And an appeal shall be allowed in all election cases to the circuit court of Summers county, from the decision of the council of said city.

Sec. 33. The duty of the recorder shall be to keep a journal of the proceedings of the council, and have charge of and preserve the records, bonds, papers and other documents belonging to the city; he shall in case of sickness or other inability of the mayor or police judge, or in case of their absence from the city, or during any vacancy in their respective offices, perform the duty of mayor and police judge, which pertain to their said offices, and shall be vested with all powers necessary for the performance of

such duties. The recorder shall also perform such other duties pertaining to the fiscal affairs of the city, or otherwise as may be required of him by the council; he shall be a conservator of the peace within the said city; he shall charge the sergeant with the whole amount of the taxes on the assessor's books, in a book provided for the purpose, and shall give him credit for all the money shown by treasurer's receipts to have been paid to the treasurer, and such other credits as the council may direct or be allowed by law; and shall charge the treasurer in a book provided for the purpose with all money shown to have been received by him with all orders issued by authority of the council and paid by him. He shall receive as compensation a salary not to exceed eight and one-half dollars per month which shall not be increased or diminished during the year. And any and all fees heretofore due and payable to the recorder shall hereafter become due and payable to the city, and the recorder or any one exercising his functions shall report the same to each regular meeting of the council, except the fees derived from the issuance of licenses and the recordation of liquor bonds, which last mentioned fees shall be due and payable to the recorder as collected.

Sec. 33a. From and after the first day of July, one thousand nine hundred and seven, there shall be a police judge of the city of Hinton to be appointed by the common council on or before the said first day of July, one thousand nine hundred and seven, whose term of office shall extend to the first day of January, one thousand nine hundred and eight, and who shall be elected annually thereafter by the common council of the city of Hinton for the term of one year, and shall receive as compensation for his services a salary to be fixed annually by the common council which shall not exceed thirty-five (\$35.00) dollars per month, and which shall not be increased or diminished during his term of office; and he shall not receive any other salary, fees, emoluments, or other compensation for his services as such police judge, and the fees and taxed costs heretofore due and payable to the mayor or recorder in the trial of civil or criminal cases, or in any way connected therewith, shall hereafter be due and payable to the city; and it shall be the duty of the police judge to make reports to each regular meeting of the council showing all fees and costs earned or taxed by him and how much of same has been collected.

The police judge of said city shall be *ex-officio* a justice and a

conservator of the peace with the same authority to issue process as exercised by the mayor aforesaid, and shall have charge of and preside over the police force thereof, but subject to the authority of the mayor; it shall be his duty in court to try all persons charged with any offense against the city in regard to which he may have jurisdiction by virtue of any state law, and also all persons charged with the violation of any ordinance of the city; he shall keep an accurate record of all his judicial proceedings in said court, showing the style of each case, which shall be properly indexed and numbered; it shall be the duty to hold daily sessions of his said court, Sundays excepted; he shall see that the peace and good order of the city are preserved, and that the persons and property therein are protected, and to this end he may also cause the arrest and detention of all riotous and disorderly persons in the city before issuing his warrant therefor; but before trying such and all other persons charged with any offense or with any violation of an ordinance as aforesaid, he shall issue his warrant, unless one shall have been issued by the mayor or other person holding his office, specifying the offense or violation charged; he shall render judgment in any case as the law of the state or the ordinance of the city thereto may require; he shall also have power to issue execution for all fines, penalties and costs imposed by him, or he, the said judge, may require the immediate payment thereof, and in default of such payment he may commit the party so in default to the jail of the city of Hinton, or other place of imprisonment in such corporation, if there be one, until the fine and penalty and cost shall be paid or satisfied, but the term of imprisonment in any case shall not exceed thirty days. And when any such person is so imprisoned for the non-payment of such fine and cost the police judge or any one exercising his functions, may order him to work on the streets, alleys, or public grounds of the city of Hinton under the direction of such officer or person as the police judge may direct, at the rate of one dollar per day until the fine and all costs are paid.

This act shall not become operative until the first day of July, one thousand nine hundred and seven.

CHAPTER 5.

(House Bill No. 6.)

AN ACT amending and re-enacting section fourteen of chapter one hundred and fifty of the acts of one thousand nine hundred and one, relating to the common council of the city of Huntington.

[Passed January 30th, 1907. In effect from passage. Approved by the Governor February 5th, 1907.]

<p>Sec. 14. Vacancy in office, how filled.</p>	<p>Sec. 14-a. To apply to previous vacancies.</p>
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Be it enacted by the Legislature of West Virginia:

That section fourteen of chapter one hundred and fifty of the acts of the legislature of one thousand nine hundred and one be amended and re-enacted so as to read as follows:

Sec. 14. Whenever a vacancy shall occur from any cause in the office of mayor, councilmen, treasurer, or city clerk, the council for the time being shall, by a majority vote of all the members elected, fill the vacancy until the next general election, at which time a successor shall be elected by the qualified voters of said city. In the event of failure of the council to so fill said vacancy or vacancies, within fifteen (15) days from the occurrence thereof, the same shall be filled by the mayor of said city by appointment, and in the event of the failure of said council within fifteen (15) days to fill a vacancy in the office of mayor the city clerk shall succeed to the mayoralty until the next general election.

Sec. 14a. This act shall apply to vacancies which have already occurred, as well as to those hereafter occurring.

CHAPTER 6.

(House Bill No. 313.)

AN ACT to create the municipal corporation of the city of Parsons in the county of Tucker, to grant a charter thereto and annul the charter of the town of Parsons.

[Passed February 18, 1907. In effect from passage. Approved by the Governor February 23, 1907.]

SEC.		SEC.	
1.	Corporate name, rights and powers.	23.	Right to publish statement.
2.	Corporate limits and boundaries; wards.	24.	Revoking license.
3.	Municipal authorities.	25.	Licenses required.
4.	Exercise of corporate powers.	26.	Sidewalks, street paving, etc., how paid.
5.	Subordinate officers.	27.	Levies for taxes, assessments, etc.
6.	Eligibility of officers.	28.	City collector, powers and duties, compensation.
7.	Powers, duties and compensation of officers.	29.	City assessor, powers and duties.
8.	Vacancies in office.	30.	Exemption from district poor and road levies.
9.	Qualification of voters.	31.	Powers and duties of the mayor.
10.	Election; term of office; contested elections.	32.	Powers and duties of the recorder.
11.	Qualification of officers.	33.	Duties of the city attorney.
12.	Powers and duties of appointed officers.	34.	Duties of the city treasurer.
13.	Removal of officers	35.	Liquor license; question of granting submitted to voters; council to impose tax; notice by publication.
14.	Meetings of council.	36.	Police officers; powers, rights and privileges.
15.	Votes of members.	37.	Council to institute proceedings for condemnation of real estate.
16.	Bonds of officers.	38.	Repeal of certain acts.
17.	Records of council.	39.	Rights and liabilities of the city.
18.	Powers and duties of council.		Ordinances in force.
19.	Enforcement of powers.		
20.	Annual estimate of expenditures.		
21.	Annual levy.		
22.	Money—how and when paid; coun-		

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the inhabitants of so much of the county of Tucker as is within the bounds prescribed by section two of this act, and their successors, shall be and remain, and they are hereby made, a body politic and corporate by the name of "The City of Parsons," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued; plead and be impleaded, purchase, lease and hold real estate and personal property necessary to the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as follows:

Beginning at a large red oak called for in the old corporation survey, north 50° west 67 poles and 8 links to a stone on the north bank of Sugar Camp run, 1 pole and 3 links south of the Cover Run Lumber Co's. railroad, reference point north 4° west 7 links to a large white oak; thence south 48 $\frac{1}{4}$ ° east 24 poles and 15 links to a small maple with two oak and a birch pointer standing on a

shelving bank north of the county road; thence south $62\frac{1}{2}^\circ$ east 12 poles and $12\frac{1}{2}$ links to the Western Maryland railway company's, "look out" sign; thence crossing Shaffers Fork south 47° east to a stone on the bank of said river in John Peter's field, reference point north 24° east 3 poles to a small poplar on the bank of the river; thence north 81° east 250 poles and 10 links to a stone west of the county road and at right angles to the south east corner of the cemetery fence, 8 poles and 18 links, reference point south 75° east 2 poles and 10 links to a large chestnut standing east of the county road; thence north $27\frac{3}{4}^\circ$ east 21 poles to the north east corner of the cemetery fence; thence continuing with the same bearing 42° east reversed of the east side of the cemetery lot to the Black Fork river; thence with the meanders of said river to the head gates of the sluice dam; thence crossing Black Fork river to the east abutment of the Western Maryland railway bridge across said river; thence crossing said river to the west abutment of the county bridge; thence down the river with the meanders thereof to two small white oaks called for in the old survey of the Parson's corporation; thence with the old corporation line reversed, south 75° west $190\frac{3}{4}$ poles to a stone against the bank about 4 poles north of a drain; thence south 23° east 126 poles to a beech with poplar, gum and two chestnut pointers; thence south 5° east $97\frac{1}{2}$ poles to the beginning.

The territory of said city shall be divided as follows:

First ward—All that portion of said city lying north of the Western Maryland railroad and north and west of the Shaffers fork of Cheat river.

Second ward—All that portion of said city lying south of the Western Maryland railroad.

Third ward—All that portion of said city lying north of the Western Maryland railroad and between Shaffers Fork and Black Fork of Cheat river.

And the council of said city may change the boundaries of said wards, or create such additional wards as may appear to the said council to be necessary, but no change shall be made in the boundaries of said wards, nor any new ward created less than sixty days before the holding any general election for said city.

Municipal Authorities.

Sec. 3. The municipal authorities of the city shall consist of the

mayor, recorder and two councilmen from each ward, who together shall form the common council; said councilmen shall be elected, two from each ward by the voters thereof. A mayor and recorder shall be elected by the voters of the entire city.

Exercise of Corporate Powers.

Sec. 4. All the corporate powers and functions pertaining to the said city shall be exercised by its common council or under its authority, in the corporate name of the city unless otherwise provided by state law or municipal ordinances.

Subordinate Officers.

Sec. 5. The council may appoint a superintendent of streets, light, and water, an attorney, an assessor, a collector and all other officers whose offices may be established by an ordinance of the council.

Eligibility of Officers.

Sec. 6. No person shall be eligible to the office of mayor, recorder, or councilman unless at the time of his election he is legally entitled to vote in the city election for member of the common council, and was for the preceeding year assessed with taxes upon real or personal property within the said city of the assessed value of two hundred dollars, and shall have actually paid taxes so assessed. And no person shall be eligible to any subordinate office under said city who is not at the time of his election or appointment entitled to vote for members of the common council.

Powers, Duties and Compensation of Officers.

Sec. 7. The powers, duties and compensation of all officers shall be established by ordinance. But the compensation pertaining to any office shall not be increased or diminished so as to effect any officer subsequent to his election or appointment and during the term for which he was elected or appointed.

Vacancies in Office.

Sec. 8. Whenever a vacancy shall occur from any cause in the office of mayor, recorder or councilman, the common council shall fill the same by election by a *viva voce* vote until the end of the term.

Who are Voters.

Sec. 9. Every person who has been a *bona fide* resident of the city for sixty days next preceeding the city election therein, and who is a qualified voter under the constitution and laws of this state, shall be entitled to vote at any city election in the ward in which he actually resides; but no person shall be deemed a resident of such city by reason of being stationed therein for any temporary purpose.

Elections.

Sec. 10. The first election hereunder shall be held on the first Tuesday in January, one thousand nine hundred and eight, at which election all the officers provided for in section three shall be elected. The term of office of all persons elected at said first election shall begin February one, one thousand nine hundred and eight and shall be until May one, one thousand nine hundred and nine and until their successors are elected and qualified. The next election hereunder shall be held on the first Thursday in April, one thousand nine hundred and nine, and all subsequent elections each year thereafter on the first Thursday in April. The term of office of all persons elected at the election held hereunder in one thousand nine hundred and nine and all succeeding elections, shall be for two years, except that of mayor and recorder which shall be for one year, and until their successors are elected and qualified, unless sooner removed in the manner provided by law. At said election held on the first day of January, one thousand nine hundred and eight, two members of the council shall be elected in each ward in said city who shall reside in the ward for which they are elected, and the candidate receiving the highest number of votes shall be elected for two years and the candidate receiving the next highest number of votes shall be elected for one year from the first day of May next succeeding his election, and shall hold their offices until their successors are elected and qualified; and on the first Monday in April in each succeeding year one member of the council shall be elected in each ward, whose term of office shall begin on the first day of May next succeeding his election and continue for a term of two years and until his successor is elected and qualified; but if any member of the council shall remove from the ward in which he was elected his office shall thereby become vacant, and

the common council shall fill the said vacancy by appointment until the next general election of some one residing in the ward who is eligible to the office.

All the appointed officers shall hold their office during the pleasure of the common council.

The election shall be held and conducted and the result thereof ascertained, certified, returned and determined under the constitution and general laws of the state governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall be heard and decided by the council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers. The council shall be the judge of the election, return and qualification of its own members. In case two or more persons receive an equal number of votes for the same office, if such number be the highest cast for such office, the persons under whom the supervision is held shall decide by lot which of them shall be returned elected, and shall make their return accordingly.

Qualification of Officers.

Sec. 11. Every person elected or appointed to an office in such city shall within twenty days after his election or appointment, and before entering upon the duties of his office, take and subscribe the oath of office prescribed by law in the case of district officers, which may be done before the mayor or recorder of such city, or before any person authorized by law to administer oaths; and the certificate of the officer administering the oath shall be filed with the recorder of the city.

Powers and Duties of Appointed Officers.

Sec. 12. The council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this act defined; shall fix the compensation, and may require and take from them respectively, bonds payable to the city in the corporate name with such sureties and such penalties as may be deemed proper, conditioned for the faithful performance of their duties.

Removal of Officers.

Sec. 13. The council shall have the authority to remove from

office any officer of the city whether elected or appointed, for misconduct or neglect of duty, by an affirmative vote of three-fourths of the members of the council, but only after reasonable notice to such officer, and a hearing of the charges preferred.

Meeting of the Council.

Sec. 14. The council shall be presided over at its meetings by the mayor, or in his absence by the recorder; in the absence of both mayor and recorder by one of the councilmen selected by the majority of the council present. A majority of the council shall be necessary to constitute a quorum for the transaction of business.

Votes of Members.

Sec. 15. The recorder shall have a vote as a member of the council. The mayor shall have a vote only in case of a tie, and in no case shall the presiding officer have but one vote. No member of the council shall vote upon or take part in the consideration of any proposition in which he is or may be interested otherwise than as a resident of said city.

Bonds.

Sec. 16. The council shall require and take from all officers elected or appointed as aforesaid, whose duty it shall be to receive funds, assets or property belonging to said city, or having charge of the same, such bonds, obligations or other writings as may be deemed necessary and proper to secure the faithful performance of their several duties. All bonds, obligations or other writings taken in pursuance of any of the provisions of this act shall be made payable to the city of Parsons, with such sureties and such penalties as may be deemed proper, conditioned for the faithful performance of their duties, and for the accounting of and for the paying over as required by law, all moneys coming into their hands by virtue of their offices, and the respective persons, and their heirs, executors and assigns bound thereby shall be subject to the same proceedings on said bond, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of competent jurisdiction held in and for the county of Tucker, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Records of the Council.

Sec. 17. The council shall cause to be kept in a well bound book called the "council journal" an accurate record of all its proceedings, by-laws, ordinances, orders, and resolutions which shall be fully indexed, and shall be open to any one who is required to pay taxes to such city. The records of the town of Parsons shall be deposited with the council of said city, and it shall make suitable provisions for the safe keeping and preservation of the same. At each meeting of the council the proceedings of the last meeting shall be read, corrected if erroneous, and signed by the presiding officer for the time being.

Powers and Duties of Council.

Sec. 18. The council of said city shall have power to lay off, vacate, close, open, alter, grade, and keep in good repair the roads, streets, alleys, pavements, sidewalks, crosswalks, drains and gutters therein for the use of the citizens or of the public and to improve and light the same, and to keep the same free from obstructions of every kind; to regulate the width of pavements and sidewalks on the streets and alleys, and to order the pavement, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners and occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the time for holding the same, provide suitable and convenient buildings therefor and prevent the forestalling or regrating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter houses and soap factories within the city limits, or the exercise of any unhealthful or offensive business, trade or employment; to abate all nuisances within the city limits or to require and compel the abatement or removal thereof by or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle, sheep or other animals and fowls of all kinds from going or being at large in such city, and as a means of prevention, to provide for impounding and confining such animals and fowls, and upon failure to reclaim for

the sale thereof; to protect places of divine worship and to preserve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide and regulate the building of houses and other structures, and for the making and maintaining of division fences by the owners of adjoining premises, and the proper drainage of city lots or other parcels of land, by or at the expense of the owner or occupant thereof; to provide against damage or danger by fire; to punish for carrying deadly weapons, and assaults and batteries; to prohibit loitering in or visiting houses of ill fame, or loitering in saloons, or upon the streets; to prevent lewd and lascivious conduct, the sale or exhibition of indecent pictures or other representations; the desecration of the Sabbath day, profane swearing, the illegal sale of all intoxicating liquors, drinks, mixtures and preparations, beer, ale, wine, or drinks of like nature; to protect the persons of those residing within said city; to build or purchase, or lease and to use a suitable place within or near said city for safe keeping or punishment of persons charged with, or convicted of the violation of ordinances; to provide for the employment of persons convicted of the violation of ordinances, or who may be committed in default of the payment of fines, penalties or costs, and who are otherwise unable to discharge the same by putting them to work for the benefit of the city, and to use such means to prevent their escape while at work, as they may deem expedient; to erect or authorize or prohibit the erection of gas works, electric light works or water works within the city limits, to prevent injury to such works or the pollution of any gas or water used or intended to be used by the public or by individuals, and to do all things necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell and control electricity and gas for heat, light and power, and to furnish lights for the streets, houses, buildings, stores and other places in and about said city; to provide a sewerage system for said city; to provide for and regulate the weighing and measuring of hay, coal, lumber and other articles sold, or kept or offered for sale within the said city; to establish and construct wharves and docks, and to repair, alter or remove any landing, wharf or dock, which has been or shall be so constructed, and to establish and collect rates and charges for the use thereof; to regulate the running and speed of engines and cars

within said city, except that the council of said city shall not interfere with the speed of trains and engines beyond the corporation lines of the town of Parsons as heretofore existing, until the said new territory shall be laid out in lots, streets, and alleys, and open and used by the public; to organize one or more fire companies and provide necessary apparatus, tools, implements, engines, or any of them, for their use, and in their discretion to organize a paid fire department; to make regulations with respect to the erection and location of the telephone, telegraph, electric light or other poles within said city, and the extension of any wires, lines, and poles by any individual or corporation; to grant and regulate all franchises in, upon, over and under the streets, alleys and public ways of said city, under such restrictions as shall be provided by ordinance, but no exclusive franchise shall be granted by said council to any individual or corporation, nor shall any franchise be granted for a longer period than fifty years; to create by ordinance such committees or boards and delegate such authority thereto, as may be deemed necessary or advisable; to provide for the annual assessment of the taxable property therein, including dogs kept in said city, and to provide a revenue for the said city for municipal purposes, and to appropriate such revenue to its expenses, and generally to take such measures, as may be deemed necessary or advisable, to protect the property, public and private, within the city; to preserve and maintain peace, quiet and good order therein, and to preserve and promote the health, safety, comfort and well being of the inhabitants thereof.

The council of said city shall have power and authority to control and regulate the construction and repairs of all houses and other buildings within the said city; to provide for the granting of building permits; to cause the removal of unsafe walls of buildings; and may upon the petition of the persons owning the greater amount of frontage of the lots abutting on any street between any two cross streets or in any square in said city, prohibit the erection on such street, or in such square, of any building, or of any addition to any building, more than ten feet high, unless the outer walls thereof be made of brick and mortar or other fire proof material; and to provide for the removal of any building or addition which shall have been erected contrary to such prohibition, at the expense of the owner or owners thereof.

Enforcement of Powers.

Sec. 19. To carry into effect these enumerated powers and all others by this act or by general laws conferred, or which may be hereafter conferred upon the said city or its council, or any of its officers, the said council shall have and possess full authority to make, pass and adopt all needful ordinances, by-laws, orders and resolutions, not repugnant to the constitution and laws of the United States or of this state; and to enforce any and all of such ordinances, by-laws, orders or resolutions, by prescribing for a violation thereof, fines and penalties and imprisonment in either the county jail of Tucker county or the city prison, if there be one; but no fine shall exceed fifty dollars, and no term of imprisonment shall exceed ninety days; such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced by and under the judgment of the mayor of said city, or in case of his absence or inability to act or both of said officers, of one of the councilmen, appointed for that purpose by the council.

Annual Estimate of Expenditures.

Sec. 20. The council shall cause to be annually made up and entered upon its journal not later than the first day of July of each year, an accurate estimate of all sums that are or may become chargeable to such city, and which ought to be paid within one year; and it shall order a levy of so much as may in its opinion, be necessary to pay the same.

Annual Levy.

Sec. 21. The levy so ordered shall be upon all dogs in the said city, and upon all real and personal property therein subject to state taxes upon the basis of the valuation of such property as fixed for state purposes; but no taxes so levied upon property shall exceed the rate of fifty cents on every one hundred dollars of the valuation thereof in any one year for current purposes, unless authorized by ordinance in the manner prescribed by law.

Money, How and When Paid.

Sec. 22. All taxes which the council are or shall be authorized to levy and collect, and all fines and penalties which may be imposed and collected for violations of the laws and ordinances of said

city, shall inure to the exclusive benefit of said city, and all moneys received or collected for the use of said city shall be paid into the treasury and shall be drawn therefrom, except as the council, in accordance with this act, may order, by orders drawn upon the city treasury, signed by the mayor and countersigned by the recorder, and no order shall be issued upon any fund unless there is an unexpended balance to the credit thereof sufficient to cover such order and money in the treasury to pay it. The council shall, once at least every year cause to be published in the said city, a statement of the receipts and expenditures of said city for the past year for each of the several funds, signed and sworn to by the recorder and attested by the mayor.

Revoking License.

Sec. 23. The council may revoke any such license for a breach of any of the conditions of such bond, or for other good cause shown, but the person holding license must first have reasonable notice of the time and place of hearing and adjudicating the matter, as well as the cause alleged; and shall be entitled to be heard in person or by counsel, in opposition to such revocation.

Other Licenses.

Sec. 24. When anything for which a state license is required other than the sale of spirituous, vinous and malt liquors is to be done within such city, the council may require a city license therefor, in the manner prescribed by law, and may impose a tax thereon for the use of the city. And the council may make and enforce all reasonable ordinances respecting the same; *provided* only that such ordinances shall not conflict with the constitution and laws of this state and of the United States.

Sidewalks, Street Paving, etc.

Sec. 25. If the owner or occupant of the real property abutting on any sidewalk, footway or gutter in such city, shall fail or refuse to curb, pave, or keep the same clean in the manner or within the time required by council it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense on such property, or upon the owner thereof, and the same may be collected by the collector in the manner provided herein for the collection of city taxes.

Upon the petition in writing, of the persons owning the greater amount of frontage of the lots abutting on any street, or between a cross street and alley, or any two cross streets, the council of the city by lawful majority thereof, may order such part of any street or alley to be paved between sidewalks with cobble stones, brick, Belgin blocks, asphaltum, or other suitable material, from one of such cross streets or alleys to the other, under such regulations as may be fixed by ordinance duly passed by council; two-thirds of the cost of such paving shall be assessed to the owners of the lots or fractional parts of lots abutting on that part of the street or alley so paved, in proportion to the distance such lots or part of lots abuts on such street or alley, and the remaining one-third of the cost of such paving shall be paid by the city. In making such assessments the basis shall be the cost of paving that part of the street or alley on which the property lies, included between the adjoining cross streets or alleys; and the amount assessed against the owners of each lot or fractional part of a lot, shall be in the proportion which the frontage of such lot or part of lot bears to the whole cost of paving said street or alley between said cross streets or alleys as aforesaid; and the same may be collected by the collector in the manner provided herein for the collection of city taxes.

Liens for Taxes, Assessments, etc.

Sec. 26. There shall be a lien on all real estate and personal property within the city for the city taxes assessed thereon, from the day fixed by law for the commencement of the assessment of such taxes in each year, and the interest upon such taxes, at the rate of six per centum per annum from the first day of January next after such assessment until payment, which may be enforced by the council in the manner now provided by law for the enforcement of the lien for state or county taxes, or in such other manner as the council may by ordinance prescribe. There shall also be a lien on all real estate within the city for other assessments, fines and penalties assessed or imposed upon the owners thereof by the authorities of the city from the time the same are so assessed or imposed, which shall have priority over all other liens except the lien for taxes and may be enforced by the council by suit in equity, in the coporate name of the city, in the same manner as prescribed by law for the enforcement of the lien for state and

county taxes, or in such other manner as the council may by ordinance prescribe. If any real estate within the city be returned delinquent for the non-payment of the taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for taxes, interest and commissions thereon, in the same manner, at the same time, and by the same officer as real estate is sold for the non-payment of state taxes.

The City Collector.

Sec. 27. It shall be the duty of the city collector to collect the city taxes, fines, levies and assessments, under such regulations as may be prescribed by law and the ordinances of the city; and in case the same are not paid within one month after they are placed in his hands for collection, he may distrain and sell therefor in like manner as the officer collecting the state taxes may distrain therefor, and he shall have in all other respects the same powers to enforce the payment and collection thereof; his compensation shall not exceed five per cent of the amount duly collected and accounted for; he shall account for and pay over all taxes, fines, levies and assessments in accordance with the ordinances prescribed by council. In case the collector shall fail to collect, account for and pay over all moneys with which he may be chargeable, belonging to the city, according to the conditions of his bond and the ordinances of the council, the city shall have the right in its corporate name to recover the same by action or motion in the circuit court of Tucker county, or where the sum does not exceed his jurisdiction, before a justice of the peace against the collector and his sureties or any of them, or his or their personal representatives, upon giving ten days' notice of any such motion. The collector shall on the last day of each month, file with the recorder a sworn, itemized statement, showing his total collections and disbursements for said month; and he shall annually on or immediately before the first day of July, make such settlement with the council as the general laws of this state provide for sheriff's settlements with the county court.

The City Assessor.

Sec. 28. It shall be the duty of the assessor to make an assessment of the property within the city subject to taxation, substantially in the manner and form in which assessments are made by

the assessor of the county, and return the same to the council on or before the first day of June of each year; and for this purpose he shall have access to all public books and records of Tucker county, and to all documents and papers in the hands of the county assessor relating to assessments for state and county purposes, between the first day of April and the first day of June of each year, without expense to the city, and shall have all the powers conferred by law on the county assessors. In case the assessor of the city shall discover any property subject to taxation which has not been listed by the county assessor, or assistant tax commissioner, it shall be his duty to list the same, and make report of the fact, with a description of the property and its owner, to the county assessor or assistant tax commissioner; and it shall be the duty of the county assessor or assistant tax commissioner, to list the same for the state and county purposes and to make a proper valuation of the same, and report its valuation to the assessor of the city. The assessor of the city shall list the dogs in the city, with the names of the owners thereof, and return the list to the council. The council shall have power to make and enforce regulations respecting the listing and taxation of dogs in the city, and provide for the impounding and killing such as appear to have no owner, or upon which the tax has not been paid. And it shall have power to make and enforce all needful ordinances respecting the assessment of property.

Exemption from District Poor and Road Levies.

Sec. 29. The city shall maintain its own roads and streets; and by reason thereof shall not be required to pay any district road taxes for the construction and maintenance of roads outside of the city limits.

Powers and Duties of the Mayor.

Sec. 30. The mayor shall be the chief executive officer of the council; he shall recommend such measures as he may deem needful for the welfare of the city. The expense of maintaining any person committed to the jail of the county by him, except that it be to answer an indictment or under the provisions of section two hundred and twenty-seven and two hundred and twenty-eight of chapter fifty of the amended code of this state, shall be paid by the city. But the mayor shall not receive any money belonging to

the state or individuals, unless he shall give the bond and security required of a justice of the peace by chapter fifty of the said code, and all provisions of said chapter relating to money received by justices shall apply as to like moneys received by the mayor. The mayor shall have power, when authorized by a proper ordinance of the city, in case of an offender upon whom a fine has been imposed and who neglects or refuse to pay the same, to sentence such offender to work out the amount of the fine imposed, together with the costs of the maintenance of such offender from day to day, by compelling him to labor without compensation upon any of the public works or improvements undertaken by the city; he shall receive such commutation per day, to be fixed by the council, as is allowed laborers regularly employed, until such fines, costs, and costs of maintenance, shall have been fully paid; *provided*, that no person shall be compelled to labor as aforesaid for more than thirty days for any one offense.

Appeals shall lie from the judgment of the mayor to the circuit court of Tucker county, under regulations prescribed by law.

Powers and Duties of the Recorder.

Sec. 31. It shall be the duty of the recorder to keep the journal of the proceedings of the council, to have charge and preserve all records and archives of the city, and to perform such other duties pertaining to his office as the council shall prescribe. In the absence of the mayor from the city, or in case of his sickness or disability to act, or during any vacancy in the office of mayor, the recorder shall perform the duties belonging to the office of mayor and for that purpose shall have and possess all the powers of the mayor.

Duties of the City Attorney.

Sec. 32. The city attorney shall be the city solicitor and counsel in all legal matters arising upon which counsel is necessary, or in which legal proceedings are taken; he shall defend all suits against the city, and when requested in writing, shall give his written opinion to the mayor, the council, or any standing committee thereof, upon such legal questions as may be referred to him affecting the city's interests. When required by the mayor he shall attend and prosecute all trials in his court, and shall prosecute all appeals that are taken from such court to the circuit court,

or if there be one the criminal court of Tucker county, and for his services he shall receive such sum as the council may allow.

Duties of City Treasurer.

Sec. 33. The city treasury shall be one or more of the banks of the city, and shall be selected biennially by the council. The bank or banks which shall be designated city treasury shall be first chosen at the first regular meeting of the council held in February, one thousand nine hundred and eight, and thereafter on the same day each second year. The money deposited therein shall be disbursed only upon order drawn against the same signed and countersigned as hereinbefore prescribed. The treasurer shall on the last day of each month, furnish the council a statement showing by items its receipts and disbursements for said month, and the amount on hands; and it shall annually, on or immediately before the first day of July, make settlement with the council as the general laws of this state provide for sheriff's settlements with the county courts.

Liquor License.

Sec. 34. That said city council shall have, and are hereby granted the exclusive control of all licenses required by law; *provided, however,* that the council shall cause to be submitted to the voters of the city at the annual election every two years the question whether a license for the sale of spirituous liquors, vinous and malt liquors, shall be granted within the city. In case a majority of votes cast at said election are against licenses no such license shall be granted during the two succeeding years; and all such other licenses it may see fit to impose and require within the corporate limits of said city not contrary to the constitution of the state of West Virginia. And in case of any such license granted by said city council it shall not be necessary for the person or persons, or corporation, holding the same to apply for, obtain or hold any state license or other additional license from the county court of Tucker county, West Virginia, for the carrying on or conducting the business so licensed by said city council; but the person or persons, or corporations so licensed by said city council shall not be exempt from paying the usual state license tax required by law. When any such license as hereinbefore mentioned is granted by said city council, said council may impose a

tax thereon for the use of the city in conformity with the requirements of the state law, and shall also require bond payable to said city in its corporate name, with good security from the person, or persons, or corporations so licensed; said bond to be approved by said city council in the same sum and penalty as required by the state law. The said city council shall, upon granting any such license required by law, within ten days thereafter furnish to the clerk of the county court, the prosecuting attorney, and the assessor of Tucker county, by mail to their respective post office addresses, duly certified copies, under the corporate seal of said city, of the order granting every such license, whereupon such assessor shall cause the sheriff of Tucker county to collect the state tax thereon, in the same manner as if said license was granted by the county court of Tucker county, West Virginia; and said city council may revoke such license at any time the condition of said bond be broken upon ten days' previous notice to the person, persons, or corporation holding the same; and suits may be prosecuted and maintained on such bonds as prescribed in section twenty-two of chapter thirty-two of the code of West Virginia by the same persons in the same manner and to the same extent as upon the bonds mentioned in said section, and all the provisions of said section in relation to the bonds therein named and mentioned shall be applicable to the bonds required by this section.

Notice for the application for license to sell spirituous liquors, wine, porter, ale, beer, and drinks of like nature, shall be given by publication in some newspaper published in the city, for at least two weeks prior to the date said application is made, and notice of said application shall likewise be filed with the recorder of the city at least two weeks before the application is acted upon; which notice and application shall show the name and residence of the applicant, the particular place for which the license is desired, and who is the owner of the property in which the business is to be carried on.

The Police Officers.

Sec. 35. The chief of police shall be *ex-officio* a constable within the corporate limits of his city; he may execute any writ or process issued by the mayor or justice of the peace at any place in Tucker county; he shall have all the powers, rights and privileges within the corporate limits of the city in regard to the arrest of

persons. the collection of claims, and the execution and return of process that can be legally exercised by a constable of the district in which the said city is situated, and he and his sureties shall be liable to all fines, penalties and forfeitures that a constable is liable to for any failure or dereliction in his office, to be recovered in the same manner and in the same courts that the fines, penalties and forfeitures may be recovered against such constable. All special police officers shall have and possess all the powers, rights and privileges of a constable of the district within the corporate limits of the city, in regard to the arrest of persons, and the execution and return of all criminal writs and process issued by the mayor; but the council may exempt them from giving the bond required of constables.

Right to Condemn Real Estate.

Sec. 36. The council shall have the right to institute proceedings in the name of the city for the condemnation of real estate for the use of roads, streets, alleys, drains, public buildings and grounds, including parks and cemeteries, for the use of the city; and the manner of procedure shall as nearly as practicable, conform to the provisions of chapter forty-two of the code.

Repeal of Certain Acts.

Sec. 37. All acts and parts of acts which are in conflict and inconsistent with this act are hereby declared inoperative in so far as they are in conflict or inconsistent with this act; and this act shall not be construed to take away any of the powers conferred upon said town, or upon the council, or any officer thereof, conferred by general law, except so far as the same may be inconsistent with the powers conferred by this act.

Rights and Liabilities of the City.

Sec. 38. The said city shall succeed to all the rights and liabilities of the said town of Parsons; it shall be liable for all the debts and obligations of the said town the same as if the bond or other evidence of indebtedness were issued in the corporate name of the city.

Ordinances.

Sec. 39. The ordinances in force in the town of Parsons on the

first day of February, one thousand nine hundred and eight, so far as they are not inconsistent with this charter, shall continue in force as ordinances of the city of Parsons until amended or repealed by the council of said city.

CHAPTER 7.

(House Bill No. 97).

AN ACT to amend and re-enact sections four, six, seven, nine, eighteen, twenty-six and twenty-nine of chapter thirteen of the acts of one thousand nine hundred and five, of the legislature of West Virginia, concerning the charter of the city of Philippi:

[Passed January 25th, 1907. In effect from passage. Approved by the Governor January 31, 1907].

<p>SEC. 4. Officers, eligibility. 6. Qualification of voters: elections and contests. 7. Terms of office. 9. Powers and duties of officers and their compensations.</p>	<p>SEC. 18. Compensation of mayor. 26. Judgments. 29. City clerk ex-officio assessor; powers and duties.</p>
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Be it enacted by the Legislature of West Virginia:

That sections four, six, seven, nine, eighteen, twenty-six and twenty-nine, of chapter thirteen of the acts of one thousand nine hundred and five of the legislature of West Virginia, be amended and re-enacted so as to read as follows:

Sec. 4. The officers of said city shall be a mayor, clerk, chief of police, street commissioner, one councilman from each ward and one councilman-at-large. The mayor, clerk and councilman-at-large shall be elected by the qualified voters of said city. The other officers named, except members of council, shall be appointed by the council and the councilmen, other than councilman-at-large, shall be elected by the qualified voters of their respective wards. No person shall be eligible to any elective city office unless he is a qualified voter thereof, nor unless he has resided therein for at least six months before his election; and in the case of a councilman, unless he is a *bona fide* resident of the ward from which he is elected and a freeholder of said city; and the removal of a councilman from the ward in which he is elected shall vacate his office; and no person shall be eligible to any city office unless he is a taxpayer and a qualified voter thereof.

Sec. 6. The first election hereunder shall be held on the second Thursday in March, one thousand nine hundred and seven, and annually thereafter. Every person who has been a *bona fide* resident of the city for six months next preceeding any election, and otherwise a qualified voter under the constitution and laws of the state, shall be entitled to vote at such election in the ward in which he resides. The election shall be held, conducted and the result thereof ascertained, certified, returned and determined under such rules and regulations as may be prescribed by the present city council, which shall not be inconsistent with the general laws of the state governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall conform as nearly as may be to similar proceedings in the case of county and district officers. The council shall be the judge of the election, returns and qualifications of its own members. In case two or more persons receive an equal number of votes for the same office if such number be the highest cast for such office, the persons under whose supervision the election is held shall decide by lot which of them shall be returned elected, and shall make their return accordingly.

Sec. 7. The term of the mayor, clerk and councilmen shall begin on the first Monday in April next succeeding their election and it shall be for the term of one year and until their successors shall have been elected and qualified. The chief of police, engineer, health officer and street commissioner shall be appointed by the the council and shall hold their offices during the pleasure of the council. The same person shall not be chosen clerk for more than two consecutive terms, and any former incumbent shall be ineligible for a second election unless he shall have fully settled up the business of his former term or terms. The duties and compensation of all appointees shall be such as are fixed by the council.

Sec. 9. The council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this act defined; shall fix their compensation, and may require and take from them, respectively, bonds payable to the city in its corporate name with such surety, and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties. Members of the council shall receive not exceeding ten dollars per annum.

Sec. 18. The mayor shall receive a salary of not more than fifty dollars per annum, and fees collected by him.

Sec. 26. If the appellant be found guilty of violation of the ordinance in question, whether upon the verdict of a jury or otherwise, the court shall ascertain by its judgment the fine or imprisonment, or the fine and imprisonment, to be paid or suffered by such defendant, having regard to the punishment prescribed by such ordinance, and shall include in any such judgment the costs incurred by said city, as well in the proceedings before the mayor as those in court, and the fee, if any, of the jailor or the keeper of the city prison; and the proceedings to enforce the collection of any such fines and costs, as may be provided in section ten, eleven and twelve of chapter thirty-six of the code of West Virginia, except that the writ mentioned in the tenth section may be issued by the clerk upon the order of the mayor of the city and the notice contemplated by the eleventh section shall be given to such officer. If the judgment be for the defendant he shall recover his costs against the city.

Sec. 29. It shall be the duty of the clerk, who is hereby made *ex-officio* assessor for the city, to ascertain the property within said city subject to taxation, including a capitation upon each male inhabitant of said city who has attained the age of twenty-one years, substantially in manner and form as in the case of assessments by county assessors, and make returns thereof to the council on or before the first day of June of each year; he shall also make out the land books for said city in each year, in accordance with the valuation ascertained by the state and county, and make proper transfers of such property as shall have changed ownership within the preceding year, and charge the same on books to the person who by himself has the freehold in his possession whether in fee or for life, on the first day of April in such year. When a tract or lot of land becomes the property of different owners in several parcels, the clerk shall divide the value at which the whole had before been assessed, among the different owners, having regard to the value of each interest as compared with that of the whole, and enter the same upon the land books for said year; he shall also enter in said land books the value of any old building for one or more years, and of any addition or improvement to a building, and of any building newly erected not theretofore assessed, if the same be of the value of one hundred dollars or upwards; he shall have the same power and be subject to the same penalties in ascertaining and assessing the property and subjects of taxation in said city, as are

conferred and imposed upon county assessors by general law; but the council until the year one thousand nine hundred and nine may correct any error on his part in making such assessment upon the application of any person aggrieved. The council shall have authority to prescribe by general ordinances, such other rules and regulations as may be necessary to enable and require the assessor to ascertain and properly assess all property subject to taxation by the city, so that such assessment and taxation shall be uniform and equal, and may enforce such rules and regulations by reasonable fines to be imposed upon any one failing or refusing to comply therewith. The said clerk shall also list the number of dogs or other animals subject to license tax in said city, and the names of the persons owning the same, which list shall be returned to the council at the same time the assessment is returned. The assessment of property and levying of taxes thereon shall after the year one thousand nine hundred and eight, conform to the provisions of sections twelve and one hundred and thirty-five of chapter four of the acts of one thousand nine hundred and four.

All acts and parts of acts, inconsistent herewith are hereby repealed.

CHAPTER 8.

(House Bill No. 134).

AN ACT to amend and re-enact chapter sixty-seven of the acts of the legislature of West Virginia of the year one thousand nine hundred and three, amending the charter of "The city of Moundsville" in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof.

[Passed February 4th, 1907. In effect from passage. Became a law without the approval of the Governor].

Sec.		Sec.	
1.	Corporate name, rights and powers.	17.	Franchises.
2.	Boundaries.	18.	Authority of council to adopt and enforce ordinances, by-laws orders or resolutions.
3.	Wards.	19.	Mayor, powers and duties; salary; process in proceedings to enforce ordinances. Power of
4.	Officers* elected and appointed;	20.	mayor; use of county jail.
5.	eligibility; common council.	21.	Mayor's docket.
6.	Elections; qualification of voters.	22.	
7.	Term of officers.	23.	
8.	Oath of office.	24.	Appeals; duty of mayor; proceedings after return of verdict.
9.		25.	
10.	Council, its powers and duties; meetings.	26.	
11.		27.	

<p>SEC. 28. } Clerk, his powers and duties; how to } ascertain value of personal prop- erty and real estate; levy and 31. } collection of taxes; to give bond. 32. } Solicitor, duties and compen- to } sation; chief of police, powers 34. } and duties; compensation. 35. Health officer, powers and duties: salary. 36. Treasurer, duties and compen- sation. 37. Street commissioner, duties and compensation. 38. City engineer, duties and compen- sation. 39. Lien for taxes.</p>	<p>SEC. 40. { Liquor license, submitted to to } voters; authority of council. 43. { 44. { License generally. 45. { 46. Power to condemn. 47. Sidewalks. 48. Street paving. 49. { 50. { Sewers. 51. Levy upon real and personal property; capitation tax. 52. Financial statements. 53. Bonds; additional levy. 54. City to succeed to all rights and responsibilities heretofore ex- isting. 55. Inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter sixty-seven of the acts of the legislature of West Virginia, of the year one thousand nine hundred and three, be amended and re-enacted so as to read as follows:

Sec. 1. The inhabitants of Marshall county in this State, now and thereafter residing within the boundaries prescribed in the next section hereof, shall be and they are hereby constituted a body politic and corporate, by and under the name of "The city of Moundsville," and as such and by and in that name, shall have perpetual succession and a common seal and may sue and be sued, contract and be contracted with, purchase, lease, hold and use real and personal property necessary for corporate purposes, and generally, shall have all the rights, powers and franchises belonging or appertaining to municipal corporations in this state.

Boundaries.

Sec. 2. The boundary of said city shall be as follows: Beginning at the mouth of Big Grave creek on the north side thereof and at the intersection of the low water mark of said creek with the low water mark of the Ohio river; thence up said creek, south 62° and 25' east 44 rods; south 74° east 22½ rods; north 77° east 13 4-5 rods; north 62° east 16 7-25 rods; south 82° east 67 3-25 rods; north 66° east 19½ rods; north 3° east 24½ rods; north 61° and 30' east 50 rods; north 80° and 30' east 27 rods; north 63° 32½ rods; south 36° and 15' east 36 2-5 rods; south 88° and 20' east 26 4-5 rods to a point in said Big Grave creek, which point is located north 31° west 15 feet from the center of a large sycamore tree marked as a pointer to this corner; thence up Middle Grave creek, north 7° and 30' east 32 rods; north 19° and 15' east 51 rods to a point

at a low water mark of Middle Grave creek, on the north side thereof, which point is situated south 60° and $12'$ east $82\ 2\text{-}5$ rods from the center of the opening of the penitentiary sewer; thence leaving said creek, north 8° and $35'$ west $38\ 63\text{-}100$ rods to a stone at the intersection of two roads; thence leaving old corporation line, north 57° and $36\frac{1}{2}'$ east $146\ 2\text{-}10$ rods to the northwest corner of fair ground property; thence with the north line of said fair ground property, south $88^{\circ}\ 8\frac{1}{2}'$ east $9\ 46\text{-}100$ rods to a point on the west side of the extension of Myrtle avenue in Annadale addition to Moundville; thence with said west side of Myrtle avenue north 3° and $26\frac{1}{2}'$ east $79\ 73\text{-}100$ rods to a point in north side of Fourth street; thence with north side of Fourth street south 86° and $33\frac{1}{2}'$ east $1497\text{-}100$ rods to a point in the line between B. W. Price and Jonathan Roberts; thence with said Price-Roberts line, north $4^{\circ}\ 57\frac{1}{2}'$ east $41\ 42\text{-}100$ rods to a point in B. W. Price's line; thence with said Price's and the line between the M. M. and M. company's land and Jonathan Roberts' north $86^{\circ}\ 8\frac{1}{2}'$ east $67\ 13\text{-}100$ rods, to a point in the extension of west side of Pine avenue in the M. M. and M. company's addition to Moundville; thence with west side of Pine avenue, north $18^{\circ}\ 47\frac{1}{2}'$ west $146\ 75\text{-}100$ rods, to a point on the southwest side of Highland avenue; thence with the southwest side of Highland avenue on a curve having a radius of $985\ 4\text{-}100$ feet, and whose tangent at said point of intersection bears north 52° and $55'$ west $273\ 91\text{-}100$ feet to a tangent point; thence with said tangent, north $36^{\circ}\ 59\frac{1}{2}'$ west $596\ 34\text{-}100$ feet to a point of curve; thence curving to the right on a curve whose radius is 530 feet, a distance of $388\ 97\text{-}100$ feet to a point of a reverse curve; thence curving to the left, radius 105 and $88\text{-}100$ feet, a distance of $209\ 28\text{-}100$ feet to a point of reverse curve; thence curving to the right, radius $348\ 14\text{-}100$ feet, a distance of $119\ 31\text{-}100$ feet, to a point of tangency; thence with tangent, north $88^{\circ}\ 33\frac{1}{2}'\ 349\ 76\text{-}100$ feet to a point of curve; thence curving to right, radius $433\ 52\text{-}100$ feet, a distance of $433\ 55\text{-}100$ feet, to a point of reverse curve; thence curving to the left, radius $373\ 52\text{-}100$ feet, a distance of $331\ 6\text{-}100$ feet, to a point of tangency; thence with a tangent, north 82° and $2\frac{1}{2}'$ west $262\ 91\text{-}100$ feet; thence leaving Highland avenue, south $55^{\circ}\ 42\frac{1}{2}'$ west $240\ 72\text{-}100$ feet to a stone in Tomlinson-Cockayne line; thence with said Tomlinson-Cockayne line west to a post at the northwest corner of a tract of land owned by the Wheeling district camp meeting association,

known as the Moundville camp grounds, and Tomlinson's line; thence south $1^{\circ} 45'$ east 1467 feet; thence south 42° west 150 feet; thence south $49^{\circ} 45'$ east 38 feet; thence south $40^{\circ} 15'$ west 255 feet; thence south 75° and $15'$ east 193 feet; thence south 45° and $45'$ west 435 feet; thence south 2° and $30'$ west 310 feet; thence north 69° west 540 feet; thence on cord north 83° west 436 feet; thence south 87° south 132 feet; thence south 3° east 33 feet; thence south 13° and $15'$ east 235 feet; thence south 21° west 212 feet; thence south 26° and $30'$ west 218 feet; thence north 83° west 765 feet; thence north 1° and $30'$ west 247 feet; thence north 83° and $45'$ west 452 feet; thence north 6° west 202 feet; thence south 78° and $15'$ west 863 feet more or less to the west line of West Virginia; thence down the Ohio river with the said line of West Virginia, 6526 feet more or less; thence south 54° and $55'$ east 70 rods more or less to the beginning; but excepting from the above described boundary the part of the county bridge and its abutments at the mouth of Big Grave creek, which would otherwise be included therein; also excepting from the above described boundary that tract of land owned by the Wheeling district camp meeting association known as the Moundville camp ground.

Wards.

Sec. 3. The territory of said city is hereby divided into four wards as follows: All that part of said city lying north of second street, and any extension thereof shall constitute the first ward of said city; that part lying south of second street, and any extension thereof and north of fifth street, and any extension of the same, shall constitute the second ward; and that portion lying south of fifth street and north of ninth street, and any extension of said streets shall constitute the third ward; and all that portion lying south of Ninth street, and any extension of the same shall constitute the fourth ward. The council of said city may change the boundaries of the different wards, but regard shall be had to equality of population.

Officers.

Sec. 4. The officers of said city shall be a mayor, clerk, who shall be *ex officio* collector, solicitor, chief of police, health officer, treasurer, street commissioner, city engineer, and two councilmen from each ward. The mayor, solicitor and chief of police shall be

elected by the qualified voters of said city. The clerk, health officer, street commissioner, treasurer and city engineer shall be appointed by the council, and the councilmen shall be elected by the qualified voters of their respective wards. No person shall be eligible to any elective office unless he is a qualified voter thereof, nor unless he has resided therein for at least six months before his election; and in the case of a councilman, unless he is a *bona fide* resident of the ward from which he is elected, and a free holder of said city; and the removal of a councilman from the ward in which he was elected or his ceasing to be a free holder in said city shall vacate his office and no person shall be eligible to any city office unless he is a tax payer and a qualified voter thereof.

Sec. 5. The municipal authorities of said city shall consist of the mayor and councilmen, who together shall form a common council and all the corporate powers of said corporation shall be exercised by said council or under its authority, except where otherwise provided.

Elections.

Sec. 6. The first election held hereunder shall be on the second Thursday in March, one thousand nine hundred and seven and biennially thereafter. Every person who has been a *bona fide* resident of the city for three months next preceeding any election, and otherwise a qualified voter under the constitution and laws of the state, shall be entitled to vote at such election in the ward in which he resides. The election shall be held, conducted and the results thereof be ascertained, returned and determined under such rules and regulations as may be prescribed by the council which shall not be inconsistent with the general laws of the state governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall be heard and decided by council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers. The council shall be the judge of the election, return and qualification of its own members. In case two or more persons received an equal number of votes for the same office, if such number be the highest cast for such office, the city council shall decide by vote which of them shall be returned elected, and shall make their return accordingly.

Term of Officers.

Sec. 7. The term of office of the mayor, solicitor and chief of police shall begin on the first Monday in April next succeeding their election and shall be for the term of two years, and until their successors shall have been elected and qualified. The clerk, treasurer, health officer, street commissioner and city engineer, shall be appointed by the council and shall hold their office during the pleasure of the council. The same person shall not be appointed clerk for two consecutive terms, and any former incumbent shall be ineligible for a second appointment unless he shall have fully settled up the business of his former term or terms. At the first election provided for in section six of this act there shall be elected a mayor, solicitor and chief of police, whose term of office shall begin on the first Monday in April next succeeding their election and shall be for the term of two years, and until their successors are elected and qualified, and two councilmen from each ward whose term of office shall begin on the first Monday in April next succeeding their election, the one thereof receiving the highest number of votes shall hold his office for the term of four years, and the one receiving the next highest number of votes shall hold his office for the term of two years and until their successors are elected and qualified. On the same day in each succeeding two years one councilman from each ward shall be elected and shall hold office for four years from the first Monday in April next succeeding their election and until their successors are elected and qualified.

Sec. 8. Every person elected or appointed to any office in said city shall within twenty days after his election or appointment and before entering upon the discharge of the duties thereof, take and subscribe the oath of office prescribed by law for officers generally, which may be done before the mayor or clerk of said city, or before any person authorized by law to administer oaths; and the same, together with the certificate of the officer administering the oath, shall be filed with the clerk of said city.

Council.

Sec. 9. The council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this act defined; shall fix their compensation, and may require and take from them respectively, bonds payable to the city in its corporate name with such sureties and in such penalties as may be

deemed proper, conditioned for the faithful performance of their duties.

Sec. 10. The council shall require and take from all officers elected or appointed as aforesaid; whose duty it shall be to receive funds, assets or property belonging to the city, or having charge of the same, such bonds, obligations or other writings as may be deemed necessary and proper to secure the faithful performance of their several duties. All bonds, obligations or other writings taken in pursuance of any of the provisions of this act shall be made payable to "The city of Moundsville;" with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties and for the accounting for and paying over as required by law, all moneys coming into their hands by virtue of their offices, and the respective persons and their heirs, executors and assigns bound thereby, shall be subject to the same proceedings on said bonds, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of competent jurisdiction held in and for the county of Marshall, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Sec. 11. The council shall have the authority to remove from office any elected officer of the city for misconduct or neglect of duty, by an affirmative vote of three-fourths of the members of the council, but only after reasonable notice to such officer, and a hearing of the charges preferred; and in any vacancy in office, however occasioned, may be filled by the council for the unexpired term.

Sec. 12. The council shall fix the place and times of holding its regular meetings; may provide for special and adjourned meetings; shall have power to compel the attendance of its members; and may prescribe rules and regulations not inconsistent herewith, for the transaction of business and for its own guidance and government. The council shall be presided over at its meetings by the mayor, or in his absence by the clerk, or in the absence of both the mayor and clerk then one of the councilmen selected by a majority of the council present, who may vote on any question as member of the council. The mayor shall have a vote only in case of a tie and in no case shall the presiding officer have but one vote. A majority of the council shall be necessary to constitute a quorum for the trans-

action of business. No member of the council shall vote upon or take part in the consideration of any proposition in which he is or may be interested otherwise than a resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a well bound book to be called the "minute book" an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called the "ordinance book" accurate copies of all the ordinances adopted by the council, both of which shall be fully indexed and open to the inspection of any one required to pay taxes to the city, or who may be otherwise interested. All oaths and bonds of officers of the city and all papers of the council shall be endorsed, filed and securely kept by the clerk, except the bond of the clerk which shall be filed with the mayor. All printed copies of such ordinances purporting to be published under authority of the council, and transcripts of such ordinances, acts, orders and resolutions, certified by the clerk under the seal of the city, shall be deemed *prima facie* correct, when sought to be used as evidence in any court or before any justice.

Sec. 14. At each meeting of the council, the proceedings of the last meeting shall be read, and if erroneous corrected, and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the minute book.

Sec. 15. No ordinance or by-law, and no resolution or measure for the expenditure of money other than to defray the current and incidental expenses of the city, shall be deemed passed or adopted unless it shall have been fully read at two consecutive meetings of the council, and shall have received a majority of the votes of the members present, when it shall stand and be declared adopted, and not otherwise.

Sec. 16. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads, streets, alleys, pavements, sidewalks, cross walks, drains and gutters therein for the use of the citizens or of the public, and to improve and light the same, and to keep the same free from obstructions of every kind; to regulate the width of pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the

times of holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling or regranteeing of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter house and soap factories within the city limits; or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement or removal thereof, by or at the expense of the person causing the same, or by or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner, any city lot or tract of land covered or subjected to be covered by stagnant water; to prevent horses, hogs, cattle, sheep, or other animals and fowls of all kinds from going or being at large in such city and as one means of prevention, to provide for impounding and confining such animals and fowls, and upon failure to reclaim, for the sale thereof; to protect places of devine worship and to preserve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide and regulate the building of houses or other structures, and for the making and maintaining of division fences by the owners of adjoining premises, and for the proper drainage of city lots or other parcels of land, by or at the expense of the owner or occupant thereof; to provide against damage or danger by fire; to punish for assaults and batteries; to suppress houses of ill fame and to arrest and punish persons loitering in, or visiting them, or loitering in saloons, or upon the streets; to prevent lewd and lascivious conduct; the sale or exhibition of indecent pictures or other representations; the desecration of the Sabbath day, profane swearing; the illegal sale of all intoxicating liquors, drinks, mixtures and preparations, beer, ale, wine, or drinks of like nature; to protect the persons of those residing or being within said city; to appoint when necessary or advisable a police force, permanent or temporary, to assist the chief of police in the discharge of his duties; to build or purchase, or lease and to use, a suitable place within or near said city for the safe keeping or punishment of persons charged with or convicted of the violation of ordinances; to provide for the employment of persons convicted of the violation of ordinances or who may be committed in default of the payment of fines, penalties or costs, and

who are otherwise unable to discharge the same, by putting them to work for the benefit of the city, and to use such means to prevent their escape while at work, as they may deem expedient; to erect, or authorize or prohibit the erection of gas works, electric light works or water works within the city limits, to prevent injury to such works, or the pollution of any gas or water used or intended to be used by the public or by individuals, and to do all things necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell and control electricity and gas for heat, light and power and to furnish light for the streets, houses, buildings, stores, and other places in and about said city; to provide a sewerage system for said city; to provide for and regulate the weighing and measuring of hay, coal, lumber and other articles sold, or kept or offered for sale, within said city, to establish and construct wharves and docks, and to repair, alter or remove any landing, wharf or dock which has been or shall be so constructed and to establish and collect rates and charges for the use thereof; to regulate the running and speed of engines and cars within the said city, except that the council of said city shall not interfere with the speed of trains and engines beyond the corporation lines of the city of Moundville as heretofore existing, until the said new territory shall be laid out in lots, streets and alleys, and opened and used by the public; to organize one or more fire companies and provide necessary apparatus, tools, implements, engines or any of them for their use, and in their discretion to organize a paid fire department; to make regulations with respect to the erection and location of all pipes, conduits, and telephone, telegraph, electric light or other poles within said city, and the extension of any wires, lines and poles by any individuals or corporation; to create by ordinances such committees or boards, and delegate such authority thereto as may be deemed necessary or advisable to provide for the annual assessment of the taxable property therein, including dogs kept in said city, and to provide a revenue for the city for municipal purposes, and to appropriate such revenue to its expenses, and generally to take such measures as may be deemed necessary or advisable to protect the property, public and private, within the city; to preserve and promote the health, safety, comfort and well being of the inhabitants thereof.

The council of said city shall have power and authority to control

and regulate the construction and repairs of all houses and other buildings within the said city, to provide for the granting of building permits; to cause the removal of unsafe walls or buildings; and may prohibit the erection on any such street, or in any such square, of any building, or of any addition to any building more than ten feet high unless the outer walls thereof be made of brick and mortar or other fire proof material; and to provide for the removal of any building or addition which shall have been erected contrary to such prohibition, at the expense of the owner or owners thereof.

The said council of said city shall have any and all additional power and authority granted to cities, towns and villages by section twenty-eight of chapter forty-seven of the code as amended by chapter fifty-three of the acts of one thousand nine hundred and five.

Franchises.

Sec. 17. Franchises may be granted by the city council to persons or corporations allowing such occupancy of portions of the streets and alleys as may be necessary for works of public utility and service, but no such franchise shall hereafter be granted except under the following restrictions and conditions. No ordinance shall be passed granting any franchise for the use of any of the streets or alleys of the city for any of the purposes above named, until the same shall have been filed with the clerk at least thirty days prior to the time when it is to be acted upon by the council, and notice of such application, stating the object of such franchise, and when the same will be considered by the council, shall have been given thirty days' notice in some newspaper of general circulation published in the city.

Nor shall such franchise be granted within thirty days after the application has been filed, nor until an opportunity has been given any citizen or corporation interested in the granting or refusing of said franchise to be heard.

Nor shall any franchise be hereafter granted by council for a longer period than fifty years; *provided*, that council shall have the power to renew any such franchise for the term of fifty years when the same shall have expired. No franchise hereafter granted for a longer term than fifty years shall be of any force or validity. No grant of any such franchise shall be made without at the time

of making it providing that the grantee, its successors or assigns shall indemnify the city against all damages caused by the construction of such works. Any corporation or person to whom a franchise has been heretofore or may hereafter be granted or their successors or assigns, who shall fail to comply with the condition of the ordinance granting such franchise within one year from the time said conditions are directed to be performed, said franchise shall be and the same become null and void.

Sec. 18. To carry into effect these enumerated powers and all others by this act or by general law conferred, or which may hereafter be conferred upon the said city or its council or any of its officers, the said council shall have and possess full authority to make, pass and adopt all needful ordinances, by-laws, orders and resolutions not repugnant to the constitution and laws of the United States or of this state; and to enforce any or all of such ordinances, by-laws, orders, or resolutions by prescribing for a violation thereof, fines and penalties and imprisonment in either the county jail of Marshall county, or the city prison if there be one; but no fine shall exceed one hundred dollars, and no term of imprisonment shall exceed ninety days. Such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced, by and under the judgment of the mayor of said city, or in case of absence or inability to act, of the clerk of said city, or in case of absence or inability to act of both of said officers, of one of the councilmen, appointed for that purpose by the council.

Mayor.

Sec. 19. The mayor shall be the chief executive officer of the city and shall see that the orders, by-laws, ordinances and resolutions of the council thereof are faithfully executed; he shall be *ex-officio* a justice and conservator of the peace within the city and shall within the same, have, possess and may exercise, all the powers and perform all the duties whether in civil or criminal proceedings, vested by law in a justice of the peace. Any summons, warrant or other process, issued by him, may be executed at any place within the county; he shall have power during the recess of the regular meetings of council to appoint special police officers when he shall deem it necessary, and it shall be his duty to see that the peace and good order of the city are preserved, and that persons and property therein are protected; and

to this end he may arrest and detain, or cause the arrest and detention, of all riotous and disorderly persons before taking other proceedings in the case; he shall from time to time recommend to the council such measures as he may deem needful for the welfare of the city; he shall not receive any money due or belonging to the state or corporation or to individuals, unless and until he shall have given the bond and security required of a justice of the peace by chapter fifty of the code of West Virginia; and all the provisions of said chapter relating to moneys received by justices shall apply to moneys received by him in like cases.

The mayor shall receive a salary of not less than three hundred nor more than five hundred dollars per annum; such salary shall be in lieu of the fees which would otherwise accrue to him in proceedings for the enforcement of ordinances, but all such fees shall be collected, when practicable, and accounted for to the city, and he may tax such costs against any person or corporation found guilty of the violation of any ordinance of the city, as are provided to be taxed and recovered by justices of said county in criminal cases.

Sec. 20. The process in proceedings to enforce any ordinances prescribing a fine or imprisonment, or a fine and imprisonment, for the violation thereof, shall be a summon in the name of the city of Moundsville as plaintiff, directed to the chief of police, to one of the regular police officers of the city, or to any constable of any district within said city, requiring him to summons the person accused of such violation, and who shall thereafter be designed as defendant, to appear before the mayor at the time and place therein named, to make answer to such accusation and be dealt with according to law; such summons shall contain such a statement of the facts alleged as will inform such person of the general nature of the offense against the city with which he stands charged, and except in cases of arrest upon view, shall be issued only upon the complaint on oath, of some creditable person. But the mayor for good cause appearing, by endorsement on the summons, order the person so accused to be forthwith apprehended and brought before him for a hearing of the charge. The clerk of said city as well as the mayor, shall have authority to receive any complaint in writing of the violation of any ordinance, and to sign and issue the proper summons based upon such complaint. The mayor shall have, possess, and may exercise, the power and

authority belonging to a justice under sections two hundred and twenty-four and two hundred and twenty-five of chapter fifty of the code of West Virginia, in summoning and enforcing the attendance and examination of witnesses, in punishing for contempt, in granting continuances, and in securing and enforcing the further attendance of the accused with a view to a trial or hearing. If any recognizance be taken for such further attendance, and is forfeited, the mayor may record the default, and an action be maintained in the name of the city, before the mayor, or any justice having jurisdiction, against the accused and his sureties, if any, to recover the penalty thereof.

Sec. 21. The mayor shall have the power to issue an execution for any fine and costs assessed or imposed by him, for the violation of any ordinance, or he may at the time of rendering judgment therefor, or at any time thereafter and before satisfaction of such judgment by his order in writing, require the immediate payment thereof; and in default of such payment he may cause the person so in default to be apprehended and brought before him, and commit him to jail of Marshall county or in his discretion to the prison of said city, if one shall have been provided, until the fine and costs are fully paid; but such imprisonment shall not exceed ninety days.

Sec. 22. The jail of Marshall county may be used as a lock-up for said city. The jailor of said county shall take and receive into his custody any person authorized to be confined therein by any ordinance of said city, or sentenced to imprisonment therein, or committed thereto, for non-payment of a fine or costs or for failure to enter into a recognizance by the judgment or order of the mayor, in proceedings for the violation of an ordinance; and the expense of maintaining such persons while so in confinement shall, if such person be found guilty of such violation, be charged to such person as part of the costs, but whether collected from such person or not, such expense shall be paid to said jailor by the city.

Mayor's Docket.

Sec. 23. A book well bound and indexed, to be denominated the "docket" shall be kept in the office of the mayor, in which shall be noted each case brought or tried by him, together with the proceedings therein, including a statement of complaint, the

summons, the return, the fact of appearance or non-appearance, the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same; the record of such case shall be signed by the mayor or other person acting in his stead; and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

Appeal.

Sec. 24. In any case for the violation of an ordinance of the said city, in which there is a judgment by the mayor or imprisonment, or for a fine of more than ten dollars, an appeal shall lie at the instance of the person against whom such judgment is rendered, to the circuit court of Marshall county. Such appeal shall not be granted by the mayor unless, within ten days from the date of the judgment such person shall enter into a recognizance with security deemed sufficient, in a penalty double the amount of fine and costs, with condition that the person appealing will appear before the said court on the first day of the next term thereof, to answer for the offense against the city with which he stands charged, and not thence depart without leave of said court, and will perform and satisfy any judgment which may be rendered against him by the circuit court on appeal. The provisions of chapter one hundred and sixty-two of the code of West Virginia, relating to recognizance in criminal cases, shall be applicable to the recognizance contemplated by this section, except where herein otherwise provided; but any money recovered thereon or by virtue thereof shall inure to the said city.

Sec. 25. If such appeal be taken the mayor shall forthwith deliver to the clerk of said court the complaint in writing, if any, the summons, a transcript of the record including the judgment, the recognizance, and any other papers belonging to the case; and such clerk shall receive and file the same, and place the case upon the trial docket of the next succeeding term of said court and said court shall proceed to try the same in its order.

Sec. 26. If the appellant be found guilty of a violation of the ordinance in question, whether upon the verdict of a jury or otherwise, the court shall ascertain by its judgment the fine or imprisonment, or the fine and imprisonment to be paid or suffered by such defendant, having regard to the punishment prescribed by such ordinance, and shall include in any such judgment the costs

incurred by said city, as well in the proceedings before the mayor as those in court, including a fee to the attorney for the city of five dollars, and the fees, if any, of the jailor or the keeper of the city prison; and the proceedings to enforce the collection of any such fine and costs, as may be provided in section ten, eleven and twelve of chapter thirty-six of the code of West Virginia, except that the writ mentioned in the tenth section, may be issued by the clerk upon the order of the mayor of the city, and the notice contemplated by the eleventh section shall be given to such officer. If the judgment be for the defendant he shall recover his costs against the city, but no docket fee shall be charged against the city.

Sec. 27. From all judgments by the mayor in cases other than for violation of ordinances, appeals shall be allowed as in similar cases before justices.

Clerk.

Sec. 28. It shall be the duty of the city clerk to keep a journal of the proceedings of the council, and have charge of and preserve the records, papers, contracts and other documents belonging to the city; it shall be his duty to attend the sessions of the police court and keep an accurate record of its proceedings, and all judgments shall be entered by him within twenty-four hours after the same is rendered; he shall, in case of sickness or disability of the mayor to act, or in case of his absence from the city, or during any vacancy in the office of the mayor, perform the duties of mayor, and shall be vested with all the powers necessary for the performance of such duties; he shall also perform such other duties pertaining to the fiscal affairs of the city, or otherwise, as may be required of him by this act or by the council.

The officer whose duty it is to make out the land books for Marshall county, shall annually, not later than the twentieth day of July, furnish to the clerk showing in separate amounts, the aggregate value of all the personal property and the aggregate value of all the real estate in the city as ascertained from the land and personal property books of said county for the current year; upon receiving said statement the clerk shall present the same to the council at a meeting to be held not later than the first day of August, for the purpose of determining the rate of levy in said city for the current year; as soon as the rate of levy shall have

been fixed by council, the clerk shall furnish the officer whose duty it is to make out the land and personal property books, a certified copy of the order of the council, fixing the rate of tax and such officer shall thereupon extend the tax against the property situated in the city in the land and personal property books in separate columns in said books.

Sec. 29. The clerk shall, when the extended copies of the assessor's books are completed and returned to the clerk of the county court, have access to the same for the purpose of making out the tax tickets of the taxes therein extended, and it shall be the duty of the clerk to make out all tax tickets, and when the same have been examined, compared and approved by the financial committee of the council and found to be correct, they shall be turned over to the clerk not later than the tenth day of September following the levy, whose receipt shall be returned to the council and entered upon its record and the clerk shall be charged therewith.

The clerk shall give notice that said tax tickets are in his hands for collection, stating the penalty for non-payment thereof, and the time and place where the same may be paid, which notice shall be published for fifteen days in one or more newspapers published in said city.

To all persons who shall pay their taxes in full before the first day of December next succeeding said levy there shall be allowed a discount of two and one-half per centum on the whole amount of the taxes so paid, and not otherwise.

The clerk shall immediately proceed to collect from the persons by distraint or otherwise the entire amount of the taxes with which they are severally charged therein, and remaining unpaid on the first day of January next succeeding said levy, with interest at the rate of one per centum per month from the said first day of January until they are fully paid.

All license taxes shall be payable on the first day of May of each year, or at such time as such licenses may be issued.

Sec. 30. The said clerk shall receive all taxes, assessments, fines and costs or other money due the city authorized by this act, or by any ordinance of the said city, to be paid to the city, and shall receipt for the same; he shall keep an accurate account of all money paid to him for the use of said city, showing under separate accounts the amounts received for account of taxes, sewer purposes, street pavement, licenses, fines and costs and of other matters

pertaining to his office, which books shall at all times be open to the inspection of the council or to any committee appointed by it for such purpose; he shall pay over promptly all money which he may receive, within five days after the receipt thereof, into the hands of the treasurer of the said city, showing an itemized statement of the several funds included in said payment, taking the treasurer's receipt therefor; he shall keep his office at the office of the mayor, unless otherwise ordered by the council, and shall keep his office open for the transaction of business during usual business hours, and as may be directed by council; he shall on or before the first day of January and July of each year and oftener if directed by council, present to the council a full, complete and detailed statement of all money with which he is chargeable, or that has been received by him from all sources up to that time, together with a statement of all money paid to the treasurer and proper receipts therefor, and he shall at such times return a list of all taxes, levies, assessments and other claims in his hands for collection which he shall not have been able to collect by reason of insolvency, removal, or other cause, to which list he shall append an affidavit that he has used due diligence to collect the several items therein mentioned, but has been unable to do so, and if the council should be satisfied as to the correctness of said list, it shall allow him a credit for said claims, but may thereafter take such lawful measures to collect the same as shall be by it prescribed. The said clerk shall receive all taxes on licenses, and receipt to the party paying the same by endorsement upon the permit granted by order of the council and shall charge himself with the amount received from the same, and report to the council at the next regular meeting thereafter, the amount so received, and pay the same over to the treasurer taking his receipt for the same; he shall upon the expiration of his term of office, or upon the order of council, turn over to his successor all money, books of account and other property of said city in his possession; he shall receive such salary as may be fixed by the council, which shall not be less than at the rate of six hundred dollars, nor more than one thousand dollars per annum.

Sec. 31. The clerk of said city before entering upon the discharge of his duties, shall execute a bond conditioned for the faithful performance of the duties of his office, and for the accounting for and paying over, as required by law, all money which

may come into his hands by virtue of his office, with sureties satisfactory to the council, payable to the city of Moundsville, in a penalty of not less than five thousand nor more than ten thousand dollars, as the council may prescribe; he shall be custodian of all bonds, notes, certificates and other evidences of indebtedness to the city, together with all valuable papers which may be placed in his possession by the council, except that bond of the clerk shall be deposited with the mayor; he shall be chargeable with, and it shall be his duty to collect the city taxes, levies and assessments under such regulations as may be prescribed by law and the ordinances of the city, and in case the same are not paid within one month, after they are placed in his hands for collection, he may destrain and sell therefor in like manner and have the same power and authority possessed by the officer charged with the collection of state taxes.

If the clerk shall fail to collect, account for and pay over to the treasurer of said city, any or all of the money with which he may be chargeable, belonging to the said city, according to the conditions of his bond and orders of council, it shall be lawful for the council to recover the same by action or by motion, upon ten days' notice, in the corporate name of the city, in the circuit court of Marshall county, against him and his sureties, or any or either of them, or his or their executors or administrators.

Solicitor.

Sec. 32. It shall be the duty of the solicitor to prepare when directed by council, all ordinances for said city, to represent the said city in all matters and proceedings in any court, in which the said city is interested, and counsel the said council when requested; he shall receive as compensation for his services, to be fixed by the council, not less than three hundred dollars nor more than five hundred dollars per annum.

Chief of Police.

Sec. 33. It shall be the duty of the chief of police to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duties, and he may for good cause appearing to him, for neglect of duty or insubordination, suspend any such officer from duty, and report his action and his reasons therefor to the next regular meeting of council for

action thereon; he shall make a list of all dogs within said city liable to tax, collect the license tax thereon and pay the same to the clerk, as may be provided by ordinance of said city; he shall be present in the police court, whenever the same shall be in session, and see that all its orders and requirements are properly executed; he shall with the consent of the council entered of record, but not otherwise, appoint one or more policemen as the council may determine; he shall before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for and paying over, as required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than one thousand dollars nor more than three thousand dollars as the council may prescribe; he shall receive such salary as may be fixed by council, which shall not be less than six hundred dollars nor more than one thousand dollars per annum.

Sec. 34. In case a violation of any ordinance of said city is committed in the presence, or within view, of the chief of police or other police officer, the offender may be forthwith apprehended and taken before the mayor, and a complaint under oath, stating such violation there lodged and filed; and thereupon such offender may be tried and dealt with according to law, without summons. The chief of police shall execute, within the county of Marshall, when directed to him, any proper process issued by the mayor in proceedings for the enforcement of ordinances; and shall collect by levy of execution or otherwise, and duly account for, all fines assessed and costs imposed in such proceedings. He shall also have all the rights and powers, within said city in regard to the arrest of persons, the collection of claims and the execution and return of process, that are or may be lawfully exercised by a constable of a district within the same, and shall be entitled to the compensation therefor; and he and his sureties shall be liable to all fines, penalties and forfeitures that a constable is liable, for any dereliction of duty in office, to be recovered in the same manner, and in the same courts, that such fines, penalties and forfeitures are recovered against constables.

Health Officer.

Sec. 35. The health officer shall perform such duties as may be

provided by any ordinance of said city, or by resolution of the council, and shall receive a salary at the rate of not more than three hundred dollars per year. He shall receive no compensation from said city, other than the salary herein provided.

Treasurer.

Sec. 36. The treasurer may be any citizen, a bank or trust company of said city, and shall be selected by council and shall hold office during the pleasure of the council. All money due the city shall be paid to the clerk, and be by the clerk deposited with the treasurer. The money deposited with the treasurer shall be disbursed only upon orders drawn against the same, signed by the mayor and countersigned by the clerk. The treasurer shall receipt to the clerk for all money paid by him, and shall keep regular books of account, showing the amount of the several funds paid or deposited with the treasurer by said clerk, and shall make report to the council once a month or at such other times as the council may direct, showing the receipts and disbursement of the funds of the city, and the treasurer shall produce his books of account to the council or any committee of the same for inspection, upon the order of the council.

The treasurer shall give bond with security to be approved by the council in a sum of not less than five thousand dollars with condition that the said treasurer shall account for and pay over all money received for the account of said city, as may be directed by the council. The said treasurer shall receive such compensation as the council may fix, which shall not be more than at the rate of two hundred dollars per annum. Any bank or trust company of said city is hereby authorized to act as treasurer of said city, and the same shall be liable for all money deposited therein.

Street Commissioner.

Sec. 37. The street commissioner shall perform such duties as are now, or which may hereafter be imposed upon him by any ordinance of said city, and shall receive such compensation as may be fixed by council, which shall be at the rate of not less than five hundred dollars nor more than seven hundred and fifty dollars per annum.

City Engineer.

Sec. 38. The city engineer shall be selected by the council,

and shall hold office during the pleasure of the council; he shall perform such duties as may be required of him by the council, or provided by ordinance of said city, and his compensation therefor shall be fixed by the council.

Lien for Taxes.

Sec. 39. There shall be a lien on real estate within said city, for the city taxes assessed thereon, and for all fines and penalties assessed to, or imposed upon the owners thereof, by the authorities of such city, from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of the delinquent taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for the city taxes, interest and commissions thereon, in the same manner, at the same time and by the same officer as real estate is sold for the non-payment of state taxes.

Liquor License.

Sec. 40. At each general city election, the question of granting or refusing licenses for the sale of spirituous liquors, wine, porter, ale or beer and drinks of like nature, shall be submitted to the voters of the city; the persons voting in favor of granting such licenses shall have on their ballots, the words, printed or written, "for license" and those voting against the granting of such license shall have on their ballots the words, written or printed "against license". and it shall be the duty of the ballot commissioners of said city to cause the said words to be printed on all the ballots to be voted at said election; if a majority of the votes cast on this question be in favor of license, it shall be the duty of the council until the next general municipal election, to grant such license to proper persons applying therefor as provided in the next following section of this act; but if a majority of such votes so cast be opposed, no license shall be granted by the council of said city.

Sec. 41. The council of said city shall, if a majority of the votes cast on the question of granting such liquor license be in

favor of granting such licenses, grant not to exceed one license to sell, offer or expose for sale, spirituous liquors, wine, porter, ale or beer, or drinks of a like nature, for each one thousand persons resident in said city or fraction over five hundred as shown by the last authorized census of the same; when any such license is granted by the council it shall take from the person so licensed, a bond with approved security, in a penalty of not less than three thousand five hundred dollars, payable to the city of Moundsville, and conditioned as prescribed in section twenty-one of chapter thirty-two of the code of West Virginia. The council may provide for the punishment of such persons for the violation of any of the conditions of said bond, and suits may be brought and maintained against such persons and their sureties on such bonds, for the same objects, by the same persons, in the same manner and with like effect, as upon a bond taken under the section mentioned and also for any fines and costs that may be imposed by the mayor for any offense against the city, under its ordinances, involving a breach of the conditions of such bond.

Sec. 42. The council may revoke any license for a breach of any of the conditions of such bond, or for other good cause shown; but the person holding the license must first have reasonable notice of the time and place of hearing and adjudicating the matter, as well as the cause alleged; and he shall be entitled to be heard, in person or by counsel, in opposition to such revocation. Upon the conviction of any person holding such license, of a violation of any of the provisions of section twenty-one of chapter thirty-two of the code or of any ordinance of said city in pursuance thereof, he shall be fined by the mayor not less than twenty dollars nor more than fifty dollars for the first offense; and not less than fifty dollars nor more than one hundred dollars for any offense after the first, and in the discretion of the mayor, in addition to the fine for a conviction of an offense, after the first, such person shall be confined in the jail of Marshall county for not more than sixty days. Upon the conviction of any such person of any such offense, other than the first, the mayor may revoke the said license of such person, and thereafter any sale made by him shall be a sale without license; to which judgment of the mayor an appeal may lie at the instance of the person holding such license, to the circuit court of Marshall county as provided in section twenty-four of this act.

Sec. 43. The council shall have the authority to impose, for the use of said city, a uniform tax upon such license at the rate of not less than one thousand dollars nor more than fifteen hundred dollars for each license so granted for each year.

Licenses Generally.

Sec. 44. The council shall have the authority to require a city license as follows: For anything to be done, carried on or exhibited within the city, for which a state license is now or may hereafter be required, for the keeping of hacks, carriages, carts, wagons and other vehicles for hire within the city, and for the keeping of dogs within the city, and the council may provide for the killing of all dogs, the keeping of which is not so licensed. And upon all such licenses the council may impose a reasonable tax for the use of the city.

Sec. 45. The council shall prescribe by ordinance, the manner in which license of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the clerk of said city before delivery to the person applying therefor, and the provisions of sections thirty-nine, forty and forty-one of chapter thirty-six of the acts of one thousand nine hundred and five, relating to licenses shall govern the city in the granting of licenses similar in character to those therein mentioned, except where otherwise herein provided. Licenses for keeping dogs shall also expire on the thirtieth day of April next after they are granted, and all other licenses may be for such times as the council may determine.

Power to Condemn.

Sec. 46. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, sewers, drains, market grounds, landings, wharves, city prison, or other work or purpose of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and the costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

Sidewalks.

Sec. 47. After having caused proper curb or brick, stone or

other suitable material, to be set and placed on any of the streets or alleys of said city at the expense of said city, the council may require sidewalks or footways on such streets or alleys to be paved with brick, stone or such other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots or the fractional parts of lots, facing or abutting on such sidewalk or footway, and if the owner of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the clerk shall notify the owner of said lot the amount of such assessment and if the said assessment be not paid within thirty days from the date of said notice he shall cause a memorandum showing the name of the owner of said lot, a description of the lot, and the amount of such assessment, to be filed in the office of the clerk of the county court of Marshall county, which shall be entered of record in the judgment lien docket in his office and the same shall constitute a lien on such property, which may be enforced by a suit in equity in the name of the city, in the circuit court of Marshall county as other liens against real estate are enforced, and upon the payment of said assessment the clerk shall issue to the person entitled thereto a release of said lien; *provided, however*, that reasonable notice shall first be given to said owners that they are required to construct such sidewalks or footways, and in case the owner is a non-resident of the state, the notice aforesaid may be given by publication for four successive weeks in a newspaper published in said city. The provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore or which may be hereafter laid and completed, and which may be deemed insufficient.

Street Paving.

Sec. 48. The council shall have the authority to provide that any street or alley, or any portion thereof, between the curbstones, shall be macadamized, or paved with bricks, cobblestones or other suitable material, upon the lowest and best terms obtainable, after advertisement for four weeks in one or more newspapers of

the city, for bids and proposals for the work; and the whole cost of such macadamizing or paving, from curb to curb of such street or alley, shall be assessed to the owners of the lots or fractional parts of lots, fronting or abutting on such street or alley, that is to say: the property owners on each side of said street or alley to be assessed one-half of the costs of said improvements, to each property owner a sum proportionate to the distance, or extent in feet by him owned, and one-third of the sum so assessed shall be paid by each property owner to the city within thirty days after the completion of the work, and the remainder in two equal installments in six and twelve months thereafter with interest thereon, or at such other times as the council may prescribe. The expense of macadamizing or paving at the intersections of streets and alleys, shall be defrayed by the city. After the said improvement has been made the council shall cause a notice to be published for one week in a newspaper of said city, showing the owners of the property and the number of feet fronting on said improvements, as well as the time and the place where the said council will proceed to fix said assessment as above provided, and giving notice to any person having any interest in said property to appear and show cause, if any they can, why such assessment should not be made; and the council may in making said assessments, consider the petition of any person or corporation relative to the inequality of said assessment, and may equalize and adjust the same. A copy of the list of such assessments, showing name of owner, number of lot, amount of assessment, attested by the mayor and clerk, shall be filed in the office of the clerk of the county court of Marshall county, and recorded in the judgment lien docket in said office within thirty days after the said assessments are approved by the said council, otherwise the lien of said assessment shall be void as to any purchaser of said real estate, for value and without notice, who shall have purchased such real estate, and the clerk shall execute and deliver on behalf of said city a release of such lien, upon the payment in full of said assessment. The assessment so made to any owner of real estate shall constitute a lien on such estate; and like proceedings may be had and taken to enforce such lien, or to recover from such owner the amount of such assessment, or of any installment thereof, as those provided for in the preceding section providing for the laying of pavements.

Sewers.

Sec. 49. The council of said city of Moundville shall have the authority under the provisions of ordinances adopted by the council of said city to cause all necessary sewers to be constructed in any or all of the streets, alleys and public grounds of said city upon the lowest and best terms to be obtained by advertisements for bids or proposals therefor by the clerk of the city by direction of said council, and shall fix a uniform assessment against the owners of the real estate, lots or parcels of ground within said city, abutting or abounding on the streets, alleys or public grounds, in which sewers are so constructed, which assessment shall not exceed seventy-five cents for each front foot of land, lot or parcel of ground, fronting or abutting on the street, alley or public ground in which such sewer is constructed; and no other special tax shall be levied against the said real estate, lots or parcels of ground for the use of said sewer, the cost of constructing such sewers in the intersection of such streets or alleys to be paid by the city. The one-half of said assessment shall be paid within thirty days after said sewer is completed and ready for use, and the remaining one-half, with interest at the rate of six per centum per annum, shall be paid within six months after said last named date, and the said council may by ordinance compel the owners of lots or parcels of ground, fronting or abutting on any street or alley in which such sewer is constructed, under the supervision of such officer as the council may designate, to connect any residence, store or warehouse, factory or other building occupied by persons as a place of residence or for labor, with such sewer within thirty days after its completion, and may inflict fines and penalties for any violation of such ordinance.

The intersections of all streets and alleys shall be provided with sewers at the expense of the city, but all connections to sewer in street or alley to be made by property owner abutting on said street wherein sewer is constructed. The sums of money thus assessed for sewer construction shall be a lien on the lots, tracts or parcels of land upon which they are assessed, which lien may be enforced by a suit in equity in the circuit court of Marshall county to subject the said real estate to the payment of the sum so assessed against it as herein provided, in the same manner that judgment liens are enforced. The council shall cause a notice to be pub-

lished for one week in some newspaper published in said city, showing the owners of the real estate and number of feet, owned by each fronting on said improvement, as well as the time and place where the said council will proceed to fix said assessments as herein provided, and giving notice to any person having an interest in the property so assessed to appear and show cause, if any he can, why such assessment should not be made; and the council may in making or reviewing said assessment consider the petition of any person, or corporation affected thereby, relative to the inequality of said assessment, and may equalize and adjust the same. A copy of the list of such assessments, showing name of owner, number of lot, and amount of assessment, attested by the mayor and clerk, shall be filed in the office of the clerk of the county court of Marshall county and recorded in the judgment lien docket in said office within thirty days after the said assessments are approved by the said council, otherwise the lien of said assessment shall be void as to any purchaser of said real estate, for value and without notice, who shall have purchased such real estate, and the clerk shall execute and deliver on behalf of said city a release of such lien, upon the payment in full of said assessment.

The funds derived by the said city from assessments for construction of sewers, as herein provided, shall be used by said city for sewer construction only, and the clerk and treasurer shall keep separate accounts of receipts and disbursements of said fund, and shall make separate report with respect to said fund from time to time, as the council may direct, and the said clerk and treasurer shall be liable to said city on their official bonds for the payment of all money which may come into their hands, respectively, by virtue hereof, and shall pay over the same upon the proper order of the council.

Sec. 50. The sewers heretofore constructed in any of the streets or alleys of said city, at the expense of the property owners abutting thereon, and by the authority of said council, may be taken for public use by said city, and the same may be used subject to the provisions of the preceding section, but before any such sewer is so occupied by the city, compensation shall be made to the persons having paid for the same or entitled thereto. Such compensation shall be determined by the award of three arbitrators, one selected by the council, one selected by the person or persons having paid for the construction of said sewer, or his assigns, and the

two so selected shall choose a third arbitrator, and the said arbitrators shall after hearing all evidence as to what would be a just compensation for such sewer, make their award in writing, which award shall be final, and entered of record by the council. The arbitrators so selected and chosen shall not be interested in the matters submitted to them other than as a taxpayer of said city. And the owners of any real estate abutting on any such street or alley, in which any such private sewer has been constructed by authority of the council, and at their own expense, shall not be required to pay any assessment levied or assessed against the same for the construction of a sewer in a street or alley in which such private sewer has been so constructed, until said private sewer is taken by said city and compensation made therefor as herein provided, and any private sewer so taken by said city shall be held, used and occupied as provided in the next preceding section, and the property abutting thereon subject to the assessments as therein provided.

Levy.

Sec. 51. The council shall cause to be made up annually, and spread upon its minute book, an accurate estimate of all sums which are or may become lawfully chargeable against the city, and which ought to be paid within one year, and it shall order at a meeting held by it in the month of July of each year, a levy of so much as will in its judgment be necessary to pay the same; such levy shall be upon all real and personal property otherwise subject to state and county taxes and an annual capitation tax of one dollar upon each male inhabitant of said city who has attained the age of twenty-one years; *provided*, that such levy shall not exceed fifty cents on every one hundred dollars of the ascertained value of such property, except as herein otherwise provided.

Financial Statement.

Sec. 52. In the month of March in each year the council shall cause to be published in two newspapers of opposite politics in the city, if there be such published therein, at a compensation not to exceed the rate as provided by law for like publications, for one issue, or if no such newspaper be published therein, to publish in pamphlet form not less than one hundred copies of a sworn statement of the financial condition of said corporation; said statement

shall contain an itemized account of the receipts and expenditures of the city showing the source from which all the money was derived, and the name of a person to whom an order was issued, together with the amount of each order, and why such order was issued, arranging the same under distinct heads, and also a specific list of the debts of the city, showing the purpose for which any debt was contracted, the time it became due, the rate of interest up to what time the interest thereon has been paid, the amount of money in the treasury at the end of the preceding administration and the debts contracted by it; such statement shall be prepared by the city every twelve months and shall then be printed according to the provisions of this chapter. Either method of making this report shall be sworn to by the clerk, by the mayor and members of finance committee of the council. One copy of such printed report shall be delivered to the judge of the circuit court, one to the clerk of the county court, and one to the clerk of the circuit court of Marshall county, and one shall be kept as a part of the records of the city, and the remainder shall be held for distribution as called for by the taxpayers of the city.

If council fail or refuse to perform the duties hereinafter named, every member of such council and the clerk thereof concurring in such failure or refusal shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars.

Bonds—Additional Levy.

Sec. 53. The municipal authorities of said city shall have the power and authority to issue and make sale of the bonds of said city and to apply the proceeds thereof to the payment for any general improvement therein or to any debt or obligation of the said city, as provided in chapter one hundred and forty-one of the acts of one thousand eight hundred and seventy-two and three, as amended by chapter fifty-one of the acts of one thousand nine hundred and five, or may submit to the voters of said city the question of making an additional levy, and if three-fifths of the votes cast therein be in favor of such increase levy the council may levy the same.

Sec. 54. The city of Moundsville shall succeed to all the rights, powers and responsibilities, and be vested with the title to all

property of the town of Moundsville and the city of Moundsville as heretofore existing, and all officers of said city acting as such at the time this enactment takes effect shall continue until the first Monday in April, one thousand nine hundred and seven, or until their successors, the officers herein mentioned, are elected or appointed and qualify, to exercise the powers, perform the duties, and receive the compensation heretofore conferred, prescribed and allowed by former charter, by general law or by the ordinances of said city; such ordinances in force at the time referred to shall continue to have full operation and effect until amended, repealed or superseded by the council of said city.

Sec. 55. All acts and parts of acts coming within the purview of this act, and inconsistent herewith, are hereby repealed.

CHAPTER 9.

(House Bill No. 164.)

AN ACT amending and re-enacting chapter one hundred and forty-seven of the acts of one thousand nine hundred and one, incorporating the city of St. Marys, in relation to sections nine and twenty-nine of said act.

[Passed February 19, 1907. In effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
9. Terms of officers.

SEC.
29. Relating to excise board, repealed.

Be it enacted by the Legislature of West Virginia:

That section nine of the acts of February fifteen, one thousand nine hundred and one, incorporating the city of St. Marys be amended and re-enacted so as to read as follows:

Sec. 9. The terms of all officers elected shall commence on the Tuesday following next after their election, and shall continue until their successors are elected and qualified.

That section twenty-nine of said act of February fifteenth, one thousand nine hundred and one, incorporating the city of St. Marys, relating to the excise board, be and is hereby repealed.

That all other acts and parts of acts coming within the purview of this act, and inconsistent herewith, are hereby repealed.

CHAPTER 10.

(House Bill No. 78.)

AN ACT to amend and re-enact sections one, three, four, thirteen, fourteen, sixteen, nineteen, twenty-one, twenty-three and thirty of chapter fourteen of the acts of the legislature of West Virginia, passed February twenty-seventh, one thousand eight hundred and eighty-seven, in reference to the charter of the city of Wellsburg and to add sections fourteen-*a* and thirty-one-*a* thereto. Section thirty of said chapter, among others, was amended and re-enacted by chapter sixty-five of the acts of one thousand eight hundred and ninety-five; section three, fourteen and thirty of said acts, among others, were amended and re-enacted by chapter one hundred and forty-nine of the acts of one thousand nine hundred and one; section one of said chapter was amended and re-enacted by chapter sixty-eight of the acts of one thousand nine hundred and three; and sections three, fourteen and thirty were amended and re-enacted and section thirty-one-*a* added by chapter sixty-nine of the acts of one thousand nine hundred and three.

[Passed January 24th, 1907. In effect from passage. Approved by the Governor January 31, 1907.]

<p>SEC.</p> <p>1. Boundaries.</p> <p>3. Officers.</p> <p>4. Powers and duties of mayor.</p> <p>13. Council—how composed.</p> <p>14. Election of officers, term of office.</p> <p>14-a. Eligibility of officers.</p> <p>16. Duties and compensation of officers.</p>	<p>SEC.</p> <p>19. President of council; transaction of business; when member cannot vote.</p> <p>21. Duties of clerk.</p> <p>23. Measures of council to be submitted to mayor; action in case of disapproval.</p> <p>30. Paving and sewerage.</p> <p>31-a. Duties of chief of police.</p>
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Be it enacted by the Legislature of West Virginia:

The sections one, three, four, thirteen, fourteen, sixteen, nineteen, twenty-one, twenty-three, thirty and thirty-one-*a* of the charter of the city of Wellsburg be amended and re-enacted, and that section fourteen-*a* be added thereto, so as to read as follows:

Boundaries.

Sec. 1. The boundaries of the city of Wellsburg shall be as follows: Beginning at the mouth of Buffalo creek and extending eastwardly along the center line of the meandering of said creek to a point where the county bridge now crosses the said creek, a short distance east of the P. W. and Ky. R. R. bridge and the

bridge of the Pan Handle Traction Company; thence in a northeasterly direction in a straight line to the southwestern corner of the land now owned by Mary A. Sage; thence along the western line of the land now owned by the said Mary A. Sage and the land owned by Myron Hubbard to a corner at the joining of the lands of Myron Hubbard, Margaret Gelstrop and J. F. Cree and H. C. Hervey; thence in a northerly direction in a straight line across the lands of J. F. Cree and H. C. Hervey and the I. H. Duval estate to the southwestern corner of lot number fifty-three on the plan of lots platted and recorded by the said I. H. Duval; thence in a northeasterly direction in a straight line to the eastern corner of lot number forty-one of said plan of lots; thence in a northeasterly direction in a straight line to the southeastern corner of the land of Mrs. E. J. Paul; thence in a northerly direction along the eastern boundary line of the property of the said E. J. Paul, of the property of Thomas Boyd, deceased, of the property of W. H. Tarr, of the property of Miss Ella Tarr and of the property of C. L. and S. R. Caldwell to the northeastern corner of the property of the said G. L. and S. R. Caldwell; thence in a northerly direction along a line parallel with the center line of Pleasant Avenue to a point in the southern boundary line of the Brooke Cemetery Company; thence with the lines of the lands of the said Brooke Cemetery Company in an easterly direction to the lands now owned by T. H. Caldwell, trustee; thence along the eastern boundary line of the said Brooke Cemetery Company to the northeastern corner thereof, so as to include all the property of the said Brooke Cemetery Company; thence from the northeast corner of the said cemetery property in a northwesterly direction, in a straight line, to the east side of the barn on the property now owned by Robert McNabb; thence continuing in the same direction to the run or ravine lying on the north side of the property of the said Robert McNabb; thence in a westwardly direction, and following the meandering of said run or ravine, to the east shore of the Ohio river; thence on a direct line across said Ohio river to the west shore of said river; thence extending along the western shore of the said Ohio river in a southerly direction to a point opposite the mouth of Buffalo creek; thence from said point to the mouth of said Buffalo creek, the place of beginning, including all the land and water between the boundary lines aforesaid.

The boundaries of the city of Wellsburg shall also extend to and include the tract of land conveyed to the city by I. H. Duval and wife, by deed dated March twenty-ninth, one thousand eight hundred and eighty-six, recorded in deed book number twenty-six, page four hundred and sixty-six of the records of Brooke county, which said tract contains the reservoir for the city water works.

Officers.

Sec. 3. The officers of said city shall be a mayor, two councilmen from each ward, after the first Monday in May, one thousand nine and eight, until that time three councilmen from each ward, city collector and treasurer, solicitor, city clerk, street commissioner and chief of police. The mayor, members of council and chief of police of said city shall be elected by the voters of the said city as hereinafter provided.

Powers and Duties of Mayor.

Sec. 4. The mayor shall be the chief executive officer of said city; he shall take care that the provisions of this act, and the orders, by-laws, ordinances, acts and resolutions of the council of said city are faithfully executed; he shall have authority to convene council in special session whenever he may deem it advisable to do so, and shall be *ex officio* a justice and conservator of the peace within said city, and shall within the same have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil cases or causes of action arising out of the corporate limits of the city; he shall have the same powers to issue attachments in civil cases as a justice of this county has, although the cause of action may have arisen out of the city; but in such cases he shall have no power to try the same, but such attachment shall be returnable to and be heard by some justice of his county; any warrant or other process issued by him may be executed any place within the county of Brooke; he shall have control of the police of said city, and may appoint special police officers whenever he may deem it necessary; and it shall be his duty especially to see that the peace and good order of the city are preserved, and that persons and property therein are protected, and to this end he may cause the arrest and detention of all

riotous and disorderly persons in the city before issuing his warrant therefor; he shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require immediate payment thereof, and in default of such payment he may commit the party in default to the jail of Brooke county, or other place of imprisonment in said city until the fine or penalty and costs are paid; but the term of imprisonment shall not exceed thirty days; he shall from time to time recommend to council such measures as he may deem necessary or needful for the welfare of the city. The expense of maintaining any person imprisoned by him, except it be to answer an indictment, or be under the provisions of sections two hundred and twenty-seven and two hundred and twenty-eight of chapter fifty of the code of West Virginia, shall be paid by the city. The mayor shall not receive any money belonging to the state or individuals, unless he shall give the bond and security required of a justice of the peace by chapter fifty of the code of West Virginia; and all the provisions of said chapter relating to moneys received by justices shall apply to like moneys received by the mayor; and for such service when acting in the capacity of a justice of the peace, he shall receive such fees as are allowed by law to justices for similar services.

Council—How Composed.

Sec. 13. The council of said city shall, after the first Monday of May, one thousand nine hundred and eight, consist of two members from each ward within said city, one member from each ward to be elected annually at the city election to be held upon the second Tuesday in April of each year, and to hold office for the term of two years or until his successor is elected and qualified.

Sec. 14. At the election of officers to be held upon the second Tuesday in April, one thousand nine hundred and seven, after the passage of this act, there shall be elected a mayor, city collector and treasurer, one councilman from each ward, and chief of police; and thereafter the mayor, city collector and treasurer and chief of police shall be elected every two years and shall hold their respective offices for the term of two years and until their successors shall be elected and qualified.

The clerk elected in said city at the election held therein on the second Tuesday in April, one thousand nine hundred and six,

shall hold his office for the term of two years from the first Monday in May, one thousand nine hundred and six, and thereafter a clerk shall be elected every two years, who shall hold his office for the term of two years and until his successor is elected and qualified.

Eligibility of Officers.

Sec. 14 a. No person shall be eligible to the office of mayor, city collector and treasurer, or councilman unless at the time of his election he is legally entitled to vote in the city election for member of council, and was for the preceding year assessed with taxes upon real or personal property within the said city of the assessed value of five hundred dollars, and shall actually have paid the taxes so assessed; and no person shall be eligible to any office under said city, who is not at the time of his election or appointment entitled to vote for members of council.

This section not applying, however, to any officers who have prior to the passage of this act, previously been elected or appointed, they being allowed to fill out their present terms.

Duties and Compensation.

Sec. 16. Section sixteen as foremly existing, repealed and now re-enacted as follows:

The powers, duties and compensation of all officers shall be established by ordinance; but the compensation pertaining to any office shall not be increased or diminished so as to effect any officer subsequent to his election or appointment and during the terms for which he was elected or appointed.

Sec. 19. Council shall choose one of their own number as president, who shall preside at the meetings of council, and in case of the absence, sickness, death or disability of the mayor shall have and exercise all the powers and duties of the mayor; in the absence of the president of the council they shall choose one of their own members as president *pro tem*. Council shall not transact any business at any meeting thereof, unless a majority of the members be present at such meeting; but a less number than a majority may compel the attendance of the absent members.

No member of council shall vote on any order, measure, resolution or proposition, in which he may be interested otherwise than as a citizen of said city.

Duties of the Clerk.

Sec. 21. The clerk of said city shall be clerk of the council, and all of the committees thereof; have charge of all the records and archives, make out an assessment book from the books of the assessor of Brooke county and perform such other duties pertaining to his office as the council may prescribe.

Sec. 23. Every bill, order, measure or resolution passed by council shall, before it becomes effective and a law, be presented to the mayor. If he approve, he shall sign it, and thereupon it shall be in full force and effect; but if not, he shall return it with his objections, to the council, who shall enter the objections at large upon its journal, and proceed to reconsider it. If after such reconsideration, a majority of the members elected to the council approve the same, it shall become of full force and effect, notwithstanding the objections of the mayor. But in all such cases, the vote of the council shall be determined by yeas and nays and be entered upon the journal. A bill, order, measure or resolution which shall not be returned by the mayor by the next regular meeting of the council after it shall be presented to him, shall become of full force and effect, in like manner as if he had signed it.

Paving and Sewering.

Sec. 30. If the owner of any real property next adjacent to any sidewalk, footway, gutter or drain within said city, shall fail or refuse to curb, pave or keep clean the same, in the manner or within the time required by council, it shall be the duty of the council to cause the same to be done at the expense of such owner; and the cost thereof may be collected by the city collector and treasurer in the manner prescribed by this act for the collection of city taxes. Council shall also have authority to pave or macadamize the streets, alleys, sidewalks, footways, gutters and drains in said city at the expense of the city. Whenever a petition is presented to council signed by persons who own lots or parts of lots which have a frontage equal to not less than two-thirds of the frontage of all the lots fronting or abutting on both sides of any part of a street or alley sought to be paved or sewered, or without a petition therefor, by a majority of not less than three-fourths of all of the members constituting said body of council, the council shall have authority to order such street or alley or part thereof to which said petition applies, or which is carried by said three-fourths vote, to be paved

with cobble stone, brick or other suitable paving material, or to be macadamized or a sewer to be constructed therein, under such supervision and in such manner as may be prescribed by ordinance, and upon the lowest and best terms to be obtained by advertisement for bids and proposals therefor; and the cost of such paving or macadamizing or sewing shall be assessed as follows: two-thirds of such cost shall be assessed to the owners of lots or parts of lots fronting or abutting on the street or alley or part thereof which is paved or sewered, in the proportion in which the frontage of such lots or parts thereof on such street or alley bear to the whole frontage of the lots which front or abut on the street or alley which is paved or sewered. The one-fourth of the amount so assessed to said lot owners shall be paid within thirty days after the completion of the work and the acceptance thereof by the council, and the remainder in three equal installments, payable at such times as council may by ordinance prescribe; the other third of the cost of such paving or sewerage shall be paid by the city, and the intersection of all streets and alleys and streets with alleys, shall be paved or macadamized or sewered at the sole expense of the city; but no part of a street or alley less than one block in length shall be paved or macadamized or sewered under the provisions of this section. The costs of such paving or macadamizing or sewerage which may be charged against any lots or parts of lots shall be a lien thereon, and may be enforced by suit in equity in any court having jurisdiction thereof, or such costs or any installments thereof may be collected by action in any court or before any justice having jurisdiction thereof. The money collected by virtue of this section shall be in addition to the money collected by said city for other purposes, and shall be used for no other purposes than those provided for in this section; and the use of such money for any other purpose may be restrained by injunction at the suit of any one or more of the taxpayers of said city.

Duties of Chief of Police.

Sec. 31a. The chief of police shall, subject to the directions of the mayor, have charge of and be responsible for the police force of the city and see that all subordinate police officers faithfully perform their official duties; he shall nominate, and by and with the advice and consent of the council, a majority of all the councilmen elected concurring by yeas and nays, appoint all the subor-

dinate police officers; he shall be *ex-officio* a constable within the corporate limits of his city; may execute any writ or process issued by the mayor or a justice of the peace at any place in Brooke county. It shall be the duty of the chief of police to collect all fines and costs at the time of trial or assessment of said fines and costs by the mayor, and make monthly reports thereof to the council and pay said fines and costs and all city moneys that may come into his possession to the city collector and treasurer weekly; and he shall have in all respects the same power to enforce the collection of fines and costs as the sheriff of Brooke county now has, or may hereafter have, to enforce the collection and payment of fines and costs; he shall have all the powers, rights and privileges within the corporate limits of the city and anywhere within Brooke county, in regard to the arrest of persons, the collection of claims and the execution and return of process, that can be legally exercised by a constable of a district in which the said city is situated, and he and his sureties shall be liable to all fines, penalties and forfeitures that a constable of a district is liable to, for any failure or dereliction in his office, to be recovered in the same manner and in the same courts that the fines, penalties and forfeitures may be recovered against such constable. All subordinate police officers shall have all the powers, rights and privileges of a constable of the district within the corporate limits of the city, in regard to the arrest of persons and the execution and return of all criminal writs and process issued by the mayor, but the council may exempt them from giving the bond required by constables.

The chief of police shall before entering upon the duties of his office, execute a bond for the faithful performance by him of the duties of his office, and for the accounting for and paying over as required by law, all the money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of two thousand dollars.

CHAPTER 11.

(Senate Bill No. 185.)

AN ACT to amend, revise and consolidate into one act, the act of the General Assembly of Virginia, passed March eleven, one thousand eight hundred and thirty-six, entitled "An act to incorporate the city of Wheeling in Ohio county," and all subsequent acts both of the General Assembly of Virginia and of the legislature of West Virginia, which form a part of the charter of the city of Wheeling.

[Passed February 11, 1907. In effect from passage. Approved by the Governor. February 14, 1907.]

SEC.		SEC.	
1.	Corporate name, boundaries and powers.	37.	Penalty for acting without license.
2.		38.	Open and control streets, etc.
3.	Wards; enumeration to be made.	39.	Improvements under direction of board of control.
4.	Elections; qualification of voters.	40.	Condemnation of property.
5.	Time of holding elections.	41.	Persons making plats for city additions must submit same to council for approval.
6.	Council, powers and duties; eligibility.	42.	Regulate width of sidewalks; payment for paving same.
7.	First branch of council; term of office; shall elect clerk, duties and compensation of clerk.	43.	Regulate construction of buildings.
8.		44.	Plans of buildings to be submitted to board of control; building permits; regulate buildings already constructed.
9.	Second branch of council; term of office; president; apportionment among the several wards.	45.	Power of council to pass ordinances.
10.	Members of council to be residents of wards.	46.	Election of mayor, auditor, treasurer and chief of police; term of office.
11.	Members of council to be residents of wards.	47.	Mayor's duties; salary.
12.	Vacancy in council; how filled.	48.	Auditor's duties; salary.
13.	Removal.	49.	Treasurer's duties; salary.
14.	Members of council or other officer to hold office until successor is elected and qualified; tie vote, how decided.	50.	Duties of chief of police; salary.
15.	Council may prescribe period within which oath of office may be taken.	51.	Board of control; how elected; term of office.
16.	Meetings and powers of council.	52.	Vacancies; how filled.
17.	Quorum.	53.	Member of council ineligible as member of board of control.
18.	Majority present to decide questions.	54.	Members of board of control to give bond; salaries; powers and duties; city employees.
19.	Each branch of council to keep journal.	55.	Office of city engineer; how conducted and managed.
20.	Money - how appropriated.	56.	Jurisdiction of board of control.
21.	When member cannot vote.	57.	Council to define rules and regulations of various works.
22.	Council shall have authority by ordinance, to establish, own and operate water works, etc.	58.	To provide for inspection of milk, etc.
23.	To provide for proper weighing or measurement.	59.	Abatement of nuisances.
24.	Establish and conduct buildings, etc.	60.	Officers elected by council.
25.	May purchase or build bridges.	61.	Solicitor; qualifications; duties; salary.
26.	Regulate building of bridges.	62.	Building inspector; duties.
27.	May establish and control markets.	63.	Police judge; qualification; duties; salary.
28.	To cause offensive substances to be removed.	64.	Jurisdiction of police court.
29.	Council may pass ordinances protecting inhabitants against persons violating public peace.	65.	Proceedings for recovery of fine.
30.	Regulate storage of combustibles.	66.	Absence of clerk.
31.	Regulate performances, etc. and collect tax on same.	67.	Action in case of violation of laws of state.
32.	Granting of licenses.	68.	Sessions of police court.
33.	Unlawful professions.	69.	Court to have power to enforce orders and judgments.
34.	License of auctioneers.	70.	Clerk to administer oaths.
35.	Exclusive authority in city to grant or refuse licenses.	71.	Records of police court.
36.	Other licenses.		

SEC.		SEC.	
72.	Power of police court upon rendering judgment.	88.	Collection of water rents.
73.	Appeals.	89.	Collection by suit.
74.	Maintain city prison.	90.	Restraining provision for issuing of checks or orders.
75.	General provisions as to officers.	91.	Unauthorized debts to be submitted to vote of people.
76.	Salaries not increased or diminished during term of office.	92.	State law, relating to bonds applicable to city.
77.	No officer to be interested in city contract.	93.	Statement of receipts and expenditures to be published.
78.	Malfesance or non-fesance in office.	94.	Public streets and franchises.
79.	Taxation and finance; fiscal year.	95.	Franchises for works of public utility; restrictions.
80.	Property subject to taxation; amount of levy.	96.	Renewal of franchise.
81.	Capitation tax.	97.	Dis-used franchises.
82.	County assessor to furnish transcript of real and personal property.	98.	Switch or tramway on part of public street.
83.	Disposition of annual amounts raised by general tax; issuance of bonds.	99.	Certified copies of ordinances, prima facie evidence of acts of council.
84.	Estimate of expenditures; council to lay levy.	100.	Officers: when to qualify; ordinances now in effect.
85.	Time taxes due.	101.	Civil service provisions.
86.	Collection of unpaid taxes on personal property.	102.	Classification.
87.	Lien on real estate.	103.	Civil service commission.
		104.	Rules and regulations governing civil service.

Be it enacted by the Legislature of West Virginia:

Boundaries and Powers.

Sec. 1. That the inhabitants of so much of the county of Ohio as is within the following boundaries, that is to say, beginning on the east side of the Ohio river at the north corner of the Jonathan Zane survey in Washington district, Ohio county, corner of lands formerly belonging to the estate of Hugh Nichols, deceased, and the Wheeling Steel & Iron Company; thence with the original Zane line, called south twenty-seven degrees east to the Ash corner of the Steenrod survey near Coal run; thence down Coal run to Wheeling creek, and thence up said creek with the easterly bank thereof to the mouth of Stackyard Hollow; thence in a direct line southward to a double locust on top of the hill, in the line between the Steenrod and Riley estates; thence in a direct line southwardly to the mouth of George's branch, in Caldwell's run; thence south to the Ohio and Marshall county line and with the same westwardly to the Ohio and Marshall county stone, near the river bank; thence crossing the Ohio river by a due west course, to a line between the states of West Virginia and Ohio, and with said line northwardly to the north side of Hanover street, in the town of Martins Ferry, Belmont county, Ohio; thence in a direct line and crossing the river to the place of beginning, are, and they and their successors shall continue to be a body politic and corporate by the name and style of "The city of Wheeling," and as such, and by that name, may contract and be contracted with, sue and be sued, plead and be im-

pleaded, answer and be answered unto, and may purchase, take, receive, hold and use goods and chattels, lands and tenements, and chose in action, or any interest, right or estate therein, either for the proper use of the said city or in trust for the benefit of any persons or associations therein; and the same may grant, sell, convey, transfer and assign, let, pledge, mortgage, charge and encumber, in any case and in any manner in which it would be lawful for a private individual so to do, except where such power may be limited by law; and may have and use a common seal, and alter and renew the same at pleasure; and generally shall have all the rights, franchises, capacities and powers appertaining to municipal corporations in this state.

Sec. 2. All real and personal estate heretofore conveyed to, or acquired by the said city, and now owned by it, whether absolutely or in trust, shall continue to be its property, as hitherto owned, subject to any modifications that may be made by law.

Wards.

Sec. 3. The said city shall be divided into not less than eight nor more than twelve wards; but, until after the first election after this act goes into effect shall remain divided into eight wards as at present. A change in the wards may be made by the council, by ordinance; but in making any such change regard must be had to the compactness of the territory of each ward, and to an equalizing of the number of inhabitants of the several wards; and no ordinance shall be passed changing the wards which effects a gerrymander of territory, or which does not more nearly equalize the number of inhabitants in the several wards. To aid in fixing the number of wards, the boundaries thereof and the number of representatives to which each ward is entitled in the second branch of council, council may cause an enumeration to be made during the first year in every tenth year after this act goes into effect, of the inhabitants within the city, and within designated boundaries therein.

Elections.

Sec. 4. Every person qualified by law to vote for members of the legislature of the state, who shall have been a resident of said city for at least one year preceding the election, or any male person of the age of twenty-one years who at the time of the election

shall be the *bona fide* owner of any freehold estate within said city of the assessed value of at least two hundred dollars, shall be entitled to vote at elections for corporate authorities, and on questions authorized by law to be determined by popular vote. *Provided*, always, that no person, although in other respects duly qualified, shall be entitled to vote at any such election if he shall have failed to pay any taxes whatever, lawfully assessed or levied upon him for the benefits of said city during the year preceding the election, and that every voter when offering to vote may be required to exhibit a receipt for all taxes due the city. *Provided*, that a voter just coming of age and who was not subject to taxation at the time of the last assessment shall be exempt from the requirement of producing his tax receipt. And, *provided further*, that no person legally entitled to vote shall be permitted to vote at any other place than the precinct in which his residence is situated and may not vote at any other precinct in which he may own property, unless he be a non-resident property holder, in which event he may vote in any one precinct of the city in which he owns property.

Sec. 5. The first election under the new charter shall be held on the fourth Thursday in May, one thousand nine hundred and nine, and every city election shall be held biennially on the fourth Thursday in May; said first election shall be conducted in the manner now required by the ordinances of said city in regard to elections, except that the officers to be elected shall be as prescribed by this act; thereafter such election shall be held in such manner as shall be prescribed by law. All other elections or votes on any question by the qualified voters of the said city shall be held or taken at such places, under the superintendency of such persons and subject to such regulations not inconsistent with the charter of the city and the laws of the state as council shall from time to time hereafter ordain.

Council.

Sec. 6. The council of the said city of Wheeling shall consist of two distinct bodies, one of which bodies shall be the first branch of the council of the said city of Wheeling, and the other shall be the second branch of the council of the city of Wheeling, and no tax shall be levied, no appropriation of money made, no contract entered into, no ordinance, by-law or order made or enacted without the consent of both of said branches of said city council; but

each branch shall, within the limits of its statutory powers, be the judge of the election and qualification of its own members, and shall have power to make all needful and proper rules and regulations for the government of its own body, and for the convenient direction and dispatch of its affairs and business. No person shall be eligible as a member of council unless he shall be a citizen of this state and shall have resided in said city for at least three years preceding his election.

Sec. 7. The first branch of council shall be composed of two members elected from each ward of the city, who shall serve for a term of four years, and at the first election under this act there shall be elected one member of said branch from each ward. The first branch shall elect one of their own members as presiding officer, who shall be known as chairman. In the absence of the chairman the members present constituting a quorum may appoint from their own body a chairman *pro tempore*.

Sec. 8. The first branch shall elect a clerk, who shall in addition to his duties as clerk of the first branch be the clerk of the police court and clerk of all committees of council, except as otherwise directed by council, and said clerk shall receive such salary as shall be fixed by council, and he shall give an official bond in a penalty of not less than one thousand dollars, as council shall prescribe.

Sec. 9. The second branch shall be composed of not less than three members elected from each ward of the city, the total number not to exceed thirty-six members, and they shall hold office for the term of two years and shall elect one of their members to preside over its meetings, who shall be called the president of the second branch of council; and it shall be his duty to preside at all meetings thereof, and in his absence the members present constituting a quorum may appoint some other member as president *pro tempore*. The president of the second branch shall have authority to administer oaths within the limits of the city. The members of the second branch shall be elected at the first election held under the new charter and at each and every regular charter election thereafter.

Sec. 10. If any enumeration of the number of persons residing in the several wards of said city, as provided for in section three has been made, council having fixed the number of members of which their representation in the second branch of council there-

after shall consist, the whole number of members in said branch not to exceed thirty-six, however, they shall apportion the number of members among the several wards according to the principle of representation hereinbefore fixed, and until such new enumeration and apportionment, the number of members of the second branch of council from each ward shall remain as fixed at present.

Sec. 11. The members of council shall at the time of their election and during their continuance in office be residents respectively of the wards for which they are chosen. The removal of a member from the ward he represents shall vacate his office as such member.

Sec. 12. If any vacancy shall happen in either branch of council, the remaining members of such branch shall as soon thereafter as practicable fill the same by the appointment of some qualified person for the unexpired term.

Sec. 13. Each branch shall have authority to remove any of its members for cause; *provided*, two-thirds of all the members of which the branch shall then consist, concur in such removal; but the cause of such removal shall be specified and recorded in the minutes of said branch.

Sec. 14. If from any cause an election shall not be held at the proper time for holding the same, it shall be the duty of council to cause such election to be held as soon as practicable thereafter. When a successor for any member of council or officer of the city is not elected and qualified at the proper time, such member or officer shall hold his office until such successor is elected and qualified. If two or more persons receive an equal number of votes for membership in either branch of council so that the proper number of members of such branch be not elected, the members actually elected shall decide between the persons so tied.

Sec. 15. Council may by ordinance prescribe a period after the election of a member of council or officer of the city within which he shall make oath or affirmation required by section five, article four, of the constitution of this state, and give his official bond, if one required, or be considered as having vacated his office.

Meetings and Powers of Council.

Sec. 16. The regular meetings of council shall be held bi-monthly at such place in the city as council may by ordinance appoint. A regular meeting may be adjourned to a specified time. A special meeting of council may be called by the mayor or any number of

members of council specified by ordinance, but at least twenty-four hours' notice of such special meeting shall be given in writing to all of the members that can be found; the call and notice must specify the subject of business that the meeting is called to consider and no business not so specified shall be considered at such meeting. So much of the call as specifies such subjects must be recorded in the minutes of the meeting.

Sec. 17. The presence of a majority of the whole number of each branch of which it shall then consist shall be necessary to constitute a quorum for the transaction of business; but a smaller number may adjourn from time to time and compel the attendance of absent members in such a way as council may have provided by ordinance.

Sec. 18. All questions put, except in such matters as are herein or by ordinance otherwise expressly provided for, shall be decided by a majority of the members present.

Sec. 19. Each branch of council shall keep a journal of its proceedings, which shall at all times be open to the inspection of any citizen of said city; and at the request of one of the members present, the ayes and noes on any question shall be taken and entered in the journal.

Sec. 20. No money shall be appropriated by council, no contract on behalf of the city entered into or authorized, nor shall any ordinance be passed unless two-thirds of the members present when the question is put shall concur therein, or unless the same be concurred in at two successive meetings of council held on different days, by a majority of the members present at each of said meetings.

Sec. 21. No member of council shall discuss or vote upon any question in council in which he is interested, otherwise than as a citizen of the city.

Sec. 22. Council shall have authority by ordinance to establish, own and operate water works, gas works, and works for generating electricity for the use of said city, and to sell water and gas for the use of said city, and to sell water and gas from such works to persons or corporations outside as well as within the limits of the city, and the council is further authorized to construct and operate water works for the use of said city at some point to be selected by council, outside of the city limits, and to place and maintain all needed mains, pipes and other fixtures and appliances at such

works and between such works and the city, and for these purposes to acquire and hold, by purchase or condemnation, all needed lands and rights of way, and to own and operate street railways and other works of public utility; to establish and maintain a fire department, police department, health department, crematory and city prison, and for these purposes acquire and hold all necessary real estate by purchase or condemnation, and also to establish and maintain hospitals and cemeteries, either within or outside the limits of the city, and for these purposes acquire and hold all necessary real estate by purchase or condemnation, outside as well as within the city limits.

Sec. 23. Council may by ordinance provide for the proper weighing or measurement of all hay, straw, grain, stone, coal, coke, lumber, lime, cement, sand, oil, spirituous and malt liquors and wines which may be offered for sale in said city.

Sec. 24. Council may by ordinance establish and construct landings, wharves and docks on any ground which may belong to the said city, and to repair or alter, but not diminish any landing, wharf or dock which has been or shall be so constructed; and to establish and collect rates and taxes for using in any manner the landings, wharves and docks belonging to said city. And they shall further have authority to pass and enforce such ordinance as shall be proper to keep the same in repair, to preserve peace and good order at the same and to regulate the manner in which they shall be used.

Sec. 25. Council may by ordinance purchase both toll bridges or build a bridge over the east channel of the Ohio river, connecting the Island (seventh ward) with the other portions of the city; but no debt shall be created in the making of such purchase, except upon full compliance with the provisions of sections ninety-one and ninety-two of this act. Upon acquiring such bridges council may by ordinance make all needful and reasonable regulations in regard to the care thereof, and in regard to any tolls that may be earned thereon by contract, or may be charged thereon to provide for the maintenance thereof.

Sec. 26. Council may by ordinance regulate the building of bridges over the Wheeling creek within the city, and the use of the bed and banks thereof by abutting owners or other persons, so that the channel shall not be obstructed, and neither the stream nor banks shall be rendered offensive, unsightly or unhealthful.

Sec. 27. Council may by ordinance establish markets in and for said city; to appoint the time and places for holding the same; to provide suitable buildings therefor and to ordain and enforce such regulations respecting the markets as in their opinion the convenience or interest of the inhabitants of said city shall require. They shall further have authority to ordain and enforce such regulations as shall be necessary or proper to prevent forestalling the markets.

Sec. 28. If any ground in the said city shall be subject to be covered by stagnant water, or if the owner or owners, occupier or occupiers thereof, shall permit any offensive or unwholesome substances to remain or accumulate thereon, council may by ordinance cause such ground to be filled up or drained, or to cause such substance to be covered up, or to be removed therefrom, and to collect the expenses of so doing from the said owner or owners, occupier or occupiers, or any of them, by distress and sale, in the same manner in which taxes levied upon real estate for the benefit of said city are authorized to be collected. *Provided, however,* that at least five days' notice of what is required shall be first given to the said owners or their agents.

In case of nonresident owners who have no agent in said city, such notice may be given by publication, for not less than ten days, in some newspaper printed in said city.

Sec. 29. Council may pass such ordinances as shall be necessary or proper to secure the inhabitants of said city against thieves, robbers, burglars, persons carrying concealed weapons, and all other persons violating the public peace of said city; for the suppression of riots and gaming, for the prevention and punishment of lewd, lascivious, indecent or disorderly conduct in said city; they shall also have the authority to provide in like manner for preventing children from running or being at large in the streets, commons, parks, fair grounds, or other places within the city at night; they shall also have authority to provide for the prevention of cruelty to animals, and of cruelty by neglect or otherwise, to aged, feeble or imbecile persons, or children within the city.

Sec. 30. Council may by ordinance require that suitable magazines or places shall be provided in or near said city for the storage of gun powder, dynamite, petroleum and the volatile products thereof, and all explosives, combustible and dangerous articles, and to make and enforce such regulations as they may deem necessary

respecting the place and manner of transporting the same; they shall also have authority to assess by ordinance and collect an annual license tax for the keeping and selling of any or all such articles.

Sec. 31. Council may by ordinance regulate theatrical exhibitions, public shows, musical performances, and hypnotic exhibitions, and all performances to which admission is obtained by the payment of money or other reward, also to regulate the employment of all machines or appliances for testing skill, endurance, capacity, or strength, for the use of which money is charged, and of all money receiving appliances of the class known as slot machines, and to grant or refuse license for any and all of such performances and things and to levy and collect taxes on the same.

Sec. 32. Council may by ordinance grant license to owners and keepers of horses, hacks, carts, wagons, drays, automobiles, bicycles and every description of wheeled vehicles kept within the said city; to levy and collect taxes thereon; and to subject the same to such regulations as the interest or convenience of the inhabitants of said city, in the opinion of council, may require. The council shall also have authority to license and tax hawkers and peddlers within said city, and persons who rent temporary quarters or who temporarily station themselves upon a street to sell or exhibit articles, and all butchers who do not rent a stall or stand in either of the market houses of the city, hawking, peddling and selling meat on the streets of the city are required to take out and pay the license required of hawkers and peddlers.

Sec. 33. It shall be unlawful for any person to hold himself or herself out as a fortune teller, clairvoyant, mind-reader or palmist, and purport and claim to tell the future or the past by the above or any other hidden and secret methods or science, or to practice the above callings, avocations or professions, and council has authority to pass an ordinance making and declaring the same unlawful and prescribing the penalty therefor.

Sec. 34. Council may by ordinance regulate sales at auction within said city, and levy and collect taxes upon such sales; to grant or refuse licenses to auctioneers, and to levy and collect taxes upon such licenses, in addition to any tax which may be payable to the state. *Provided, however,* that nothing herein contained shall be construed to authorize any interference by the corporate authorities of the city with, or the imposition of any tax upon.

any sale made under the judgment or decree of any court of justice of this state, or made by a trustee under a deed of trust given *bona fide*, in this state to secure debts.

Sec. 35. Council shall have exclusive authority within said city, by ordinance, to grant or refuse license to the keepers of hotels, inns and taverns, houses of public or private entertainment, not used for immoral purposes, boarding houses, public eating houses, coffee houses, saloons, places at which spirituous liquors, wines, porter, ale, or beer, intoxicating cider, or any drinks of a like nature shall be sold, places of public amusement, and boarding stables or stables for keeping and feeding horses and mules for a compensation. *Provided, however*, that persons keeping an inn, hotel or tavern, with stabling attached, shall not be required to have any other license than the license to keep an inn, hotel or tavern, by reason of their keeping and feeding horses and mules for compensation. Council shall further have authority, by ordinance, to regulate the manner in which such houses or places shall be kept, and to levy and collect a license tax from every person licensed under the authority of this section, in addition to all other taxes imposed upon him or his property. And no person without a license therefor shall sell, or offer or expose for sale, spirituous liquors, wine, porter, ale, or beer, intoxicating cider, or any drink of a like nature within said city.

Sec. 36. Council may by ordinance require city license for persons conducting and carrying on the following vocations or lines of business:

(a) Persons practicing the business of stock broker, merchandise broker, or other broker, buying and selling for others, stocks, securities or other property, for a commission or reward;
or

(b) practice such business by carrying on what is commonly known as a bucket shop, or by engaging in transactions for the purchase or sale for others of grain, provisions, stocks, securities, merchandise or other property, wherein the parties thereto or the broker intend that such transactions shall be settled according to the public market quotations on any board of trade or exchange, and without a *bona fide* transaction on such board of trade or exchange, or intend that such transaction may be deemed terminated when such public market quotations shall reach a certain figure, or intend that such property shall be resold before or at the time fixed

in such transaction for the delivery of such property and that the differences between the contract price and the market price thereof, shall be paid or received without the prior receipt or delivery of such property under the former sale; or

(c) practice the business of money broker, private banker, buying or selling current or depreciated money or funds, or exchanging one kind of money or funds for another, for profit or reward; or

(d) practice the business of pawn broker by lending money or other things for profit, for or on account of personal property deposited with the lender in pledge; or

(e) to keep and conduct a pool room, turf or baseball exchange; or

(f) for any business or vocation for which the state may now or hereafter require license.

Sec. 37. Council may by ordinance subject any person or persons, who without having obtained a city license therefor, shall do any act, or follow any employment or business in said city, for which council is or shall be authorized to grant licenses, to any fine or punishment which they are authorized to impose or inflict for the enforcement of their ordinances.

Sec. 38. Council may by ordinance within said city lay out and cause to be opened any streets, walks, alléys, market grounds, and public squares, or to extend or widen the same, first having obtained title to the ground necessary for the purpose, and to grade any street, walk, alley, market ground or public square which is or shall be established within said city; to pave or otherwise improve the same; to cause them to be kept open and in good repair, and generally to ordain and enforce such regulations respecting the same, or any of them, as shall be proper for the health, interest or convenience of the inhabitants of said city.

Sec. 39. Council may by ordinance have all work done under the direction and control of the board of control without the intervention of contractors or middlemen.

Sec. 40. Council may by ordinance cause to be taken or damaged for the use of the city, for streets, alleys, markets, public squares and other purposes, including occupation by sewer, water pipes, gas pipes, steam pipes, compressed air pipes and electrical or other subways and private property within the city, and where such use is to secure or improve the water supply, or

for sanitary or cemetery purposes, outside the limits of the city, but no such property shall be taken or damaged without just compensation. The compensation, if it cannot be determined by agreement with the owner of the property taken or damaged, shall be ascertained in such manner as is, or may be prescribed by general law for the condemnation of land for public purposes.

Sec. 41. It shall be the duty of any person or persons making any plat of any addition to the city to submit the same to council for approval; which plat of said addition, with streets and alleys convenient thereto, and the grades and drainage, and the municipal improvements which may be required thereto, must be presented to the council of said city and approved by that body; after council has approved the same, the owner or owners, of such addition must dedicate the streets and alleys convenient thereto to the city; and the plat of said addition shall not be admitted to record by the clerk of the county court of Ohio county unless the plat shows by endorsements thereon that there has been a dedication to the city and that said plat has been approved by council. If any such addition be laid out and a plat thereof recorded, or property be sold therefrom without such addition having had the approval of council, being before the passage of this act, it shall be the duty of council before making any improvements on or in the streets in such addition, to require from the owner or owners of such addition, or from purchasers of property therein, the payment of such sum or sums as will in the opinion of council, compensate the city for the increased cost or decreased value, or both, of its improvements so to be made, occasioned by the imperfect or improper plan of such addition.

Sec. 42. Council may by ordinance establish the width of any sidewalk along any street, alley or public square or part thereof, and cause to be set or reset, the curbing thereon, and to require that when any such street, alley or public square, or part thereof shall be prepared by the city for the laying of sidewalks, by the setting of curbstones, and by grading the sidewalk space, either by filling or cutting, as the case may require, the owners of any ground fronting on such street, alley or square shall properly pave and maintain the sidewalks adjacent to their property; and in case of the failure or refusal of such owners to so pave the same, to cause the same to be properly paved by the city, and to levy and collect from such owner or owners the cost of the pav-

ing adjacent to his or their property, or where the cost cannot be conveniently ascertained, to levy and collect a special tax to defray the expense of such paving upon the owners of such adjacent ground, who fail to pave as required; by an assessment upon each, proportionate to the number of front feet which he shall own. Council shall have power, by ordinance, in like manner, to require the owners of property adjacent to any paved sidewalk, whether heretofore or hereafter constructed, to keep such sidewalk in repair, and in default of their doing so, to cause the same to be repaired, and assess the cost thereof upon such owners. It shall be lawful for the officer authorized to collect any such tax or assessment, to collect the same from the owners of such grounds, or from any tenant or debtor of such owners, as provided in sections eighty-six and eighty-seven of this act, and such assessment shall be a lien upon such adjacent property. All damages to streets, including sidewalks, or to alleys of said city, caused by digging therein for the benefit of private persons, except where the digging is done by the city to furnish water, gas or other commodity to such private person for a consideration, shall be repaired by the city at the expense of the person for whose benefit, or for the benefit of whose property the digging is done; and council shall by ordinance require the enforcement of this duty, including the duty of making repeated repairs, as often as the defect so caused shall reappear.

Sec. 43. Council may by ordinance prohibit the erection within any square or squares of the city, of any building or any addition to any building, more than ten feet high, having in the foundation or outer walls thereof, or roof covering thereof, any wood or other combustible material; and to provide for the removal of any building or addition which shall be erected contrary to such prohibition, at the expense of the builder or builders or owners thereof.

Sec. 44. Council may establish by ordinance a system of regulations by which all plans for the construction of buildings or additions thereto within the city shall be required to be submitted to the board of control or some other designated officer or officers of the city, for inspection as to the safety of all flues, elevators, drainage, plumbing, electrical wiring, power and lighting or heating arrangements, and as to the sufficiency of all supporting parts and the general safety of such buildings and additions.

The council may provide by such ordinance that no building or addition thereto, shall be erected within the city without the owner or builder thereof having first obtained from board or officer designated to make such inspection, a license or "building permit", authorizing the erection of such structure; such ordinance, if enacted, shall provide for the keeping of a permanent record of all such permits or licenses, and the keeping on file, or on record, of a full description of all such buildings and structures. Council may, by ordinance establish and maintain supervision over the construction and maintenance of electrical conductors within said city, whether they be located within or outside of buildings.

Council may by ordinance regulate buildings already constructed, which in the judgment of the building inspector and board of control are either dangerous, unsafe or in a bad sanitary condition, and may require the removal or reconstruction of the same, or that they be put in condition so as to render them safe or improve their sanitary condition.

Sec. 45. Council shall have authority to pass all ordinances not in conflict with the constitution and laws of the United States, or of this state, which shall be necessary and proper to carry into full effect any power, authority, capacity or jurisdiction which is or shall be granted to, or vested in the said city, or in council, or any officers of said city; and to provide for the enforcement of any or all of their ordinances by reasonable fines and penalties, or by imprisoning the offender or offenders violating such ordinances, and by compelling them to labor without compensation, at any of the public works or improvements undertaken or to be undertaken by said city, or by any or all of the said modes. *Provided, however,* that no fines shall be imposed exceeding one hundred dollars, and that no person shall be imprisoned or compelled to labor as aforesaid more than one year for any one offense.

Election of Mayor, Auditor, Treasurer and Chief of Police.

Sec. 46. At the first election to be held under this charter, and at each alternate election thereafter, there shall be elected from among the resident qualified voters of the city, a mayor, for the term of four years; an auditor for the term of four years; a treasurer for the term of four years, and a chief of police for the term of four years.

Mayor's Duties.

Sec. 47. The mayor shall be required to give an official bond in the penalty of one thousand dollars; he shall review each ordinance, contract or appropriation passed by council, and approve or veto the same within ten days after the passage thereof, and shall file with the auditor, in writing, his reasons for vetoing any ordinance, contract or appropriation, and should he fail to approve or veto any ordinance, contract or appropriation within the prescribed time, the same shall become a law, but council at the next regular meeting after said veto, shall have power to pass such ordinance, contract or appropriation over the veto of the mayor by a vote of three-fifths of all the members of the council elected; it shall be his duty to cause all the laws and ordinances of the city to be enforced and in order to enable him to do so, he may suspend any official in default or failing to perform his duty, and if necessary appoint another in his place; or, if it be in a case of tumult or disorder, actual or threatened, he may in like manner appoint temporarily, additional official or officials; such powers of temporary suspension or appointment shall be subject to review and reversal by council, when full opportunity shall be afforded to the mayor for presenting his reasons for exercising the same. The mayor shall keep the seal of the city, and affix the same to documents and contracts, when necessary; he shall have power to administer oaths and certify the same, and to take and certify acknowledgments of deeds and other writings within the city. In case the office of mayor become vacant, council in joint session shall by election, fill the vacancy until the next city election, when, if the term should not then expire, a mayor shall be elected to fill the unexpired term. In case of temporary absence or disability of the mayor, the president of the second branch shall give bond and act in the mayor's absence as mayor, and the mayor's salary shall be transferred and paid to him for the time he serves as such mayor. In addition to the duties now prescribed by law the mayor shall communicate to council from time to time a statement of the finances of the city, and such other information relating thereto, and to the general condition of the affairs of the city as he may deem proper; he shall attest all ordinances when the same have been transcribed, whether they become valid by his approval or were passed over his veto; said attesting must be

made within ten days after the ordinance shall become law; he shall also be *ex-officio* a member of the board of control, and he shall have the same power as the other members of the board and give the same bond as such members of the board as is required of the other members of the board of control. The mayor shall receive for his services to the city a salary, the amount of which is to be fixed by council, not less than two thousand five hundred dollars, nor more than five thousand dollars per annum.

Auditor's Duties.

Sec. 48. The auditor shall give an official bond in the penalty of twenty-five thousand dollars; he shall receive for his services a salary, the amount of which is to be fixed by council, not less than two thousand dollars, nor more than three thousand dollars per annum. The books of accounts of the financial transactions of the city, heretofore kept by the city clerk in pursuance of the ordinances of said city, shall be transferred to the auditor who shall become and be the custodian thereof, and who shall be required to keep accounts of all loans to the city, the bonds issued therefor by the city, all contracts by and with the city, and all accounts of all pecuniary transactions by and with the city, and all disbursements made by the city, from the several funds in which its accounts are or may be required to be kept, and he shall act as the clerk of the second branch of council. No money shall be paid out of the treasury of the city, unless authorized by an ordinance or resolution of council of the city, and upon warrants signed by the auditor and countersigned by the clerk of the first branch of council. The auditor shall examine and audit the books of accounts of all officers and departments of the city and all accounts of the city kept on its behalf, or with it by any officer or agent of the city, shall at all times under all circumstances be open to his inspection, as well as to the inspection of any committee of, or expert accountant employed by council. It shall be the duty of council to prescribe by ordinance, in detail, the duties of the auditor, the same to be in general in harmony with the provisions and general intention of this act, in establishing said office.

Council shall require monthly settlements to be made by said auditor and full reports from him as to the state of all accounts, and the conditions of the financial affairs of the city.

Duties of the Treasurer.

Sec. 49. The treasurer of the city shall give an official bond in the penalty of one hundred thousand dollars. He shall be furnished by the city with an office; he shall be charged with the aggregate of all taxes and assessments levied for the benefit of the city, and all city taxes, gas, water, electric light, and license taxes that may be charged to him by the assessor, or meter takers of the board of control; he shall also collect, receive and account for all other moneys from all sources of city revenue. All officers and agents of the city, authorized to receive money for the city or revenues of the city, from any source or sources whatsoever, are and shall be required to pay over to the treasurer all of such moneys and revenues within ten days after the receipt thereof. It shall be the duty of the treasurer to deposit to the credit of the city, daily, in some bank or banks in said city; the moneys so deposited shall be disbursed only upon checks or drafts issued by the auditor; the treasurer shall perform such other duties as are required by this charter and as may be reasonably required by council by ordinance. The treasurer shall receive for all of his services for the city such salary, not to exceed twelve thousand dollars per annum, as council may prescribe. The services of the treasurer to be paid for by such salary shall be deemed to include all of the services of all deputies and clerks employed by him, and no additional allowance shall be made for, or on account of the services of the treasurer, shall take into account his labors in collecting the taxes assessed by the independent school district of Wheeling, and his compensation allowed therefor, and shall so limit his compensation for his services rendered for the city that his aggregate earnings from all sources on account of his office shall not exceed twelve thousand dollars per annum. *Provided, however,* that in case a state law is enacted creating the office of county treasurer, the city of Wheeling, by an ordinance of its council, may provide for the collection of its taxes by the county treasurer, and in that event said council may, by ordinance, reduce the compensation of said city treasurer as it may deem fit.

Duties of Chief of Police.

Sec. 50. Council by ordinance shall set out and define the du-

ties of the chief of police, whose salary shall be twenty-five hundred dollars per annum; but neither the chief of police nor any of his deputies shall receive any fees from the city other than their salary; and he shall give an official bond approved by council, in the penalty of ten thousand dollars; and he shall not be eligible for reelection until one term shall have intervened.

Board of Control.

Sec. 51. There shall be a board of control for said city to be composed of the mayor, who shall be *ex-officio* a member thereof, and two other members. At the first election held under this act, there shall be elected from among the qualified voters of the city, one member for the term of two years and one member for the term of four years, and at each successive biennial election there shall be elected one member of said board for the term of four years.

Sec. 52. In case of any vacancy occurring in said board, it shall be filled by an election by council in joint session until the next city election, when, if the term would not then expire, a member for the unexpired term caused by such vacancy shall be elected by the voters of said city.

Sec. 53. No member of council of said city shall be eligible for election or appointment as a member of the board of control.

Sec. 54. The two members of the board of control elected under section fifty of this act, shall each be required to give an official bond in the penalty of ten thousand dollars, and each of said members shall receive from the city a salary of not less than fifteen hundred or more than twenty-five hundred dollars per annum.

The said board of control shall have the management and control of the water works, gas works, electrical works, public markets, scales, parks, wharves and all other additional works of public utility that may hereafter be owned by the city. They shall also have charge of the maintenance, improvements and repair of all the streets, alleys, wharves, public grounds, sewers, and other improvements owned by the city in or under such streets, alleys and wharves; they shall also have the management and control of the police department, fire department, health department, city prison, crematory, cemeteries and hospitals and

all other departments and institutions of like nature owned by the city; they shall have power to employ upon a salary for the term of two years, a clerk of the board, a city engineer, a wharf master, a market master for each market, a chief of the fire department, a health officer, who shall be the chief of the health department and a practicing physician, a building inspector and a superintendent for each of the other departments and institutions under their management and control except as herein otherwise provided.

The chiefs and superintendents of the various works, departments and institutions shall each employ and discharge all subordinate employees in his department, subject to the approval of council. At all works of the city which are operated continuously throughout both day and night, the turns of labor of employees engaged in such continuous work shall not exceed eight hours out of twenty-four.

In all cases, in the selection or appointment of employees of the city, preference shall be given to persons, who are residents and taxpayers of the city. All salaries and wages to be paid to heads of the various departments and to subordinate employees must first be approved by council.

Sec. 55. The board of control shall require the office of the city engineer to be so conducted and managed that all plats, notes of survey, and other documents and records of like nature prepared by the city engineer in the service of the city shall be the property of the city; and also may cause to be prepared, for the permanent use of the city a map of the city with necessary profiles, showing the location, alignment and grade of all the streets and alleys, the boundaries and grades of all the public squares, and the location of all sewers, water pipes, gas pipes, natural gas pipes, and electric or other subways, with or under any of such streets, alleys or public places; and provide for additions to and upon said map, showing the location of all such sewers, pipes and subways as may be afterwards added, so as to make the same at all times conform to any alterations made in any such street, or in the improvements of a public nature made therein. The said board may also, with the assent of the council, provide for the planting of permanent monuments at the corners of streets or at specified distances therefrom.

Sec. 56. The jurisdiction of said board of control shall be ad-

ministrative, not legislative. The said board shall not be authorized to inaugurate any new work without first fully reporting the plan of the same to and obtaining the concurrence of council; any disregard of this provision will be ground for the impeachment and removal of any member or members of said board guilty of such misconduct, and also for an action or actions, on his or their bond or bonds for any damage occasioned to the city by reason of his or their corrupt discrimination; or, at the election of the city, for a joint action against two or all of the members of said board for such damages.

Sec. 57. The management and control which the board of control shall have over the various works, departments and institutions intrusted to them shall be in accordance with such lawful rules and regulations as shall be adopted by council; such rules and regulations shall be enacted as ordinances of the city, and shall define the duties of the officers of the various works, departments and institutions and provide for the protection of all the public works and property of the city against injury and trespass, and for the protection of the streets, alleys, wharves and public grounds against nuisances, obstructions and injuries, and for the summary removal of all nuisances or unlawful obstructions or encroachments thereon, and for the punishment of persons or corporations committing such trespass, injuries or nuisances, or causing any such trespass, obstructions or injuries, and for the preservation of the good order of the city and the protection of the inhabitants and residents thereof from personal annoyance and violence, and from contagious and infectious diseases, and their property from fire, vandalism, or other loss or injury and for the construction and maintenance of suitable buildings, machinery, appliances, apparatus and equipment for the use of the various departments, and for the regulation, government and support thereof.

Sec. 58. In connection with such rules and regulations for the board of control or in a separate ordinance or ordinances, the council shall have authority to provide for the inspection of bread, milk, meat, and all other articles intended for food, including animals from which such food is obtained, and all substances entering into the manufacture of food intended for use in said city; and to regulate or prevent the sale, or cause the destruction of any such food or milk as may be unwholesome, adulterated, or danger-

ous, and to provide for the punishment of persons negligently or knowingly selling or offering the same for sale.

Sec. 59. Council may by ordinance require and compel the abatement and removal of all nuisances within said city at the expense of the person, or persons causing the same, or of the owner or owners of the ground whereon the same shall be; to restrict the driving of hogs, cattle or other stock within said city, either as to the streets over which they may be driven or as to time within which they may be driven, or both; to prevent any such stock or dogs and other animals from running at large in said city; or to subject the same to such regulations and taxes as they may deem proper; they shall also have authority to prohibit or license, regulate and tax, slaughter houses and stock yards, or the exercise of any offensive or unhealthy business, trade or employment within said city; also to prevent the firing of guns, crackers, or any combination of gun powder, or other explosive and dangerous materials in said city; also to prevent the driving or riding of horses or other animals, or the riding of bicycles, or other vehicles, or the running of locomotives or automobiles propelled by steam, electricity or other power, cars of all kinds, at an improper speed within the limits of said city; also by ordinance to control and regulate parades and processions in the streets, alleys and public places of the city; and, generally, to prevent such conduct in the city as is prejudicial to the comfort, health, convenience, safety, peace and good order of said city or the inhabitants thereof, and to make and ordain appropriate provisions and penalties for the enforcement of all such regulations. Council shall provide by ordinance that this section shall be enforced by the board of control.

Officers Elected by Council, and Their Duties.

Sec. 60. At the first regular meeting of council after each biennial charter election, or as soon thereafter as practicable, the two branches of council shall meet in joint session in the chamber of the second branch and elect a suitable person for the term of two years, to be solicitor of the city of Wheeling, and a suitable person to be judge of the police court of the city of Wheeling.

Sec. 61. The solicitor of the city of Wheeling shall have been a practicing attorney at the bar of Ohio county for at least five years before his election; the solicitor shall receive a salary to be fix-

ed by council, but not to exceed two thousand dollars per annum, and no other compensation or fee shall be allowed him except as hereinafter provided; it shall be the duty of the solicitor to give legal opinions when required by council or its committees, or by any board or officer of the city; also to examine and approve all bonds taken by the city and examine all titles to property acquired by the city; it shall be his duty in connection with such committee or officer as council may designate, to control and manage in behalf of the city all litigation to which the city is a party, or may have an interest, except that in cases of police court which do not involve important legal questions, he shall not be required to attend; it shall be his duty to draft all ordinances, except where a general revision of the ordinances of the city is to be made; he shall not be required to make a general revision of ordinances without extra compensation in addition to his salary, according to the value of the work, or under special contract. An additional or assistant attorney, or attorneys, may be employed in any case of for any matter where council of the city shall deem such course advisable. Council may prescribe such additional duties to be performed by the solicitor, coming within the scope and nature of such office, as they may see fit to require.

Sec. 62. It shall be the duty of the building inspector to supervise the erection, raising and removal of, and repairs to buildings within the corporate limits of the city of Wheeling; he shall issue building permits under such regulations as may be prescribed by council and enforce all provisions of the ordinances of the city in regard to the safety of buildings and perform such other duties, germane to his office as the council by ordinance or resolution may require; he shall receive such compensation as the council by ordinance shall determine.

Police Court.

Sec. 63. The judge of the police court of the city of Wheeling shall be a practicing attorney at the bar of Ohio county at the time of his election, who has been at least two years in active practice of the law, and who shall have been for at least three years prior to the election a resident of the city of Wheeling. The judge of the police court shall receive a salary to be fixed by council, not to exceed nine hundred dollars per annum and no other compensation shall be allowed him; he shall preside over

said police court of the city of Wheeling and try and determine all cases over which said court has jurisdiction. In the event of the temporary absence or disability of the judge of police court, the mayor shall appoint a member of the Ohio county bar of good standing to preside over said court during the absence or disability of the regular judge, and the judge's salary shall be transferred and paid him for the time he serves as such judge.

Sec. 64. The said court shall have jurisdiction over all offenses against, or violations of the ordinances of said city, and full authority to punish in any manner lawfully prescribed by such ordinances, the offenders against or violators of the same; such punishment may include the imprisonment of such offenders or violators, and the enforcement and collection of any fines or penalties provided by such ordinances, and compulsion to labor without compensation at any public work or improvements of the said city, or may be limited to one or two such modes. *Provided, however,* that no fines shall be imposed exceeding one hundred dollars, and that no person shall be imprisoned, or compelled to labor as aforesaid more than one year for any one offense, and that no jury shall be allowed in any trial in said court for the violation of any ordinance of said city.

Sec. 65. The proceedings for the recovery of the fine or for the enforcement of the penalty prescribed by any ordinance shall conform to the regulations, so far as they are applicable, prescribed in the code of West Virginia for civil proceedings before justices of the peace; but the judge or the clerk of said court may, for good cause shown by affidavit, by an endorsement upon said summons, order the defendant or defendants to be arrested and brought before the said court to be dealt with according to law.

Sec. 66. In case of the absence or disability of the clerk, the judge shall appoint a person to be for the time being the clerk of said court, who shall have all the powers of such clerk during such absence or disability.

Sec. 67. In cases where the evidence discloses such a violation within the city of a law of the state, that in the opinion of the judge of the police court the person accused should be committed to await the action of the grand jury upon an accusation made, the judge of the police court shall have the same jurisdiction and power as a justice of the peace in the county of Ohio, in regard to the apprehension, committment and admission to bail of the per-

son so accused; and, in the exercise of such jurisdiction and powers, shall be governed by the same regulations.

Sec. 68. The sessions of said court shall be at such times and places as the council of said city shall by ordinance direct.

Sec. 69. The said court shall have full power and authority to enforce its orders and judgments, by any process of law which may be necessary and proper for the purpose, and all processes, executions and orders of said court shall be signed by the judge or acting clerk thereof; such process and executions shall be directed to the chief of police of said city, to be executed by him or one of his deputies. In the execution of any process or order of said court, the chief of police or deputy shall have the same powers, be governed in his proceedings by the same rules of law, and be subject to the same liabilities as the sheriff of Ohio county. There may be charged for the services of such officer the same fees as the sheriff is entitled to charge for like services, but all such fees, as well as all fines imposed by said court, shall be collected by the chief of police, and accounted for and paid by him to the treasurer of the city. The city shall in no event be liable for any such fees.

Sec. 70. The clerk of said court shall have authority to administer oaths within said city, and shall perform such duties as may be required by the judge of said court, or be prescribed by rule or order of said court; such clerk of said court may charge the same fees for his services as are allowed to be charged by justices of the peace for like services, and such fees shall be collected by him in like manner as fees of the clerk of the circuit court are collected; but all such fees shall be accounted for by him to the city and paid over to the treasurer.

Sec. 71. A docket and other books required for the records and a seal shall be provided for the said court by council of the said city, and the seal may be altered or renewed as the said court may direct. Full faith and credit shall be given to the records of said court, and the certificates of its judge or clerk, whether the seal of said court be affixed thereto or not, in like manner and with the same effect as if the same were records of the circuit court or certificates of the judge of a circuit court similarly authenticated.

Sec. 72. The said police court shall have power, upon rendering judgment against a defendant charged with the violation of

an ordinance of the city to render judgment against him also for the costs of prosecution incurred by the city. In every suit or prosecution for the violation of an ordinance the said court shall cause the person or persons at whose instance it was instituted to be designated upon the warrant or writ issued to arrest or summon the person charged, and if the person or persons charged shall not upon final hearing be convicted, and the said court shall be of opinion that no sufficient or probable cause did exist for the institution of the said suit or prosecution, then judgment for the costs of the city, and of the defendant or of either of them, as the court shall deem just, shall be rendered against the person or persons at whose instance such suit or prosecution was instituted.

Sec. 73. From the judgment of the said court in any case involving a greater penalty than a fine of ten dollars, and in any case where a penalty requiring imprisonment or labor at a work of public improvement is imposed, or in any case involving the validity of an ordinance of the said city, an appeal shall lie as a matter of right, to the criminal court of Ohio county, either on behalf of the defendant or of the city; but no defendant shall be entitled to such appeal until and unless he execute before the said police court, or its clerk, bond in such penalty, not exceeding two hundred dollars, as the said police court may prescribe, conditioned to perform the judgment and order of the criminal court of said county made or rendered upon such appeal. Every such bond shall be with security approved by the said police court or its clerk; but in any case in which an appeal is taken or granted on behalf of the city, no bond or security shall be required. Every such appeal shall be proceeded with in the said criminal court, in the same manner as is provided by law for proceedings in the criminal court, in cases appealed from justices of the peace. If on such appeal, judgment be against the appellant it shall also be against the sureties on his appeal bond for costs, and for any fine or pecuniary penalty adjudged against him. No such appeal shall be allowed after ten days from the date of any final order or judgment desired to be appealed from.

Sec. 74. It shall be lawful for council to maintain within said city a city prison, and to ordain and enforce all necessary or proper regulations respecting the same, and vesting in the officer or officers of said prison under the supervision of the board of control any or all powers and duties which, by the laws of this state, are or

shall be vested in or imposed on the sheriffs or jailors of the several counties in relation to the county jails, or the custody of persons imprisoned therein.

General Provisions as to Officers.

Sec. 75. Whereby this charter or by any ordinance of said city, any officer is required to give an official bond, it shall be made payable to the city of Wheeling; be given with a surety company satisfactory to the city solicitor and shall be approved by council, and be with the condition that the officer shall faithfully discharge the duties of his office, and faithfully account for and pay over, as required by law, all moneys which may come into his hands by virtue of his office; such bonds, except that of the treasurer, shall be filed in the office of the treasurer of the city, and shall be carefully preserved by him. The treasurer's bond shall be filed with and preserved by the auditor.

Sec. 76. The salaries of the officers of the city shall not be increased or diminished between the time of their election and the expiration of the term for which they are elected.

Sec. 77. No member of council or of the board of control and no officer of the city, and no person regularly employed by the city shall be interested directly or indirectly in any contract, made with or on behalf of said city, except for his own salary or wages as such officer or employee. Any violation of the foregoing provision of this section shall subject the offender to removal from his office or employment, to be made or declared by council, and to a fine of not less than twenty-five dollars, nor more than one hundred dollars, recoverable in the police court of the city as other fines and penalties; and this without affecting the right of the city to maintain an action for damages resulting from such misconduct.

Sec. 78. Council shall have authority upon the filing before them, by any person, of charges in writing, of malfeasance or non-feasance in office, verified by affidavit, against any officer of the city, in any department thereof, to cause an investigation of such charges to be made by any officer or officers of the city, or committee designated by council. Any such officer or officers or committee designated to make such an investigation, shall have authority to require the attendance of witnesses before him or them, and the production of any books or papers pertinent to such inquiry or investigation, the *subpoena* to compel the at-

tendance of such witnesses or the production of such books or papers, may be issued by the officer or officers, or the chairman of the committee, designated by council to make such an investigation. Council shall have power to remove or suspend any officer of the city found guilty upon such investigation of such charges against him.

Taxation and Finance.

Sec. 79. The fiscal year of the city of Wheeling shall be fixed by ordinance.

Sec. 80. All property, real and personal, within said city which is subject to taxation under the constitution and laws of the state of West Virginia, shall be assessed for and subject to taxation for the benefit of said city. The amount of the levy for all purposes other than paving, macadamizing and sewers and street lighting, as provided for in clause two of section eighty-three of this act, shall not in any year exceed fifty cents on every one hundred dollars of the assessed value of such property; and the amount of levy for all purposes, except as is hereinafter provided, shall not in any year exceed seventy-five cents on every one hundred dollars of such assessed value. In addition to all other taxes council may, by ordinances, also levy an amount sufficient to pay the interest and any installment of principal due within the year upon all bonds of the public debt of the city.

Sec. 81. Council may by ordinance also levy an annual capitation tax of not exceeding fifty cents upon each inhabitant or tithable of said city, who, under the constitution of this state is subject to a capitation tax.

Sec. 82. The county assessor or proper state officer shall furnish transcript of real and personal property on or before the first day of August of each year, and his fee for same shall not exceed six hundred dollars.

Sec. 83. Subject to the limitations of this act prescribed as to the aggregate of all levies for city purposes, council shall annually cause to be levied and raised by a general tax upon all taxable property in the city:

First—An amount sufficient to pay the interest and any installment of principal falling due within the year upon all bonds of the public debt of the city, which shall be kept in a separate fund, to be called the public debt fund.

Second—An amount which, with the revenues from the water works, gas works, and any other revenue-producing works or property in charge of the board of control, will be sufficient to defray the expenses for the next fiscal year of all of the works and property, whether productive of revenue or not, in charge of said board of control, which taxes, when collected, shall, together with the revenues from such works, be kept in a separate fund to be called the public works fund. Of the amount levied to defray the expenses of the works and property in charge of the board of control, a specified portion, not exceeding ten cents on every one hundred dollars of the assessed value of all taxable property in the city, shall be for the purpose of paving or macadamizing streets or alleys in said city, except as provided for in this act, and for the construction of sewers and curbing in said city, and that all percentage or compensation received by the city from franchises, grants, rights, or privileges for the use of the streets, alleys or public grounds of the city, shall be used exclusively for the purpose of paving and repairing the streets and alleys of said city.

Council may by ordinance provide for the issuing of bonds for a sum not exceeding five hundred thousand dollars to be used to pave, repair, or macadamize streets and alleys in said city, or for such curbing and sewerage as may be required for such paving, repairing or macadamizing. *Provided, however,* that the total of interest on such bonds in connection with all other moneys to be paid out of this fund, does not exceed the stipulated levy of ten cents on every one hundred dollars of the assessed value of all taxable property in the said city, and such moneys as may be collected from the owners of such property as specified. The principal of said bonds to be paid the same as all other bonded indebtedness, but the interest to be provided as here set forth.

The proceeds of said loan are to be placed in the hands of the board of control and to be spent only on heretofore unimproved streets.

One-half of the proceeds of the ten cent levy are to be set aside annually as a sinking fund to pay for the principal and interest.

Third—An amount sufficient to pay the salaries of all officers of the city, and the wages of all employees of the city, other than those engaged upon revenue-producing works in charge of the board of control, and all necessary, ordinary and contingent expenses of the city, not otherwise provided for, which, with all other moneys re-

ceived by the treasurer, not belonging to any other fund specified by this act shall be kept as a separate fund, to be called the general city fund.

Sec. 84. On or before the first day of March in each year the board of control, and such committees of council and officers of the city having to deal with municipal expenditures as council may by ordinance designate, shall separately estimate in detail the expenses and the income of their respective departments for the next fiscal year and report the same to council. Council shall also make a statement by items of such expenses as it may expect to incur for the public benefit for the next fiscal year, and shall cause all of such estimates, or a fair synopsis thereof, to be published in one or more newspapers of the city, one week before the first regular meeting of council to be held in the month of April; at that meeting or any meeting to which an adjournment may be had not later than the fifteenth day of April following, council shall revise and determine all such estimates, and declare the amount necessary to be raised to defray the expenses of the city for the ensuing fiscal year.

Council shall immediately upon determining all of the estimates, levy the necessary tax for the ensuing year, not exceeding seventy-five cents upon every one hundred dollars for the public works and the general city funds, besides a tax sufficient to pay the interest and any installment of the principal falling due within the year upon all bonds of the public debt of the city. The county assessor shall thereupon extend the taxes on the assessment books, and deliver the same to the treasurer and a copy thereof to the auditor, who shall charge the treasurer with the aggregate of such taxes.

When any loan ordinance of the city heretofore passed requires money to be paid to or by the city collector or city receiver, it shall be paid to the treasurer or by the treasurer to the auditor as may be appropriate, and where any such ordinance requires any amount to be kept or audited by the city clerk, it shall, where appropriate to the duties of the auditor, be kept or audited by him.

Sec. 85. Taxes, real or personal, shall become due on the first day of October in each year, and bear interest from the first day of January thereafter at the rate of six per cent per annum until paid.

Sec. 86. If any person against whom or upon whose property any tax shall be lawfully assessed for the benefit of said city shall

not wholly pay such tax on or before the first day of July after the same shall become due, it shall be lawful for the officer authorized to collect such tax to take reasonable distress of any personal property in said city belonging to said delinquent, or in which he or she shall have any right or interest and sell such property, right or interest at public auction in said city, having given ten days' notice of the time and place of sale by advertisement posted in some public place in the city, and published or posted in such other manner as may be prescribed by ordinance of said city, if council shall, by ordinance, require any other or more ample advertisement, and out of the proceeds of such sale, after defraying all proper expenses, to pay to said city the said tax or so much thereof as shall be delinquent, and return the remainder, if any, to the owner of the property so levied on and sold.

Sec. 87. All taxes assessed upon real estate for the benefit of said city shall remain a lien thereon, bearing interest at the rate of six per cent per annum until the same be fully paid; such lien may be enforced by the leasing or sale of such real estate, under the order of any court having equity jurisdiction in Ohio county. Where the amount involved exceeds fifty dollars, suit is to be brought in the circuit court of Ohio county. If the amount involved in less than fifty dollars, suit may be brought before any justice of the peace of Ohio county, and the judgment obtained enforced by a suit in equity in the circuit court of Ohio county.

Sec. 88. Water rates shall be distrained for and collected in the same manner in which the collection of taxes owing to the city may be enforced. The collection of water rents shall also be enforced by shutting off the supply of water among delinquents, and the refusal thereafter to furnish water to delinquents until all arrearages are paid.

Sec. 89. In addition to all other means for the collection thereof, all taxes and water rates, as well as all other demands due to the city may be recovered by any appropriate suit or proceeding in the name of the city, before any justice in Ohio county, if the amount be within his jurisdiction, or in the circuit court of said county.

Sec. 90. Neither the auditor nor the treasurer nor any other disbursing officer of the city shall issue any order or check for the payment of money for any indebtedness contracted by council or any officer or board of the city, which shall have been contracted

wholly, or in part, in excess of the amount which shall have been previously set by ordinance or resolution as the limit of expenses of the department within which indebtedness is sought to be created. The foregoing provision of this section is ordained as a restraining provision only, and it is further declared that no act of such auditor, treasurer or other disbursing officer shall be in any wise held to render valid any debt contracted by or on behalf of the city in violation of the constitution and laws of the state. If any such officer of the city, as is mentioned in the first sentence of this section, shall violate the provision thereof, he shall be disabled from holding such office and shall forfeit and pay therefor to the city, a fine of not less than twenty dollars nor more than one hundred dollars, or be imprisoned for a term not exceeding one year, or both.

Sec. 91. No debts other than those authorized by this act, shall be contracted by or on behalf of the city in any manner, unless all questions connected with the incurring of such indebtedness shall have first been submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same; nor shall any debt be contracted by the city, without at the same time providing for the collection of a direct annual tax, sufficient to pay annually the interest on said debt and the principal thereof within thirty-four years. No debt shall be incurred, even with the consent of the voters, to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property in the city, as ascertained by the last previous assessment for state and county taxes.

Sec. 92. The act of the legislature of West Virginia, "authorizing municipal corporations to issue bonds," passed December second, one thousand eight hundred and seventy-three, is intended to remain applicable to the city of Wheeling except so far as this act is inconsistent therewith. Council shall provide that city bonds be signed by the mayor and auditor of the city.

Sec. 93. Council shall on or before the first Monday in June of each year, cause to be published once in a daily newspaper, printed in said city, a statement of the receipts and expenditures of said city, and of the debts due to the same. This, however does not contemplate a statement of each order, but a fair synopsis of the receipts and expenditures of the several departments.

Public Streets and Franchises Therein.

Sec. 94. In respect to the custody and control of the streets, council and the board of control are the agents of the people at large. No permission shall be given, or if attempted to be given, shall be effective, allowing to any persons or corporations the permanent exclusive use or occupancy of any street or alley of the city or any part thereof, including sidewalk space, for private purposes; but where such street or alley is, by reason of its location, wholly useless to the public, it may be placed in the possession of a private person, on terms precluding adverse possession and ownership by him, and allowing the city to resume possession at will. The foregoing provisions of this section are not to be construed as giving by implication or otherwise, legislative sanction to any nuisance that may exist in or upon any street at the time of the passage of this act, or as, by implication, rendering valid any unauthorized official consent that may heretofore have been given to the wrongful appropriation of any street, or part thereof to private uses, or as exempting any corporation, or person from responsibility for damages occasioned by any such nuisance.

Sec. 95. Franchises, grants, rights or privileges may be granted by council, allowing to persons or corporations, for a limited time, such occupancy of portions of the streets as may be necessary for works of public utility and service, such as steam railway tracks, street railway tracks, poles and trolley wires, telephone and telegraph poles and subways, electric light and other electric poles, wires and subways, and gas and steam pipe lines. But no such franchise, grant, right or privilege shall hereafter be granted by council, except under the following restrictions and conditions:

First—No ordinance granting any restrictions, franchise, grant, right or privilege, for the use of the streets, alleys, or public grounds of the city, for any of the purposes of public utility above named, or for any other purpose of like nature, shall be passed unless it shall have been first proposed in council and notice of the object, nature and full extent of such franchise shall have been published at least thirty days, by the applicant, in some daily newspaper published in the city of Wheeling, before being acted upon. The vote thereon shall be taken by ayes and noes and the same entered upon the journal of each branch of council.

Second—Every grant of any franchise shall be for a limited pe-

riod of time. If no time be expressly provided in the grant, the franchise shall be valid for one year only. In no case shall the franchise extend for a period exceeding fifty years.

Third—No grant of any franchise shall be made without, at the time of making it, providing that the grantee shall indemnify the city against all damages caused by the construction or maintenance of such works. All reasonable additional provisions and conditions may be made for the protection of the public from unnecessary damage or inconvenience by reason of such works and the operation thereof.

Fourth—No grant of any such franchise, grant, right or privilege shall be made without, at the time of making it, providing that the city shall receive in consideration therefor, a compensation, to be paid annually during the whole period. *Provided, however,* that the principle of competition shall be employed by council where the same is offered, so that the franchise, grant, right or privilege with prescribed terms and conditions as to its extent, and as to the rates to be charged the public by it for its services will be given to the person or corporation bidding or agreeing to pay therefor to the city the highest compensation, or so that the franchise, grant, right or privilege with prescribed conditions as to its extent, and the compensation that must be paid therefor, will be given to the person or corporation that will agree to render service to the public at the lowest rates. But where revenue or tolls to be charged the public and revenue to the city are joint points of deliberation, council may take both points into consideration with probable good or ill service of competing applicants, and grant any such franchise to such applicant as it shall determine will result in the greatest benefit to the larger number of citizens of the city.

Fifth—Council shall, in suitable practicable terms, make it an express condition of the grant of any such franchise, grant, right or privilege, where it is for a work that is useful chiefly to the local public, that at the expiration of such franchise, grant, right or privilege, the grantee shall, if required by council, sell to the city, the physical plant, at what it is then worth, independent of any value based upon the earning power thereof, and may also provide a means by arbitration or otherwise for determining what such value may be.

Sixth—The provisions of this act, however, shall not apply to grants made under section ninety-eight of this act.

Sec. 96. No renewal of any franchise, grant, right or privilege for any such work of public utility or service as is mentioned in the next preceding section, shall in any manner be granted until within ten years of the time for its expiration.

Sec. 97. The non-user of a franchise, grant, right or privilege in or upon any street or alley, or portion thereof, for a period continuously of one year, shall vacate and annul the same as to the portion so allowed to go into disuse, unless the council shall, for reasons of justice, or for a consideration paid to the city, permit the use thereof to be resumed.

Sec. 98. Permission may be given to a person or private corporation to place a switch or tramway on a part of a public street or alley, at grade, for his own or its own use, but the grant shall be so limited as not to exceed fifty years, and a charge, in the nature of an annual rental or license charge for the same, payable to the city may be fixed by council.

Miscellaneous.

Sec. 99. All copies purporting to be copies of the ordinances of said city or extracts from the journal of either branch of council which shall be printed by the authority of council or which shall be certified to be correct by the mayor of said city under the seal thereof, shall be received by all courts and magistrates of this state as *prima facie* evidence of the tenor of such ordinances, and of the acts and proceedings of council as therein set forth.

Sec. 100. The council and officers elected at the first election held under the provisions of this charter shall qualify and assume the duties of their offices on the first Monday of June succeeding such election, and a failure to qualify on or before said first Monday in June or a failure to enter upon the duties of their respective offices within ten days after said date shall create a vacancy in such office. The councilmen and officers holding under the now existing charter shall continue in office until those elected under this charter shall enter upon their duties. *Provided, however,* that the members of the first branch of council elected at the charter elections in January, one thousand nine hundred and seven, shall serve until the members of the first branch elected at the second election under this charter shall take their places. All ordinances of said city not

inconsistent herewith, in force at the time this act goes into effect, shall continue to be in full force until changed by council, but the duties under such ordinances shall be performed by the proper officers elected and qualified under this act.

Civil Service Provisions.

Sec. 101. The provisions of this section, and of the three sections next following numbered respectively one hundred and two, one hundred and three, and one hundred and four, shall constitute authority to the council of the city to adopt a system in regard to civil service to the city in these three sections mentioned. These three sections shall not be enforced unless the system provided for therein shall be adopted by the council within two years from the election of the first council elected under this act, but from the time of such adoption of the said system by council, by ordinance, of these three sections of this act numbered from one hundred and two to one hundred and four included shall be in full force and effect as a part of the charter of the city of Wheeling.

Sec. 102. Within the time mentioned in the preceding section, the council shall have authority to establish a system providing for the classification of the civil service of the city, in the fire department and water department of the city. In the fire department and in the water department, there shall be two general classes one to be known as the official service and the other as the labor service, the former shall come under the civil service and the labor class is expressly excluded; and council shall have authority to require that appointments, in said departments in the former class, shall be obtained only by those showing by competitive examinations and tests best fitted for the position to which they seek to be appointed.

Sec. 103. Any ordinance by which said system shall be in force shall in all respects be in accordance, and in no case be in conflict with the provisions and principles of these three sections. It shall require the appointment by the council of the persons or body that shall have charge of said civil service, and council shall determine whether that be a commission of not more than three members, whose terms of office and compensation shall be fixed by council, the board of control or officials of the city to be named by it not to exceed three in number.

Sec. 104. Such ordinance shall prescribe rules and regulations

governing the said civil service, and providing for examinations to be given applicants for office and method, scope and extent of such examinations. The said rules and regulations shall provide for appointments within the classified service of the city in the fire and water departments on the basis of ascertained merit, and shall provide in all cases where it is advisable that the vacancies in office shall be filled by promotion.

Competitive examinations for promotions may be required, but weight should be given to faithfulness and efficiency in service determining such promotions.

CHAPTER 12.

(Senate Bill No. 132.)

AN ACT to authorize the town council of the town of Buckhannon to issue bonds to the amount of fifteen thousand dollars for the purpose of funding the outstanding indebtedness of said town.

[Passed February 22, 1907. In effect from passage. Approved by the Governor, February 26, 1907.]

Sec.	Sec.
1. Council authorized to issue bonds.	6. Issuance of bonds submitted to
2. Interest.	vote.
3. Principal, when payable.	7. Notice by publication.
4. Proceeds, how applied.	8. Election; how held.
5. To provide annually for payment of interest.	9. Sale of bonds.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the town council of the corporation of the town of Buckhannon is hereby authorized and empowered to issue bonds to an amount not exceeding the sum of fifteen thousand dollars in the aggregate, at any rate of interest not exceeding five per centum per annum.

Sec. 2. That the town council of the corporation of the town of Buckhannon shall designate whether the interest on said bonds shall be paid annually, semi-annually or quarterly, and the time when, and the place where the same shall be payable; all of which shall be expressed on the face of coupons for the payment of said interest attached to the said bonds.

Sec. 3. The principal of said bonds shall be payable after five years at the option of the said council at such times and place as are

declared on the face thereof, not exceeding twenty years after date of their issue.

Sec. 4. That no bonds shall be sold or delivered or exchanged for less than their face value, and the proceeds arising from the sale of such bonds shall only be used to pay, eaneel and redeem the present outstanding indebtedness of said corporation, and there shall be no increased indebtedness made or paid by said bonds.

Sec. 5. That the said town council of the corporation of the town of Buckhannon shall provide annually for the payment of the interest on said bonds, and after five years provide also for the payment of the principal within the time expressed on the face of said bonds, in accordance with section eight of article ten of the constitution of West Virginia.

Sec. 6. Before such bonds are issued and said outstanding indebtedness funded, the same shall be authorized by three-fifths of all the votes cast in the town of Buckhannon to be ascertained by a special election to be called and held in said town.

Sec. 7. The town council of the town of Buckhannon shall by a resolution entered of record, specify the particular purpose or purposes, and amount for which said bonds are to be issued and the rate of interest said bonds shall bear, not exceeding five per centum per annum; said resolution shall appoint a day on which the election shall be held by the qualified voters of said town to decide whether or not said bonds shall be issued; such resolution shall be published in two newspapers of opposite political parties, if such be published in said town, if not, then in some newspaper of general circulation in said town, for at least four weeks prior to said election.

Sec. 8. Such election shall be provided for, conducted and the result ascertained and declared as provided by law for holding, ascertaining and declaring the result of town elections, and the ballots to be voted at such election, after containing a statement of the amount and kind of bond to be issued and the purpose or purposes for which they are to be used, shall contain the words "for the bonds" and the words "against the bonds."

Sec. 9. Said bonds herein provided for shall be sold at public auction to the highest bidder by the town council of said town after giving four weeks notice by publishing in some newspaper published in said town of the time and place at which such bonds will be offered for sale; said bonds shall be sold for cash at not less than

par value; *provided*, however, that if after offering said bonds for sale as above provided, no offers are made for said bonds at par or premium the said council may exchange at par value any or all of said bonds with the holders of the indebtedness of said town as aforesaid, paying off and canceling the indebtedness with said bonds, dollar for dollar.

CHAPTER 13.

(House Bill No. 249.)

AN ACT to authorize the issue by the common council of the city of Clarksburg of bonds to the amount of two hundred and twenty-five thousand dollars, for the purpose of refunding the present existing indebtedness of said city other than the bond issue of one thousand nine hundred and one, paying present indebtedness; improving the water works system thereof, and for street paving.

[Passed February 18, 1907. In effect from passage. Approved by the Governor, February 26, 1907.]

SEC.

1. Council authorized to issue bonds.
2. Interest.
3. Principal, when payable.
4. Sale of bonds.
5. Sinking fund; redemption of

SEC.

6. Bonds exempt from taxation for municipal purposes.
7. Previous acts governing issuance and sale.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the common council of the city of Clarksburg is hereby authorized and empowered to issue bonds to an amount not exceeding two hundred and twenty-five thousand dollars in the aggregate, at such rate of interest as they may deem expedient, not exceeding five per cent per annum.

Sec. 2. The said common council of the said city shall designate whether the interest on said bonds shall be paid annually or semi-annually, and the place where the same shall be payable, all of which shall be expressed on the face of said bonds, and on the coupons for the payment of the interest attached thereto.

Sec. 3. The principal of said bonds shall be payable at such times as are declared on the face thereof, but not exceeding thirty years after the date of the issue, and provision shall be made by which the said city may release and discharge itself from any further

liability thereunder by the payment of the principal and interest due thereon, at any time after ten years from the date of said bonds.

Sec. 4. The said bonds shall be sold and disposed of to the highest bidder, after due notice and advertisement, at such times and in such amounts as the said city council may ordain, and the proceeds arising therefrom shall be applied in payment of the present outstanding indebtedness of said city, whether bonded or otherwise, and to the redemption of all bonds heretofore issued by said city, except the bonds issued in the year one thousand nine hundred and one and thereafter to the improvement of the water works plant of said city, and if the said city council shall so ordain, to the paving of the streets and the extension of the sewerage system in said city, the amount for each of said purposes to be specified in any ordinance or resolution submitting same to a vote as herein-after provided.

Sec. 5. The common council of the said city of Clarksburg shall provide annually for the collection of a direct annual tax, sufficient to pay annually the interest on the debt and the principal thereof, within the period of thirty years; and out of said revenues or the income arising from the said water works, they shall provide annually a sinking fund for the payment of the said interest and principal within the time expressed on the face of said bonds, which said sinking fund as it annually accumulates shall be by the common council of the said city immediately invested in good and safe securities, at a rate of interest not less than that paid on the said bonds, and shall be kept so invested until such time as the said bonds or any part thereof, may become due and payable. *Provided, however,* that the said common council shall have the right from time to time to apply the said sinking fund in lieu of investing the same, to the redemption of the said bonds, the bonds to be so redeemed to be selected by lot and after due notice to the holder thereof, either in person or by publication for four weeks in some newspaper published in the city of Clarksburg, of the desire of said city to redeem said bonds, no further interest shall be payable thereon.

Sec. 6. Bonds authorized to be issued under this act shall not be sold or negotiated for less than par value, and shall be exempt from taxation for municipal purposes which fact shall appear upon the face thereof as a part of the contract with the purchaser.

Sec. 7. The issuance and sale of said bonds shall be covered so far as not inconsistent herewith, by the statutes in such case made and provided, as the same appear in chapter one hundred and forty-one of the acts of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three and in chapter ninety-one of the acts of one thousand eight hundred and ninety-seven and of chapter fifty-one of the acts of one thousand nine hundred and five.

CHAPTER 14.

(Senate Bill No. 191.)

AN ACT to authorize and empower the council of the city of Grafton, in the county of Taylor, to issue additional bonds to pay outstanding orders, to build a crematory, to improve the water-works and to rebuild the cemetery road.

[Passed February 18, 1907. In effect from passage. Approved by the Governor, February 24, 1907.]

<p>SEC.</p> <ol style="list-style-type: none"> 1. Council authorized to issue bonds. 2. Proceeds; how applied. 3. Principal; when payable. 4. Interest; when payable. 5. Exempt from taxation for municipal 	<p>SEC.</p> <ol style="list-style-type: none"> 6. Issuance of bonds submitted to vote. 7. Authority of council.
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That in addition to the bonds heretofore issued by it, and now outstanding, the council of the city of Grafton, in the county of Taylor, be and the same is hereby authorized and empowered to issue bonds to an amount not exceeding the sum of thirty-seven thousand, five hundred dollars, in the aggregate, at any rate of interest not exceeding six per centum per annum; *provided*, that such indebtedness shall not exceed, in the aggregate, including existing indebtedness, two and one-half per cent of the taxable property in said city of Grafton, to be ascertained by the last assessment made for state and county taxes next before the incurring of such indebtedness.

Sec. 2. That said bonds and the proceeds arising from their sale, shall be used only to pay for extending the intake water pipe and to purchase and construct another water tank in connection with the water works, to build a crematory, to rebuild the cemetery road,

and to pay the present outstanding orders heretofore issued by said council, and that any one legally holding such a claim shall be authorized, at his option, to take bonds in exchange for said orders, or such evidence of debt, at their then market value, to be ascertained and determined by the said city council.

Sec. 3. That the principal of said bonds shall be payable after ten years, at the option of the said council, but not to exceed thirty-four years from their date, at such times and place as are designated on the face thereof, and that the said city council shall annually provide a levy that will pay the interest on said bonds and will pay the said bonds within thirty-four years.

Sec. 4. That the interest on the said bonds shall be payable semi-annually at such times and place as may be determined by the said council, all of which shall be expressed on the face of the coupons for the payment of said interest, attached to the said bonds.

Sec. 5. That the bonds authorized to be issued under this act shall be exempt from taxation for municipal purposes, which fact shall appear on the face thereof as part of the contract with the purchaser; and that none of the said bonds shall be sold, delivered or exchanged for less than their face value.

Sec. 6. Said bonds shall not be issued and no debt contracted under this act, unless and until all questions connected with the same shall have been first submitted to a vote of the qualified voters at a regular or special election held for the purpose within the corporate limits of the said city of Grafton, and shall have received three-fifths of all the votes cast for and against the same, pursuant to section eight of article ten of the constitution of the state of West Virginia.

Sec. 7. The council of the said city of Grafton shall have the authority to carry into full force and effect by proper ordinances the provisions of this act.

CHAPTER 15.

(House Bill No. 309.)

AN ACT authorizing the county court of Monongalia county to issue its orders for the purpose of building and completing a new bridge across the Monongahela river from the city of Morgantown to West Morgantown, in place of the old suspension bridge now located there.

[Passed February 14, 1907. In effect from passage. Approved by the Governor, February 21, 1907.]

<p>SEC. 1. County court authorized to issue bonds. 2. Issuance of bonds submitted to vote.</p>	<p>SEC. 3. Purposes; rate of interest; notice by publication. 4. Election, how held.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That for the purpose of building and completing a new and substantial permanent bridge at the present location of the old suspension bridge at Morgantown, in Monongalia county, West Virginia, across the Monongahela river from the city of Morgantown to West Morgantown, in Grant district, in said county, the county court of Monongalia county be and is hereby authorized to issue its county orders, bearing interest, payable at the option of the county court on or before one, two, three, four and five years from the date of the issue, for a sum not to exceed one hundred thousand dollars, notwithstanding any existing law to the contrary; and said orders shall constitute a valid indebtedness against said county, payable out of levies of said county for county purposes in equal amounts for each respective year, and according to the terms of said orders.

Sec. 2. Before such orders are issued and said indebtedness incurred the same shall be authorized by a three-fifths vote of the voters of said county to be ascertained by a special or general election to be called and held in said county.

Sec. 3. The county court of Monongalia county shall by a resolution entered of record, specify the particular purpose or purposes, and amount for which said orders are to be issued and the rate of interest said orders shall bear, not exceeding six per centum per annum; said resolution shall appoint a day on which the election shall be held by the qualified voters of said county, to decide whether or not said orders shall be issued; such resolution shall be published in two newspapers of opposite political parties, if such be published in said county, if not, then in some newspaper of general circulation in said county, for at least four weeks prior to said election.

Sec. 4. Such election shall be provided for, conducted and the result ascertained and declared as provided by law for holding and ascertaining and declaring the result of general elections, and the ballots to be voted at such election, after containing a statement of the amount and kind of orders to be issued and the purpose or purposes for which they are to be used, shall contain the words, "for the orders", and the words, "against the orders".

CHAPTER 16.

(House Bill No. 262.)

AN ACT authorizing the common council of the city of McMechen, to issue bonds to the amount of thirty thousand dollars, to pay for the construction of a system of sewerage for said city.

[Passed February 11, 1907. In effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Council authorized to issue bonds.
2. Interest; when payable; levy.
3. Principal; when payable; levy.
4. Proceeds; how applied.

SEC.

5. Sale of bonds; exempt from taxation for municipal purposes.
6. Notice by publication; submitted to vote.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the common council of the city of McMechen is hereby authorized and empowered to issue bonds to an amount not exceeding the sum of thirty thousand dollars, in the aggregate, at any rate of interest, not exceeding six per centum per annum.

Sec. 2. That the said common council of the said city shall designate whether the interest on said bonds shall be paid annually or semi-annually, and the place where the same shall be payable, all of which shall be expressed on the face of the coupons for the payment of the interest attached to said bonds.

Sec. 3. The principal of said bonds shall be payable in not less than ten and not exceeding thirty years after the date of their issue.

The common council of the said city of McMechen shall provide for the collection of a direct annual tax upon all the real estate and personal property subject to taxation in the said city of McMechen, which direct tax shall be levied as a separate tax, and in addition to all other taxes that may be levied for the benefit of said city, sufficient to pay annually the interest on said bonds, and the principal thereof within the time which the said bonds shall be made payable.

Sec. 4. The proceeds arising from the sale of the said bonds shall be applied in payment of all claims, demands and evidences of debt against the city of McMechen, arising out of the construction of a system of sewerage within the corporate limits of the said city of McMechen, and all labor performed thereon, including all fixtures, pipes, rights-of-way and all other materials necessary and useful in the construction and completion of the said system of sewer-

age within the said city of McMechen; *provided*, that no such claims, demands, or evidences of debt against the city shall be paid out of said proceeds resulting from the said issue of bonds unless the same shall have been authorized and directed to be paid by the common council of the said city of McMechen.

Sec. 5. Bonds authorized to be issued under this act shall not be sold or negotiated for less than par value, and shall be exempt from taxation for municipal purposes, which fact shall appear upon the face thereof as a part of the contract with the purchaser. Said council shall have the authority to prescribe the manner or mode of selling or disposing of said bonds.

Sec. 6. Whenever the said corporate authority shall provide by ordinance for the issuing of the bonds authorized by this act, and for the purpose mentioned therein, said ordinance shall not become operative, and shall not have force and effect until it shall have been published in a newspaper of general circulation in the county of Marshall for two consecutive weeks, and have been approved by three-fifths of the legal votes of said city cast for and against the same at an election, either special or general, to be held at the usual voting places, within said city, within ten days after the expiration of the publication of two weeks of such ordinance, as herein provided for, and in the publication of said ordinance notice shall be given of the day on which said election shall be held; and in such election the conduct and returns thereof shall be as provided by law of all other elections held in said city for officers and other purposes.

CHAPTER 17.

(Senate Bill No. 213.)

AN ACT to enlarge the boundaries of the independent school district of the city of Charleston.

[Passed February 22, 1907. In effect ninety days from passage. Became a law without the approval of the Governor.]

<p>SEC. 1. Boundaries of Independent school district enlarged.</p>	<p>SEC. 2. Submitted to vote; special elections; when held. 3. How elections held; result.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That the boundaries of the independent school district

of the city of Charleston shall be enlarged so as to include all the territory embraced in the corporate limits of said city, as provided in an act of the legislature of West Virginia passed on the fifteenth day of February one thousand nine hundred and seven, entitled: "An act to amend and re-enact the act of the legislature of West Virginia passed on the thirteenth day of February, one thousand eight hundred and ninety-five," and for the additional purposes set out in the title thereof.

Sec. 2. *Provided, however,* that before this act shall take effect as to the territory proposed to be included in said independent school district from the district of Charleston, it shall be submitted to the voters of the school district of Charleston at a special election to be held in said district under the direction of the board of education thereof, to be held on the fourth day of June, one thousand nine hundred and seven, and before the same shall take effect as to the territory proposed to be included in the said independent school district, from the district of Loudon, it shall be submitted to the voters of the said school district at a special election to be held in said district, under the direction of the board of education thereof, on the fourth day of June, one thousand nine hundred and seven.

Sec. 3. The tickets for the said elections herein provided for shall have written or printed thereon "for independent school district" and "against independent school district." The said elections shall be held and conducted and the result thereof, in each of said districts, ascertained by the same officers respectively charged with these duties at the last preceeding school election in each of said districts, and if the majority of the votes cast upon said question shall be in favor of said independent school district in either of the districts aforesaid, then so much of said territory now within the city of Charleston as lies within the districts or either of them so voting in favor of the independent school district, shall thereafter be included within the independent school district of the city of Charleston.

CHAPTER 18.

(Senate Bill No. 68.)

AN ACT to create and establish the independent school district of Logan, in the county of Logan, state of West Virginia.

[Passed February 12, 1907. In effect from passage. Approved by the Governor February 21, 1907.]

<p>SEC.</p> <ol style="list-style-type: none"> 1. Independent school district of Logan; boundary line defined. 2. Board of education; authority of; term and pay of members; election, when held. 3. Vacancies in board; how filled. 4. President and secretary of board; how elected; to take oath of office; duties; compensation of secretary. 5. Stated meetings. 6. Corporate name, powers and liabilities. 7. Text books; attendance of pupils. 8. Power to establish high schools; who to attend. 9. Admission to schools. 	<p>SEC.</p> <ol style="list-style-type: none"> 10. School for colored children. 11. Superintendent of school, salary and duties. 12. Teachers; appointment and qualification of. 13. Provisions as to moneys belonging to the old district and apportionment of liabilities. 14. Levy; how conducted; limit. 15. Polling places; ballot for special election; expense of election; notice by publication. 16. Assessments; by whom collected; how disbursed. 17. Duties of sheriff. 18. Inconsistent acts repealed.
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That in the event the majority of the votes cast at an election to be held on the first Monday in May, one thousand nine hundred and seven, be in favor thereof, the following described territory of Logan district, Logan county, shall after the result of such election is ascertained and declared, be "The independent school district of Logan". If a majority of the votes cast at such election be for the independent school district, to-wit:

Beginning at a stake in the center line of the Guyandotte Valley railroad at Bill Ellis hollow; thence north 17 33' east 854.65 feet to a dead sugar tree in said hollow; thence north 29 39' west 7019 feet to a stake in the center line of said railroad at the mouth of Varney branch; thence north 78 29' west 528.07 feet crossing Guyandotte river to a stake at high water mark on the lower edge of the county road; thence with the high water mark of said river to the mouth of Island creek, a distance of about one-half mile; thence with the right hand side of said creek as you ascend the same to the mouth of Coal branch; thence crossing said Island creek to a stake at high water mark; thence down said Island creek with the right hand side thereof as you descend to the mouth of a small tributary thereof known as the Tide; thence with the meanders of the Tide in an easterly direction to a stake at high water mark on the bank

of the Guyandotte river at the east mouth of said Tide; thence following the right hand side of said Guyandotte river at high water mark as you ascend the same to a point opposite the mouth of the Bill Ellis hollow, a distance of about a mile; thence crossing said Guyandotte river to a stake, the point of beginning.

Sec. 2. The board of education of said district shall consist of three members who shall be elected by the qualified voters residing therein, and shall be vested with the same rights and exercise the same powers and perform the same duties and be governed by the same laws that boards of education elsewhere in the counties, or are may hereafter be governed, except in so far as changed by the provisions of this act, and in the event of the establishment of the school district, a board of education shall be elected on the second Monday in July, one thousand nine hundred and seven. The term of office of the members of said board shall commence on the first day of July following their election, and the said members so elected shall hold their office until the first day of July in the year one thousand nine hundred and nine, and until their successors have been elected.

The qualified voters of the independent school district shall elect a board of education at the general election held on the first Tuesday after the first Monday in November, in the year one thousand nine hundred and eight, for the said district, consisting of three members, one of whom shall serve for the term of one year, one for the term of two years and one for the term of three years, and until their successors have been elected and qualified. The term of office of which each candidate is voted for shall be designated on the ballots used at said election. The regular term of members of said board of education shall be six years, and one member of said board shall be elected each two years after said election in November, one thousand nine hundred and eight, and the general election held on the first Tuesday after the first Monday in November. The terms of office of members of said board shall commence on the first day of July following their election. The compensation of the members of the said board of education shall not exceed two dollars per day per member for the time actually engaged in performing the duties required of them, and no member to receive more than twenty dollars in any one year.

Sec. 3. Any vacancy that may occur in the office of school commissioner by death, resignation or from any cause, shall be filled by

the board of education of the district at their first regular meeting thereafter, or as soon as circumstances will permit, by the appointment of a suitable person, who shall hold his office until the next election of school commissioners or members of the board of education, when a member of said board of education shall be elected to fill the unexpired term.

Sec. 4. The board of education shall elect annually, at the first meeting, one of its members to act as president of said board, who shall perform all the duties which are required to be performed by such officer of any board of education which shall not be inconsistent with this act; the board shall elect at the same time a secretary, who shall perform such duties as are required by secretaries of other boards of education in the county. The president shall have one vote as a member of said board and shall not vote on any question arising in the board more than once by reason of being the presiding officer; the president and other members of the board of education and the secretary shall, before performing any other duty required of them, take the oath of office required to be taken by presidents, members and secretaries of boards of education in said county; the secretary shall record in the book provided for the purpose, all the official acts and proceedings of the board, which shall be a public record, open to the inspection of all persons interested therein, and shall perform all such other duties which are not inconsistent with this act, which are required of the secretaries of the several boards of education in the county; for his services as secretary he shall receive such compensation, not exceeding one hundred dollars per annum, as the board may allow; in his absence the board may appoint one of its members or some other person secretary for the time being.

Sec. 5. The board of education shall hold stated meetings at such times and places as they may appoint, not less than two members being required to constitute a quorum for the transaction of business; special meetings may be called by the president when he shall deem it necessary, or at the request of the other two members, by the secretary. The concurrence of two members of the board shall be required to elect superintendents or teachers and to decide all questions involving expenditure of money.

Sec. 6. The board of education of the independent school district of Logan shall be a body corporate, and as such may purchase, hold and grant estate, real and personal, contract, sue and be sued,

plead and be impleaded; may receive any gift, grant, donation or devise and do other corporate acts; they shall have the management and be vested with the title of all real and personal estate for the use of the public schools within the district, and shall manage and dispose of the same as will in their opinion, best subserve the interest of the district.

Sec. 7. The board of education of said independent school district of Logan, shall have exclusive control of all public schools within the district; shall have power to make all necessary rules and regulations for the government of said schools of the district, for the exclusion of pupils whose attendance would be dangerous to the health or detrimental to the discipline of the school or schools; they shall prescribe the same text books used throughout the county of Logan, but may prescribe other and advanced courses of study to be pursued in the schools of said district; and to this end may supply the list of text books adopted by said counties and may furnish books and stationery for the use of indigent children in attendance at the schools of the said district; they may also furnish all necessary apparatus and books for the use of the schools of the district, and incur all other expenses necessary to make the system efficient for the purpose for which it was established, and to pay the same from the building fund of the district.

Sec. 8. The board of education shall have power to establish within the district such schools, including high schools, by such names as may be prescribed by said board, and may in its judgment be best for the interest of the district; the branches to be taught in the high schools and other schools within the district shall be such as are prescribed by the board of education; the schools of the district shall be subject to such grading as the superintendent for the district may direct. The said high school shall be opened to the white pupils of the district, but no pupil shall be entitled to enter such school until the city superintendent shall have been satisfied that the pupil has made due proficiency in the branches taught in the other schools of the district.

Sec. 9. Admission to the various schools of the district shall be free to all children, wards and apprentices between the age of six and twenty-one years, who are actually residents within the district; non-residents of said district may be allowed to attend the schools of the district upon the payment in advance of such tuition as the board of education may prescribe.

Sec. 10. The board of education shall establish within the district, one or more separate schools for colored children whenever they may deem it necessary, so as to afford them as far as practicable, the advantages and privileges of a free school education.

Sec. 11. Annually, on the first meeting in July, or as soon thereafter as circumstances will allow, the board shall appoint a superintendent of schools for the district and fix his salary; said superintendent in addition to the duties specified by this act, shall perform such other duties with relation to the schools of the district as the board may prescribe. When the office shall become vacant from any cause, before the expiration of the term for which the superintendent shall have been appointed, the board of education shall fill the same by appointment for the unexpired term. It shall be the duty of the superintendent to make such report to the board of education of the character and condition of the schools of the district as shall enable the secretary to make his required report to the county superintendent. The superintendent shall not directly or indirectly receive any gift, emolument or reward for influence in recommending the use of any book, apparatus or furniture of any kind whatever in the schools of the district. Upon conviction thereof, after having been given a hearing by the board of education, he shall be discharged from further duties without compensation.

Sec. 12. The board of education shall appoint all teachers for public schools of any grade within the district and fix their salaries, at a meeting held not later than the third Monday in August of any year; but no person shall be employed to teach school of the grade for which the appointment is made without having a satisfactory certificate obtained and issued as required by law in the examination of teachers for the public schools of this state. The teachers appointed shall be subject in all respects to the rules and regulations proposed by the superintendent of said district and adopted by the board of education, and they may be removed by the board for incompetency, intemperance or gross immorality, upon the complaint of the superintendent or the motion of any member of the board; but no teacher shall be removed without at least three days' notice of the charges against him and the time and place of hearing, and shall in all such cases be heard in his own defense, if he so desire. All appointment of teachers and superintendents shall be in writing, signed by the president of the

board, secretary and at least one other member of the board of education.

Sec. 13. All moneys, whether belonging to the teachers or building fund of the district of Logan, Logan county, which may be unexpended when the provisions of this act takes effect, or to which said district may be entitled for the year, one thousand nine hundred and seven, shall be divided between the said districts; and said independent district, in proportion to the amount of taxes paid by each of them for the year, one thousand nine hundred and six, and the board of education of the said independent school district of Logan, shall from the money received, if sufficient, pay the salaries of the teachers employed within said district for the year commencing July one, one thousand nine hundred and seven, and other necessary expenses for school purposes within said independent school district. The debts, if any, owed by Logan district at the time this act is ratified by a vote of the people as aforesaid, shall be apportioned between said Logan district and the said independent district of Logan, and paid between and by said districts in the same manner as the funds on hand at that time are divided. It shall be the duty of the board of education of each of said districts to make a settlement as set out in this section as soon as practicable after the election and qualification of the members of the board of education of said independent school district.

Sec. 14. It shall be the duty of the board of education at their annual meeting in July of each year, to ascertain as nearly as possible, the amount of money in addition to all available funds which ought to be expended for school purposes in said district to keep the schools in session at least nine months in the year; for which amount the board shall levy a tax upon the property included in the district and the residence thereof, and the same shall be collected under the provisions of the general school law of the state. The tax to be raised as aforesaid for both teachers and building fund in said school district shall not exceed the rate provided by the general law of the state for such purposes.

Sec. 15. The election provided for in section one of this act shall be by ballot, which ballots shall have printed thereon, "For independent school district," and "Against independent school district." Said election shall be held at the usual place of voting in the town of Aracoma, and other places in Logan district; the said election shall be superintended and the result thereof ascer-

tained and declared by election officers to be appointed by the county court of Logan county; and all the provisions of the election laws of this state shall be enforced and shall govern such election unless otherwise provided by the county court of said county; the expense of said election shall be paid by the board of education of Logan district of said county, in case of a majority of the votes cast at such election are against the independent school district; but if a majority of the votes cast at said election are in favor thereof, then, expenses of said election shall be paid by the board of education of said independent school district and collected by the sheriff of Logan county. Notice of said election to be given by publication once a week for four consecutive weeks prior thereto in some newspaper of general circulation in the district.

Sec. 16. The assessments made under the provisions of this act shall be levied by said board of education of the independent school district and collected by the sheriff of Logan county and the amounts of said levies shall be charged in full to said officer, who shall be held to account for the same. No money collected under the provisions of this act shall be paid out by said sheriff except on an order signed by the president and secretary of said board of education of said independent district, and specifying on its face the particular account to which the things is chargeable and the purpose for which it was drawn.

Sec. 17. The sheriff of Logan county shall annually, on or immediately before the first day of July in each year, make such settlement with the board of education of said independent school district as the general school law may provide and for collecting and disbursing the taxes so assessed, said sheriff shall be entitled to not more than five per cent upon the amount collected.

Sec. 18. All provisions of the general school law of this state and all laws and acts heretofore existing which are in any manner inconsistent with this act shall be void within the district; otherwise the said general school law shall remain in full force and effect therein.

CHAPTER 19.

(Senate Bill No. 70.)

AN ACT to amend and re-enact section one, of chapter two hundred and sixteen of the acts of the legislature of West Virginia of one thousand eight hundred and seventy two and one thousand eight hundred and seventy three, entitled "An act relating to the school district of Martinsburg, West Virginia;" and also to amend and re-enact section eleven of said chapter as amended and re-enacted by chapter seventeen of the acts of the legislature of West Virginia for one thousand eight hundred and seventy-five, and as amended and re-enacted by chapter one hundred and seven of the acts of the legislature of West Virginia for one thousand eight hundred and seventy-five.

[Passed February 12, 1907. In effect ninety days from passage. Approved by the Governor, February 19, 1907.]

SEC.

1. School district defined.
11. Duty of board of education; assessment of taxable property for school purposes; limit; building

SEC.

fund; may borrow money and issue bonds; when payable; interest; principal; submitted to vote; election; how held.

Be it enacted by the Legislature of West Virginia:

That section one of chapter two hundred and sixteen of the acts of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three, and section eleven of chapter one hundred and seven of the acts of one thousand eight hundred and seventy-five, be amended and re-enacted so as to read as follows:

Sec. 1. The town of Martinsburg contained within the boundaries thereof now established, or that may hereafter be established by law, shall constitute but one school district, to be known as "The school district of Martinsburg."

Sec. 11. It shall be the duty of the board of education annually in the month of July, to determine as nearly as practicable the amount of money necessary, in addition to all other available funds, to continue the schools of the district for a period of not less than nine months and for all other purposes relating to the schools of the district, such as repairing and improvements of school premises, the purchase of sites and the building of school houses, the payment of debts previously contracted, which may fall due within the year. and the said board shall cause the amount to be assessed on all the taxable property of the district,

subject to state and county taxes; *provided*, that no more than fifty cents on the one hundred dollars valuation of said taxable property shall be assessed in any one year for the purpose of continuing the schools for said period of not less than nine months, and for ordinary repairs and incidental expenses, and not more than forty cents on the one hundred dollars valuation for the purchase of sites, the building of houses and permanent improvements; the amount collected under the assessment last named shall be known as the building fund; the assessment made under the provisions of this section shall be levied by the board of education, and collected by the same officer by whom the county levies are collected; the amounts thus collected shall severally be certified by the collecting officer to the clerk of the board of education and shall be paid out only upon drafts signed by the president and countersigned by the clerk and issued by order of the board of education; but the board shall not during any one year contract for or expend more than the aggregate amount of its quota of the general school fund, and the amount collected from the levies for that year together with any balance remaining in the hands of the sheriff or collector at the end of the preceding year, and such arrearages of taxes as may be due to it; but the board may borrow money and issue bonds therefor for the purpose of building, completing, enlarging, repairing, remodeling or furnishing school houses within said district; said bonds shall be payable within not exceeding thirty-four years from their date and the rate of interest thereon shall not exceed six per centum per annum, and they shall not be sold for less than par; but in no other case shall any debts be incurred by said board to be paid out of the school money for any subsequent year; *provided*, that no debt shall be contracted under this section which shall, including existing indebtedness, in the aggregate exceed two and one-half per centum on the value of the taxable property in said district to be ascertained by the last assessment for county taxes previous to the incurring of such indebtedness, nor without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on said debt and the principal thereof within not exceeding thirty-four years; and the board may also, if it see fit, provide for the payment after three years of the principal of one or more of such bonds in each year, the bonds so to be paid to be selected by the board, or a sinking fund may be created with a view to the

payment of the aggregate amount of such bonds when they become payable; and *provided further*, that no debt shall be contracted under this section unless all questions connected therewith shall have first been submitted to a vote of the qualified voters of said district, and shall have received three-fifths of all the votes cast for and against the same; such submission may be made at any general election or any municipal election held within the said town of Martinsburg, or at a special election to be held for the purpose; such election shall be held and conducted in the same manner as general elections are held and conducted; and said board shall cause the words "for bond issue" and "against bond issue" to be written or printed upon the ballots used at such election within the said town of Martinsburg, so that the voters therein may conveniently express their sentiments upon the said question.

In case the said submission is made at any general or municipal election, the officers appointed by law to hold and conduct the same shall count the votes for and against said bond issue and shall, within three days after said election, certify the result of such vote to the board of education, which shall within five days thereafter record the same among their records and act accordingly.

In case the said submission shall be made at a special election the said board shall appoint three commissioners, two poll clerks, and two challengers, at each voting place in said town of Martinsburg, to hold and conduct the election, and said commissioners shall count the votes and within three days after the said election certify the result thereof to the board of education, which shall then proceed in the same manner as herein provided when such submission is made at a general or municipal election; the commissioners appointed to hold such special election shall return the ballots voted thereat in a sealed package to the board of education at the same time they certify the result of such election.

At least four weeks before such election the president of the board shall issue his proclamation to the voters of the district notifying them of the time and places for holding the same, and the object and purposes thereof, embodying therein a copy of the order of the board showing all questions involved in relation to the proposed bond issue, and the plan of the board providing for the payment of the principal and interest thereof, and such proclamation shall be inserted once a week for four successive weeks before the date designated for the holding of such election, in at least two

newspapers of opposite politics published within said town of Martinsburg, and which shall also be posted for a like period at the front door of the court house of Berkeley county, and at some conspicuous place in each ward within said town.

CHAPTER 20.

(Senate Bill No. 25.)

AN ACT to amend and re-enact sections eight, eleven, twelve, nineteen and twenty-three of chapter two hundred and sixteen of the acts of one thousand eight hundred and seventy-two-three, of the legislature of West Virginia, entitled, "An act relating to the school district of Martinsburg, West Virginia."

[Passed February 18, 1907. In effect ninety days from passage. Approved by the Governor, February 24, 1907.]

SEC.	SEC.
8. Corporate rights and powers of board of education; board of trustees; term of office; power and duties of board of trustees.	12. by whom disbursed. 12. When collecting officer to make settlement; to whom made.
11. Duty of board of education; assessment of taxes for school purposes; rate of levy; different funds; by whom tax collected;	19. How money paid out by district treasurer. 23. School property exempt from taxation.

Be it enacted by the Legislature of West Virginia:

That sections eight, eleven, twelve, nineteen and twenty-three of chapter two hundred and sixteen, of the acts of one thousand eight hundred and seventy-two-three, of the legislature of West Virginia, be amended and re-enacted so as to read as follows:

Sec. 8. The board of education of the district of Martinsburg shall be a body corporate in law; and they may purchase, hold, sell or convey real or personal property for the purpose of education within the district; may receive any gift, grant, donation or devise; may become party to suits and contracts, and do other corporate acts; they shall have the management of, and be invested with the title to all real and personal property for the use of public schools within the district, and shall manage and dispose of the same as in their opinion will subserve the interests of the schools. The board shall also have the same power to acquire and hold property, real and personal, make contracts etc., for the purpose of establishing and maintaining a free public library and branches thereof in said district; and for the management and conduct of

the same, whenever established, a board consisting of five trustees shall be appointed by the board of education, not more than two of whom shall be members of the board of education; they shall hold office for two years, except that of the first set selected, two to be chosen by lot shall hold office for one year, which appointments shall be made at the same time that teachers are appointed; the board of trustees thus constituted shall have power to elect the librarian and other necessary officers, fix their compensation, select and purchase books and periodicals, and make all necessary rules and regulations for the use of the library and its branches; the said board shall certify to the board of education the expenses incurred by it from time to time; and the members thereof shall be personally liable to the creditors and the board of education for any expenses or debts incurred or authorized in any year in excess of the library fund provided in section eleven.

Sec. 11. It shall be the duty of the board of education annually in the month of July, to determine as nearly as practicable the amount of money necessary, in addition to all other available funds, to continue the schools of the district for a period of not less than nine months, and for all other purposes relating to the schools of the district, such as the repairing and improvements of school premises, the purchases of sites and the building of school houses, the payment of debts previously contracted, which may fall due within the year, and also for the establishment, maintenance and operation of a free public library and its branches, and said board shall cause the amount to be assessed on all the taxable property of the district, subject to state and county taxes; *provided*, that not more than five mills on the dollar of valuation of said taxable property shall be assessed in any one year for the purpose of continuing the schools for said period of not less than nine months, for ordinary repairs and incidental expenses and not more than four mills on the dollar valuation for the purchase of sites, the building of houses and permanent improvements and not less than two-tenths nor more than three-tenths of a mill on the dollar of valuation for the establishment, maintenance and operation of said library and its branches; the amount collected under the assessment last named shall be known as the library fund, under that next before the last as the building fund, and that under the first as the teachers' fund; the assessments made under the provisions of this section shall be levied and collected by the same officers

as the county levies are made and collected; the amounts thus collected shall severally be certified by the collecting officer to the clerk of the board of education and shall be paid out only upon drafts signed by the clerk and issued by order of the board, except that as to the library fund the order shall be countersigned by the president of the board of trustees provided for in section eight; but the board of education shall not, during any one year, incur any expenses that shall exceed the amount of the available funds received for school and library purposes.

Sec. 12. The collecting officer shall annually, in the month of July, make settlement with the finance committee of the board of education of all accounts arising from assessments made by the board within the preceding school year for school and library purposes within the district, as provided by the acts of the legislature not included in the provisions of this act.

Sec. 19. No money shall be paid out by the district treasurer except on a draft by the president and countersigned by the clerk of the board of education, and specifying upon its face the particular account to which the same is chargeable; nor as to the library fund without counter-signature of the president of the board of trustees; nor shall any credit be allowed to the treasurer in his annual settlement with the finance committee upon any voucher except such draft.

Sec. 23. All school houses, school house sites and other property for the use of the district shall be exempt from taxation, and also from sale on execution, or other process in the nature of an execution.

CHAPTER 21.

(House Bill No. 135.)

AN ACT to establish the independent school district of Parsons, in the county of Tucker, in the state of West Virginia.

[Passed February 14, 1907. In effect from passage. Approved by the Governor, February 21, 1907.]

SEC.

1. Election authorized to establish school district; name and boundaries.
2. Board of education; eligibility of members; powers and duties; election; term of office; notice by publication; how elections

SEC.

3. conducted.
3. Board to elect president and secretary; compensation and duties.
4. Board to have exclusive control of schools; to make rules and regulations; to prescribe text books; other powers of board.

- SEC.
5. Establishment of high school and issuance of bonds for same to be submitted to vote; branches to be taught; who admitted.
 6. Admission to school of district.
 7. Duty of sheriff as to school funds.
 8. Principal of schools; how appointed; salary; duties; not to receive any gift for influence in recommending books, etc., penalty for violation.
 9. Employment of teachers; assistant principal; his duties and salary; teachers' salary; removals.
 10. Board of education to provide for necessities; to pay principal and

- SEC.
- interest on bonds; annual levy; proceeds of taxes, sales and donations to constitute building fund.
 11. Board shall levy necessary tax for support of schools; rate of tax; proceeds of this levy with money received from state to constitute teachers' fund; to be used for no other purpose.
 12. Board of education not to incur expense in excess of available funds.
 13. Elections; how held; notice by publication.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That in the event of a majority of the votes cast at an election to be held on the fourth Tuesday in May, one thousand nine hundred and seven, in Black Fork district, be in favor thereof, the following described territory, in the county of Tucker, shall after the result of such election is ascertained and declared, be the independent school district of Parsons, to-wit: Beginning at a large red oak called for in the old corporation survey, north 50 west 67 poles and 8 links to a stone on the north bank of Sugar Camp run, 1 pole and 3 links south of the Clover Run Co's railroad, reference point north 4 west 7 links to a large white oak; thence south $48\frac{3}{4}$ east 24 poles and 15 links to a small maple with two oak and birch pointers standing on shelving bank north of county road; thence south $62\frac{1}{2}$ east 12 poles and $12\frac{1}{2}$ links to the Western Maryland Railway Co's lookout sign; thence crossing Shaffer's fork, south 47 east ——— to a stone on the bank of said river in John Peter's field, reference point north 24 east 3 poles to a small poplar on the bank of the river; thence north 81 east 250 poles and 10 links to a stone west of the county road and at right angles to the southeast corner of the cemetery fence, 8 poles and 19 links, reference point south 75 east 2 poles and 10 links to a large chestnut standing east of the county road; thence north $27\frac{3}{4}$ east 21 poles to the north east corner of the cemetery fence; thence continuing with the same bearing 42 east, reversed of the east side of the cemetery lot to the Black Fork river; thence with the meanders of the said river to the head gates of the sluice dam; thence crossing Black Fork river to the east abutment of the Western Maryland railway bridge across said river; thence crossing said river to the west abutment of the county bridge; thence down the river with its meanders to two small white oaks called for in

the old survey of the Parsons corporation; thence with the old corporation line reversed, south 75 west $190\frac{1}{4}$ poles to a stone against the bank about 4 poles north of a drain; thence south 23 east 126 poles to a beech with poplar, gum and two chestnut pointers; thence south 5 east $97\frac{1}{2}$ poles to the beginning.

Sec. 2. The board of education of said district shall consist of three members, who, to be eligible to election as such members of said board shall have paid either directly or indirectly, for the preceding year, in such territory, taxes on either personal or real property or both, of the assessed value of at least five hundred dollars, who shall be elected by the qualified voters, resident therein and shall be vested with the same rights and exercise the same powers, perform the same duties, receive the same compensation and be governed by the same laws that boards of education otherwise than those of independent districts are governed by, except in so far as changed by the provisions of this act; and in the event of the establishment of Parsons independent school district, a board of education shall be elected on the third Tuesday of June, one thousand nine hundred and seven, who shall serve until their successors are elected and qualified, except that one member shall be elected for one year, one for two years and one for three years, and their terms of office shall begin on the first day of July following election; and after the said first election, one member shall be elected annually on the third Tuesday in June; after the first election all subsequent elections shall be held in said district at such place or places as may be designated by the board of such district, and after two weeks' notice published in all the newspapers published in said district, and by officers to be appointed by the board of education; the election to be held on the fourth Tuesday in May; and third Tuesday in June, one thousand nine hundred and seven, shall be conducted by commissioners to be appointed by the county court of Tucker county, and shall be at the usual voting places in the territory wherein such election is required to be held.

Sec. 3. At the first meeting of the board, which is hereby required to be held in July of each year, or as soon thereafter as practicable, the board shall organize by electing one of their number president; and shall also elect a secretary, who may or may not be a member of the board, who shall perform the same duties and

shall be allowed the same compensation as secretaries of other boards of education.

Sec. 4. The said board shall have exclusive control of all schools within said district; shall have power to make all necessary rules and regulations for the government of the schools of the district; for the admission of pupils therein and for the exclusion of pupils whose attendance would be dangerous to the health or detrimental to the morals or discipline of the school; they may prescribe a uniform list of text books for the use of the schools in the district, but such list to conform to those provided by general law, and may furnish books and stationery for indigent children in attendance at the schools; they may furnish all necessary apparatus and books for the use of the schools, and incur all other necessary expenses to make the system efficient for the purpose for which it was established and pay the same from the building fund of the district.

Sec. 5. The board of education shall have power to establish within the district such schools, including a high school, by such name as may be prescribed by said board, as may in their judgment, be best for the interest of the district, and may issue bonds to raise sufficient funds wherewith to establish such high school; but no such high school shall be established, nor shall any bonds be issued till the question of the establishment of such high school and of the issuance of such bonds, be first submitted to the legal voters of the district at some election for school officers in said district, and a two-thirds vote of the voters voting be cast in favor of the establishment of such high school and the issuance of such bonds.

The branches to be taught in the high school and other schools in the district, shall be such as prescribed by the board of education; the schools of the district shall be subject to such grading as the board may direct; the said high school shall be open to all pupils in the district, but no pupil shall be entitled to enter it until the principal of the schools within the district shall have satisfied himself that the said pupil has made due proficiency in the branches in the other schools of the district.

Sec. 6. Admissions to the various schools in the district shall be gratuitous to all white children, wards and apprentices, or actual residents within the district between the ages of six and twenty-one years; *provided*, that the admission of pupils, who are non-

residents of the district, may be allowed to attend the schools of the district upon payment in advance of such tuition as the board of education may prescribe.

Sec. 7. The sheriff, in the collection and disbursements of the funds raised by the said district for school purposes, shall receive the same commissions, make the same settlements and require the same vouchers in making disbursements of funds, as required by the general law in dealing with other boards of education in the same matters.

Sec. 8. Annually, on the first Monday of July, or as soon thereafter as circumstances will allow, the board shall appoint a principal of the schools for the district, and fix his salary at a sum not to exceed one hundred dollars per month for the school term. And such principal, in addition to his general supervision over the schools of the district, shall perform such other duties as required by this act, and shall also be required by the board to teach at least one room of one of the schools of the district; he shall be liable to removal by the board for any of the causes and in the same manner as provided by general law for the removal of teachers employed to teach in the public schools of this state; and in the event of his removal the board shall fill the vacancy for the unexpired term. It shall be the duty of the principal to make such report to the board of education, of the character and condition of the schools of the district, as shall enable the secretary to make his required report to the county superintendent. The principal shall not receive directly or indirectly any gift, emolument or reward for his influence in recommending the use of any book, apparatus or furniture of any kind whatever in the schools of the district. For any violation of this provision he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars, nor more than one hundred dollars.

Sec. 9. On the first Monday in August, or as soon thereafter as practicable in each year, the said board of education shall meet and employ the necessary number of teachers for the different schools and rooms in the district, including an assistant principal, which assistant principal shall aid the principal in his duties and shall also teach a room in one of the schools of the district, whose salary shall not exceed seventy-five dollars per month for the school term, and shall hold a number one grade of teachers' certificate under a general examination; all other teachers in the differ-

ent rooms and schools of the district shall be paid in accordance with the grade of certificate held by them, but in no case to exceed fifty dollars per month for number one grade, except that the teachers of the primary grade may be paid at the rate not to exceed sixty dollars per month for a number one grade; and all teachers employed may be removed by the board for the same cause and in the same manner as provided for removal of teachers by general law. All appointments of teachers shall be in writing and filed with the secretary.

Sec. 10. It shall be the duty of the board of education to provide by purchase, condemnation, leasing, building or otherwise, school houses and grounds, furniture, fixtures and appendages, and keep the same in good order and repair, and to supply the school houses with fuel, lights and other things necessary for their comfort and convenience; to pay the principal and interest on any bonds issued under the provisions of this act, and all other necessary expense incurred in the district in connection with the schools not chargeable to the teachers' fund. For the purposes mentioned in this section, the board of education shall annually levy a tax on the property taxable in said district, not to exceed in any one year ten cents on every hundred dollars valuation thereof, according to the latest assessment of the same for county and state purposes; the proceeds of the taxes so levied, of school houses and sites sold, of all donations, devises and bequests applicable to the purposes mentioned in this section, shall constitute a special fund to be called the "building fund," to be appropriated expressly for the purposes named in this section.

Sec. 11. In addition to the levy named in the preceding section, the board of education shall, for the purposes of the schools of the district, annually levy such tax on the taxable property of the district, as will from the money received from the state for the support of free schools, be sufficient to keep the schools in operation not less than six months nor more than ten months in the year; *provided*, that the said tax shall not exceed in any one year the rate of twenty-five cents on each hundred dollars valuation, according to the latest available assessment for county and state purposes; the proceeds of this levy together with the money received from the state as aforesaid, shall constitute a special fund to be called the "teachers' fund," and no part thereof shall be used

for any other purposes than the payment of teachers' salaries, and the salary of the principal and assistant.

Sec. 12. The assessment made under the provisions of this act shall be collected as now provided by law. The board of education shall not during any year, incur any expense that shall exceed the amount of the available funds received for school purposes during the year.

Sec. 13. The election to be held on the question of the establishment of the independent school district of Parsons shall be by ballot, and those voting in favor of the establishment of the independent district, shall have written or printed on their tickets, the words, "for independent district," and those voting against the independent district shall have written or printed on their tickets "against independent district." The election shall be superintended, conducted and the result thereof ascertained and declared by the officers hereinbefore provided for, and after notice published for two successive weeks in at least two newspapers published in the district, next prior to the time of holding said election, and such notice to be published by the secretary of the board of education of Black Fork district. All elections held in pursuance of this act shall be held in compliance with the general election laws of this state, except as herein otherwise provided.

Sec. 14. All provisions of the general school law of this state, and all laws existing at the time of the passage of this act, which are in any manner inconsistent with the provisions of this act, shall be void within the district; otherwise the said general school law shall remain in full force and effect in this district as elsewhere in the state.

CHAPTER 22.

(House Bill No. 285.)

AN ACT to amend chapter thirty of the acts of the legislature of one thousand nine hundred and five, creating and establishing the independent school district of Sistersville, by enlarging the powers of the board of education thereof and empowering the board to establish and maintain a public library therein and prescribing the manner of its control.

[Passed February 18, 1907. In effect from passage. Approved by the Governor, February 22, 1907.]

<p>SEC. 32. Board of education may establish and maintain public library; to lay levy; rate; by whom collected; to make settlements with board.</p> <p>33. Board authorized to issue bonds; proceeds of sale; interest; when payable.</p> <p>34. Indebtedness not to exceed two and one-half per cent. of tax-</p>	<p>SEC. able property; question of issuance of bond submitted to vote.</p> <p>35. Action of board in relation to bond issue.</p> <p>36. Trustees of library; of whom composed; powers and duties of trustees; to elect president and secretary; duties of secretary; how money paid out by sheriff.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 32. The board of education of the independent district of Sistersville may establish and maintain a public library for the use of its inhabitants under such regulations as shall be prescribed hereinafter, and may receive, hold any gift, bequest or devise for such library. For the purpose of establishing and maintaining such library, the board is authorized to lay a levy, to be laid at the same time other school levies are laid, not to exceed five cents upon every one hundred dollars worth of taxable property within said district, which tax to be known as "library fund," and to be collected and paid out by sheriff of the county as other school taxes are collected and paid out by him; the sheriff shall keep said tax separate from all other taxes collected by him from said district, and shall make settlement with the board in relation to said fund, at the same time he makes his settlement with the said board.

Sec. 33. The board is authorized and empowered, at any time after this act takes effect, to issue and sell bonds of said district and with the proceeds erect a library building within and for the use of the inhabitants of said district; such bonds to bear interest at a rate not exceeding six per centum per annum, and to become payable in not less than three nor more than fifteen years from the date thereof.

Sec. 34. No indebtedness incurred under this act shall exceed when added to any existing indebtedness of said district, two and one-half per cent of the value of the taxable property of said district; such values to be ascertained by the next preceding assessments made with reference to state and county taxes; nor shall such bonds be issued without due provisions for the assessment and collection of a direct annual tax sufficient to pay annually the interest thereon and the principal thereof at maturity; nor unless all questions connected therewith shall have been submitted to a vote

of the qualified voters of the said district, and three-fifths of all the votes cast at such election shall have been in favor of such issue.

Sec. 35. When said board shall deem it expedient to exercise the power conferred, they shall proceed in all respects in relation to such bond issue as is required of them in submitting the proposition of issuing bonds for the erection of one or more school buildings in said district as provided in chapter thirty of the acts of one thousand nine hundred and five.

Sec. 36. Said board shall as soon as this act takes effect, appoint three trustees either male or female or both, who together with the board of education shall constitute the trustees of said library.

Said trustees shall have full charge and control of the said library, employ a librarian and shall prescribe the rules and regulations of the same; said trustees shall be appointed for a term equal respectively to the terms of the board of education, and may be removed from office by the board for the same cause that boards of education may be removed and in the same manner, except that the board shall hear and determine the same; said trustees shall organize by electing one of their members president, and a secretary whose duties shall be respectively in relation to said library and library fund, the same as those devolving upon the president and the secretary of the board of education; and no money shall be paid out of said library fund, by the sheriff, except upon the order of said trustee; such order to be signed by the president and secretary of said trustees, and countersigned by the president and secretary of the board of education of said district.

CHAPTER 23.

(Senate Bill No. 133.)

AN ACT to amend and re-enact sections one, three, four and seven, of chapter thirty-one of the acts of the legislature of one thousand nine hundred and five, establishing a high school in the county of Tyler.

[Passed February 22, 1907. In effect from passage. Became a law without the approval of the Governor.]

<p>SEC. 1. High school established; board of directors; term of office. 3. Board made a corporation; duties of board.</p>		<p>SEC. 4. Levy; limit. 7. Salary of board of directors; how paid.</p>
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Be it enacted by the Legislature of West Virginia:

That sections one, three, four and seven, of chapter thirty-one of the acts of the legislature of one thousand nine hundred and five be amended and re-enacted so as to read as follows:

Sec. 1. That a high school be and the same is hereby established in the county of Tyler, in or near the town of Middlebourne, state of West Virginia, which shall be known as the "Tyler county high school," the site for which is to be selected by the board of directors of said school, which said board shall consist of the presidents of the boards of education in the several magisterial districts of the said county of Tyler, the president of the board of education of the independent school district of Sistersville, and the county superintendent of free schools of said county, who shall be *ex-officio* president of said board; the term of office of said board shall be for the term of office for which the members thereof were elected or appointed.

Sec. 3. Such board of directors shall be a body corporate, and as such may sue and be sued, and shall receive, hold and dispose of according to the usual form of law, and the intent of the instrument conferring titles, all gifts, grants or devises made for the use of such high school, and shall be deemed the owner of all property belonging to said high school, and shall be liable for all claims which may legally exist against it. And the said board shall provide suitable grounds, by purchase, condemnation, or otherwise, not to exceed thirty acres; but no residence, yard or garden shall be taken unless other suitable grounds can not be procured; erect the necessary buildings, and maintain and equip the same with all necessary furniture and apparatus.

Sec. 4. For the purpose of establishing such high school a levy not to exceed fifteen cents on the one hundred dollars valuation of property for taxable purposes, for the first year, and not to exceed five cents on the one hundred dollars valuation of property for taxable purposes after the first year, may be laid, and a further levy not to exceed five cents on the one hundred dollars valuation of property for taxable purposes, for the maintenance of said high school, may be laid annually; and the board of directors of said high school, is hereby authorized to lay such levy in accordance with the provision of this section for the purpose of erecting, building and maintaining said high school.

Sec. 7. The members of said board of directors shall be allowed a compensation of four dollars per day for their services for the time they are actually employed in transacting the business of said high school, not to exceed ten days in any one year, and all claims allowed by the said board shall be paid out of the county high school fund, by requisition on the sheriff of Tyler county, properly drawn and signed by the president and secretary of said board.

CHAPTER 24.

(House Bill No. 218.)

AN ACT to amend chapter fifty-seven of the acts of the legislature of West Virginia, passed February ninth, one thousand eight hundred and ninety-five, establishing the Wellsburg independent school district, by adding section twelve thereto.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 25, 1907.]

SEC. 12. Examining board: not eligible as teacher: duties of board: qual- fication of teachers; examina-		SEC. tions: compensation of exami- ning board.
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Be it enacted by the Legislature of West Virginia:

That section twelve be added to the act establishing the Wellsburg independent school district, so as to read as follows:

Sec. 12. The superintendent of city schools, who shall be *ex-officio* chairman of the board of examiners, with two others persons appointed by the board of education for a term of two years, shall act as an examining board for the Wellsburg independent school district. The two members appointed by the board shall not be eligible to appointment as teachers in said district during their term of office.

It shall be the duty of said board to examine all applicants for positions as teachers in said district excepting those who hold state certificates; the examining board shall issue to such applicants as they shall find entitled thereto, special certificates provided by the board of education; said certificates shall entitle the holder to teach three years in city schools without further examinations, and may be renewed once at the discretion of the board of examiners; applicants receiving certificates must have a general aver-

age of ninety per cent on a scale of one hundred per cent, and not less than seventy-five per cent on any one branch, and must have had at least one year's experience as a teacher. Examinations shall be held at such times and places as the board may appoint; the subjects shall be the same as those for uniform examinations for the state of West Virginia and such other subjects as the board may prescribe; applicants for certificates shall pay to the board the sum of three dollars and said money shall be turned into the building fund of the district. The examining board shall receive three dollars per day for time actually employed in conducting the examinations, grading manuscripts and issuing certificates; the said money shall be paid out of the building fund of the district. Any teacher holding a first grade certificate in West Virginia may be allowed to teach in the independent district of Wellsburg without further examination.

No person shall be employed to teach in the Wellsburg independent district without a city or state certificate. No salary shall be paid to any teacher unless a certificate be filed with the secretary of the board of education.

CHAPTER 25.

(Senate Bill No. 159.)

AN ACT to amend and re-enact chapter eight of the acts of the legislature of West Virginia, passed February twelfth, one thousand eight hundred and ninety, entitled "An act establishing a criminal court for the county of Kanawha," as amended and re-enacted by chapter eighty-seven of the acts of the legislature of one thousand nine hundred and five, and changing the name of said court.

[Passed February 9, 1907. In effect from passage. Approved by the Governor. February 13, 1907.]

SEC.

1. Intermediate court established.
2. Jurisdiction concurrent with circuit court; in what cases; appeals from justices; appeals from police courts.
3. Judge now in office; successor, when to be elected; qualification; term of office and when to begin; subject to what laws.
4. What powers and jurisdiction conferred on court; powers of judge in vacation.

SEC.

5. Facts authorizing jurisdiction need not be set forth upon record; jurisdiction presumed unless records appear contrary.
6. Power to punish for contempt.
7. County court to provide necessary books and stationery; also a seal; faith and credit given to records of court and to certificate of judge or clerk.
8. Who to be clerk of intermediate court; his fees; subject to what

- Sec. statutes; to sign all process, etc., and to direct same; who to execute process, etc.
9. Salary of judge, how paid.
10. Salary of clerk in addition to fee, how paid.
11. Term of court and when to begin; adjourned and special terms.
12. Where terms of court to be held.
13. Duties of sheriff of Kanawha county, and sheriffs of other counties as to process of court; other duties of Kanawha county sheriff; powers, rights and fees of officers executing process, etc.
14. Grand jury for each term; special grand juries; what offenses grand jury may consider; provisions of law applicable; how grand and petit juries chosen and impaneled; compensation.
15. When judge cannot preside he may certify cause to circuit court; proceedings; recognizances in bailable cases; special judges, when; how selected; per diem and how paid; change of venue.
16. Indictments found or pending in circuit court may be certified to intermediate court; recognizances in such cases.
17. Appeals and writs of supersedeas; in what cases civil and criminal allowed or awarded by circuit court.
18. Appeal writ of error or supersedeas; how obtained; what law to govern proceedings; no appeal in certain cases unless petition be presented within one year from date of judgment.
19. Appeal writ of error or supersedeas to be docketed in circuit court; how proceeded in.
20. In case circuit court deems judgment, etc., plainly right and rejects the appeal, etc., on that ground; procedure of appeal

- Sec. from order of rejection.
21. Proceedings in circuit court on appeals, writs of error or supersedeas allowed in vacation; duty of clerk of court.
22. Appeals allowed to the intermediate court concurrent with circuit court, in what cases; provisions of law governing proceedings.
23. If office of judge of intermediate court be contested; how heard and determined.
24. Vacancies in office; how filled.
25. How judge may be removed from office.
26. Taxation of costs; how governed.
27. } Certain provisions of general law
28. } applicable to circuit court to apply to intermediate court.
29. Power to grant writ of habeas corpus concurrent with that of supreme or circuit court; provisions of law applicable.
30. Prosecuting attorney or assistant to attend terms of court; what duties to perform; compensation.
31. Sections forty-one, forty-two and forty-three of chapter forty-one of Code made applicable to intermediate court.
32. West Virginia reports and Acts of Legislature to be delivered to judge.
33. Laws relating to rules of circuit court applicable to intermediate court.
34. Judgment rendered in intermediate court; how recovered; judgment lien docket to be kept in county clerk's office.
35. Attachments issued and served by clerk of intermediate court in same manner as issued and served by circuit clerk.
36. Appeals from justices pending in circuit court may be sent to intermediate court.

Be it enacted by the Legislature of West Virginia:

That chapter eight of the acts of the legislature of one thousand eight hundred and ninety, passed February twelfth, one thousand eight hundred and ninety, entitled "An act establishing a criminal court for the county of Kanawha," as amended and re-enacted by chapter eighty-seven of the acts of the legislature of one thousand nine hundred and five, be amended and re-enacted so as to read as follows:

Sec. 1. That a court of limited jurisdiction is hereby established in and for the county of Kanawha, to be held and presided over by a judge to be appointed or elected as provided by this act, which court shall be named and designated, "The intermediate court of Kanawha county."

✓ Sec. 2. The said court shall have jurisdiction within the county of Kanawha concurrent with the circuit court of said county, of all felonies, misdemeanors and offenses committed within the said county; and also of all matters at law where the amount in controversy, exclusive of interest and costs, does not exceed five hundred dollars. And also of appeals from the judgments of the justices of said county when such appeals shall lie to said court in the same manner and under the same regulations as provided in the general law for appeals from justices; also for the trial of all cases concurrent with the circuit court for the maintenance of illegitimate children, as provided by chapter eighty of the code of West Virginia; and the court shall also have jurisdiction concurrent with the circuit court of said county as to the supervision and control of all proceedings before justices of said county, or the mayor or police judge or police court of any incorporated city, town or village of said county, by *mandamus*, prohibition and *certiorari*; said court shall also have jurisdiction concurrent with said circuit court, of appeals from the police judge or the police court of the city of Charleston in said county.

Sec. 3. The judge of said court elected at the general election held in this state on the Tuesday after the first Monday in November, one thousand nine hundred and two, shall hold his office for the term of six years, and until his successor is duly elected and qualified; and there shall at the general election in this state to be held on Tuesday after the first Monday in November, one thousand nine hundred and eight, and every six years thereafter, be elected by the legal voters of said county, a judge of the intermediate court of Kanawha county, who shall be a resident member of the bar of said county, who shall preside over the said court for the term of six years, from the first day of January succeeding said election, and shall be, except as to his term of office and jurisdiction, subject to the laws in force governing circuit judges.

Sec. 4. The power and jurisdiction conferred by law upon the circuit courts in the trial of cases and proceedings, both civil and criminal, and the modes and procedures authorized therein within the county of Kanawha are hereby conferred upon and shall be exercised by the said intermediate court of Kanawha county, in respect to all cases, matters and proceedings, of which the said last named court is given jurisdiction by this act; and the judge of said intermediate court shall have the same powers in vacation as are

now or may hereafter be conferred upon the judge of the circuit court of Kanawha county in respect to all cases, matters and proceedings within the jurisdiction of said intermediate court.

Sec. 5. It shall not be necessary in any case or proceeding in said intermediate court that the facts authorizing it to take jurisdiction of the case or proceeding shall be set forth upon the record, but jurisdiction shall be presumed unless the contrary plainly appears from the record.

Sec. 6. The said intermediate court shall have the same powers to punish for contempt as are conferred upon the circuit court by law.

Sec. 7. The county court, or tribunal acting in lieu thereof in Kanawha county, shall provide all record books and other books and stationery that may be necessary, and likewise a seal, for said intermediate court. Full faith and credit shall be given to the records of said court and to the certificate of its judge or clerk, whether the seal of the court be affixed thereto or not, in like manner and with like effect as if the same were records of the circuit court or certificates of the judge or clerk of the circuit court similarly authenticated.

Sec. 8. The clerk of the circuit court of Kanawha county shall be *ex-officio* clerk of said intermediate court and perform the duties thereof and shall receive the same fees as are allowed by law, for similar services to the clerk of the circuit court; and in the discharge of his duties as clerk of the intermediate court, he shall be subject to all statutes relating to the clerk of the circuit court. All process, rules and orders of said court in the exercise of its jurisdiction shall be signed by the clerk thereof, and be directed to the sheriffs of the proper counties wherein the same are to be executed, and they shall be executed in like manner and with the same effect as process issuing from the circuit court of said county.

Sec. 9. The said judge shall for his services receive thirty-three hundred dollars per annum to be paid out of the county treasury of said county of Kanawha.

Sec. 10. The clerk of said court shall in addition to the fees of his office be paid out of the county treasury the sum of six hundred dollars per annum.

Sec. 11. There shall be four terms of said court held in each year, commencing on the first Monday in January, the first Monday in April, the second Monday in June, and the second Monday in Oc-

tober. Adjourned and special terms of said court may be called and held as provided for special and adjourned terms of the circuit court.

Sec. 12. The said terms of said court shall be held in Charleston in said county of Kanawha at the court house thereof.

Sec. 13. The sheriff of Kanawha county and the sheriffs of the several counties of the state shall by themselves or their deputies execute all process of said court, or issued by the clerk thereof, directed to them respectively, and all process emanating from said court, or issued by the clerk thereof, shall be directed to and executed by them in the same manner as is provided by law as to process issuing from the circuit court or its clerk; and the sheriff of Kanawha county shall perform the same duties and services for the intermediate court of Kanawha county as he now by law is required to perform for the circuit court of said county; and in the execution of the process, rules and orders of said court the said officers shall have the same power and rights, be subject to the liabilities, govern themselves by the same rules and principles of law and the statutes of the state, and be entitled to the same fees as though the process issued from the circuit court of said county.

Sec. 14. The said court shall empanel a grand jury at each term thereof, and said court, or the judge thereof, may in his discretion, order a grand jury to be drawn or summoned to attend at any special or adjourned term of said court, or at any other time when in his opinion it is proper to do so. Such grand jury may consider any offense against the laws committed within said county of Kanawha, whether the same shall have been committed before the next preceding term of the court or not, and whether the accused shall have been held for trial or not prior to the next preceding regular term, and all the provisions of chapter one hundred and fifty-seven of the code of West Virginia, in regard to grand juries in the circuit court shall apply, so far as applicable, to grand juries in said intermediate court. The grand and petit juries serving in said court shall be chosen and empaneled in the same manner as they are chosen and empaneled by law in the circuit court, and shall receive the same compensation as said jurors in the circuit court.

Sec. 15. If the judge of said court in his judgment cannot properly preside at the hearing of any cause pending therein, said cause may be, in his discretion, certified to, and the original papers, together with a copy of the orders of the court, filed in the circuit

court of said county, and the cause shall be docketed therein and proceeded with as though the cause had originally been brought and the prior proceedings had in the circuit court to which it was transferred; and the said intermediate court may in its discretion take such recognizances from the defendants in a bailable case, and from the witnesses for the state, as he may deem proper, for their appearance before said court; or when for any cause the judge of said intermediate court is incapable of acting, or is absent, a special judge may be elected in the same manner as a special judge of the circuit court, and governed in all respects as far as applicable, to the said special judge of the circuit court, and shall be allowed five dollars a day to be paid out of the county treasury; and a change of venue of any case pending in said court may be ordered as provided in chapter one hundred and fifty-nine of the code of West Virginia.

Sec. 16. The circuit court of said county may, in its discretion, certify to said intermediate court for trial all indictments and prosecutions for felonies, misdemeanors and offenses, now pending in said circuit court, and all which may hereafter be found by the grand juries empaneled in the circuit court, and may in its discretion take such recognizances from the defendants in bailable cases and also from the witnesses for the state as he may deem proper, for their appearance before said court, or as he may order.

Sec. 17. Appeals may be allowed and writs of error and *supersedeas* awarded to the judgments, rules and orders of said court by the circuit court of said county, or the judge thereof in vacation, in the following cases:

1. In all civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars, wherein there is a final judgment or order.
2. In controversies concerning the title of boundaries of land.
3. Concerning the right of a corporation, county or district to levy taxes or tolls.
4. In cases of *habeas corpus*, *mandamus* and prohibition.
5. In cases involving freedom or the constitutionality of a law.
6. In any case where there is a judgment or order quashing or abating or refusing to quash or abate an attachment.
7. In any civil case where there is an order granting a new trial or re-hearing. And in such cases an appeal or writ of error may

be taken from the order without waiting for the new trial or hearing to be had.

8. In criminal cases where there has been a conviction, and in cases relating to the public revenue, the right of appeal or writ of error shall belong to the state as well as to the defendant.

Sec. 18. Any person who is a party to any such controversy wishing to obtain an appeal, writ of error or *supersedeas*, in the cases named in the seventeenth section of this act, may present to the circuit court of Kanawha county, or the judge thereof in vacation, a petition therefor, and chapter one hundred and thirty-five of the code of West Virginia, concerning appeals to the supreme court of appeals shall so far as applicable, govern the proceedings on such appeal, writ of error or *supersedeas*, as to the duties of the petitioner, the said court and clerk thereof; *provided, however*, no such appeal, writ of error or *supersedeas* shall be allowed to the judgment or order of said intermediate court rendered in a case upon appeal from the judgment of a justice of said county, or judgment of the mayor of any incorporated city, town or village in said county; or from the police court or police judge of the said city of Charleston, in a criminal case or proceeding had before them unless the petition therefor be presented in one year from the date of such judgment or order.

Sec. 19. Every appeal, writ of error or *supersedeas* from said court shall be docketed in the circuit court of Kanawha county, and shall be proceeded in, in the same manner as appeals, writs of error or *supersedeas* are proceeded in, heard and determined in the supreme court of appeals.

Sec. 20. In a case wherein the appeal, writ of error or *supersedeas* is to the circuit court and the court or judge thereof deems the judgment or order plainly right, and rejects it on this ground, if the order of rejection so state, no further petition shall afterwards be presented for the same purpose, but the petition and order of rejection with the transcript of the record may be presented to the supreme court of appeals, or judge thereof in vacation, for an appeal from said order of rejection; if the matter is one of which said supreme court of appeals has jurisdiction and, if allowed, the same proceeding may be had thereon as if the same was a petition originally from the circuit court of said county to the supreme court of appeals.

Sec. 21. The said circuit court, where an appeal, writ of error

or *supersedeas* has been allowed by the said court or the judge thereof in vacation shall, upon the hearing thereof, affirm said judgment or order if there be no error therein prejudicial to the appellant, or reverse the same in whole or in part if erroneous, and the circuit court may retain the case for trial or remand the same back to said intermediate court to be further proceeded in and finally determined. And the clerk of said circuit court shall, as soon as practicable, transmit the decision of said circuit court to the clerk of said intermediate court.

Sec. 22. Every person sentenced to imprisonment by the judgment of a justice, or the judgment of the mayor of any incorporated city, town or village, in said county, or by the police court or the judge thereof of the said city of Charleston; or to the payment of a fine of ten dollars or more, shall be allowed an appeal, as provided in section two hundred and thirty of chapter fifty of the code of West Virginia, to the intermediate court of said county, concurrent with the circuit court of said county, and all the provisions of said section shall apply to said appeal and govern the proceedings thereon, and the same shall be proceeded in, heard and determined, and with the like effect, as is provided in said section two hundred and thirty of chapter fifty of the code.

Sec. 23. If the office of judge of said intermediate court be contested, the contest shall be heard and determined in the same manner as the election of judges of the circuit courts are determined.

Sec. 24. If from any cause the office of judge of said court shall become vacant, the vacancy shall be filled in the same manner as in the case of a vacancy in the office of judge of the circuit court.

Sec. 25. The judge of said court may be removed from office for the same reasons in the same manner as judges of the circuit courts.

Sec. 26. In the taxation of costs in said court the clerk and court shall be governed by the same rules and provisions of law as are provided in the circuit court.

Sec. 27. Chapter one hundred and fourteen of the code of West Virginia shall apply to the intermediate court of Kanawha county, in the same manner and to the same extent that it does to the circuit courts of the state.

Sec. 28. Chapter one hundred and fifty-six of the code of West Virginia shall apply to the intermediate court of Kanawha county, and to the judge thereof in vacation, in the same manner and to

the same extent that it does to the circuit court of Kanawha county, or the judge thereof in vacation, and the same powers may be exercised within the county of Kanawha by said court, and judge thereof in vacation, concurrent with the circuit court of said county, as provided for in said chapter. All examinations, recognizances, warrants of commitment and certificates or other proceedings, made returnable to the circuit court of Kanawha county, under the provisions of said chapter one hundred and fifty-six, may be made returnable likewise to the said intermediate court of Kanawha county concurrent with the circuit court of said county.

Sec. 29. The intermediate court of Kanawha county and the judge thereof in vacation shall, concurrent with the supreme court of appeals, the circuit court of said county, or any judge of either of said courts in vacation, grant the writ of *habeas corpus ad subjiciendum*, as provided in chapter one hundred and eleven of the code of West Virginia, and all the provisions of said chapter shall be applicable thereto, and the same shall be governed as herein provided.

Sec. 30. The prosecuting attorney of Kanawha county shall attend the terms of said court, either by himself or his assistant, and perform the duties of his office as required by section six of chapter one hundred and twenty of the code, and for the compensation therein stated and provided.

Sec. 31. Sections forty-one, forty-two and forty-three of chapter forty-one of the code of West Virginia shall apply to the intermediate court of Kanawha county and the judge thereof, in the same manner and to the same extent as they do to the circuit court of Kanawha county and the judge thereof.

Sec. 32. The West Virginia reports and bound acts of the legislature are to be delivered to the said judge of the said court in the same manner as they are required to be delivered to the circuit courts of the state.

Sec. 33. The laws relating to the rules held in the office of the clerk of the circuit court and the powers of the circuit court over the same shall be applicable to said intermediate court, and where not otherwise herein provided, the said court and its clerk shall be governed by these rules and pleadings and regulations where and whenever applicable as are conferred upon the circuit court and its clerk and shall be governed by the same usages and principles of law

Sec. 34. Upon every judgment of said intermediate court the judgment creditors shall be entitled to all liens, executions and remedies to secure or recover the same against any person whatsoever, to which he would be entitled if it were a judgment of the circuit court of the said Kanawha county; judgments rendered in said intermediate court may be docketed in the judgment lien docket kept in the county court clerk's office of any county in like manner and in like effect as other judgments and executions on said judgments may likewise be docketed the same as executions from the circuit court.

Sec. 35. Attachments may be issued by the clerk of said intermediate court under the same regulations and in the same cases as attachments are now issued by the clerks of the circuit courts, whenever applicable, and served in the same manner and with like effect.

Sec. 36. The circuit court of Kanawha county may send to the said intermediate court for trial, all appeals from justices pending in said circuit court at the time of the passage of this act, or that may hereafter be taken thereto.

CHAPTER 26.

(House Bill No. 228.)

AN ACT to amend and re-enact section five of chapter five of the acts of one thousand nine hundred and three, entitled, "An act to establish a court of limited jurisdiction for the county of Marion."

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 25, 1907.]

SEC.

5. Salary of judge of intermediate court of Marion county; how paid.

Be it enacted by the Legislature of West Virginia:

That section five of chapter five of the acts of the legislature of one thousand eight hundred and ninety-three, be amended and re-enacted so as to read as follows:

Sec. 5. The county court of Marion county shall allow, annually to the judge of the intermediate court of said county, not less than fifteen hundred dollars nor more than two thousand dollars, to be paid out of the county treasury.

CHAPTER 27.

(Senate Bill No. 9.)

AN ACT to amend and re-enact section four of chapter eighteen of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-three, as amended by section one of chapter fourteen of the acts of the extraordinary session of the legislature of West Virginia of one thousand nine hundred and four, concerning the salary of the judge of the criminal court of Mercer county, West Virginia.

SEC.

4. Salary of judge of the criminal court of Mercer county.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen, section four, of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-three, as amended by chapter fourteen, section one of the acts of the extraordinary session of the legislature of West Virginia of one thousand nine hundred and four, be amended and re-enacted so as to read as follows:

Sec. 4. That the judge of said court shall for his services receive twenty-one hundred dollars per annum, payable out of the county treasury of said county as provided for by chapter fourteen, section one of the acts of the extraordinary session of the legislature of West Virginia of one thousand nine hundred and four.

CHAPTER 28.

(Senate Bill No. 38.)

AN ACT to amend and re-enact chapter thirty-six of the acts of the legislature of one thousand eight hundred and ninety-three, as amended by chapter eighty-one of the acts of the legislature of one thousand nine hundred and five, relating to the criminal court of the county of McDowell.

[Passed February 8, 1907. In effect from passage. Became a law without the approval of the Governor.]

SEC.

1. Court of limited jurisdiction established; name of court.
2. Jurisdiction concurrent with circuit court; in what cases and proceedings.

SEC.

3. Judge now in office; successor, when to be elected; qualification; term of office and when to begin; disqualified from practicing law; removal; vacancy, how filled.

<p>SEC. 4. Powers and jurisdiction conferred on court; powers of judge in vacation. 5. Facts authorizing jurisdiction need not be set forth upon record; jurisdiction presumed, unless, etc. 6. Powers to punish for contempt. 7. County court to provide books and stationery, also a seal; faith and credit given to records of court and to certificates of judge or clerk. 8. Clerk of criminal court; who to be; his fees; subject to what statutes; to sign all process, etc., and direct the same; who to execute such process, etc. 9. Salary of judge; how paid. 10. Salary of clerk in addition to fees; how paid. 11. Terms of court and when to begin; adjourned and special terms; when held. 12. Duties of sheriff of McDowell county and sheriffs of other counties as to process of court; other duties and services to be performed by the sheriff of McDowell county; powers and rights of officers executing process, etc. 13. Grand jury for each term; special grand juries; what offenses grand jury may consider; provisions of law applicable; how grand and petit juries chosen and empaneled; compensation. 14. When judge cannot preside he may certify cause to circuit court; proceedings; recognizances in ballable cases; special judge; when; how selected; per diem and how paid; change of venue.</p>	<p>SEC. 15. Indictments found or pending in circuit court may be certified to criminal court; recognizances in such cases. 16. Appeals and writs of supersedeas, in what cases allowed or awarded by circuit court. 17. Appeal writ of error or supersedeas; how obtained; what law to govern proceedings; no appeal allowed in certain cases, unless, etc. 18. Appeal writ of error or supersedeas to be docketed in circuit court; how proceeded in. 19. In case the circuit court deems the judgment, etc., plainly right and rejects the appeal, etc., on that ground; what then. 20. Proceedings in circuit court on appeals, writs of error or supersedeas; duties of clerk. 21. Appeals allowed to criminal court concurrent with circuit court, in what cases; provisions of law governing proceedings thereon. 22. If office of judge is contested; how heard and determined. 23. Taxation of costs. 24. } Certain provisions of general law applicable to circuit court to apply to criminal court of McDowell county. 25. } 26. Writ of habeas corpus; power to grant concurrent with that of supreme or circuit courts; provisions of law governing. 27. Prosecuting attorney or assistant to attend terms of court; duties to perform; compensation. 28. Certain sections of chapter forty-one of code made applicable. 29. West Virginia Reports and Acts of Legislature to be furnished judge of court.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter thirty-six of the acts of the legislature of one thousand eight hundred and ninety-three, entitled, "An act to create a criminal court for the county of McDowell" as amended by chapter eighty-one of the acts of the legislature of one thousand nine hundred and five be amended and re-enacted so as to read as follows:

Sec. 1. That a court of record of limited jurisdiction is hereby established in and for the county of McDowell, to be held and presided over by a judge to be appointed or elected as provided by this act, which court shall be named and designated "Criminal court of McDowell county."

Sec. 2. The said criminal court shall have jurisdiction within the county of McDowell, concurrent with the circuit court, of all

felonies, misdemeanors and offenses committed within said county; said court shall have jurisdiction, concurrent with the circuit court of said county, as to the supervision and control of all criminal proceedings before the justices of said county, or the mayor of any incorporated city, town or village in said county by appeals, *mandamus*, prohibition and *certiorari*; it shall also have jurisdiction concurrent with said circuit court for the collections of all recognizances taken by said criminal court and for the collection of all bonds taken by said criminal court, or by the clerk thereof in vacation, to secure the payment of judgments for fines and costs rendered by said court, and for the collection of all recognizances and bonds taken by the justices of said county or the mayor of any incorporated city, town or village in said county in relation to criminal proceedings before said justices or mayor.

Sec. 3. The judge of said court elected at the general election held in this state on the Tuesday after the first Monday in November, one thousand nine hundred and six, shall hold his office for the term of six years from January the first, one thousand nine hundred and seven, and until his successor is duly elected and qualified; and there shall at the general election in this state to be held on Tuesday after the first Monday in November, one thousand nine hundred and twelve, and every six years thereafter, be elected by the legal voters of said county, a judge of the criminal court of McDowell county, who shall be a resident member of the bar of said county and at least thirty years of age, who shall preside over the said court for the term of six years, from the first day of January succeeding said election, and shall be disqualified from practicing law in all of the courts of this state during his continuance in office; the judge of the said criminal court may be removed from office for the same reasons and in the same manner as the judges of the circuits courts; and if from any cause the office shall become vacant, the vacancy shall be filled in the same manner as in the case of a vacancy in the office of the judge of a circuit court.

Sec. 4. The said criminal court, in the disposal of all matters within its jurisdiction and in the trial of all cases, shall have and exercise all the power and jurisdiction conferred by law upon the circuit court of McDowell county, and shall exercise in relation thereto the modes and procedures exercised by said circuit court; and the judge of said criminal court shall have the same power in vacation as to all matters of which said court has jurisdiction, that

are now or may be hereafter conferred upon the judge of the circuit court of McDowell county.

Sec. 5. It shall not be necessary in any case or proceeding in said criminal court that the facts authorizing it to take jurisdiction of the case or proceeding shall be set forth upon the record, but jurisdiction shall be presumed unless the contrary plainly appears from the record.

Sec. 6. The said criminal court shall have the same powers to punish for contempt as are conferred upon the circuit court by law.

Sec. 7. The county court, or tribunal acting in lieu thereof in McDowell county, shall provide all record books and other books and stationery that may be necessary, and likewise a seal for said criminal court; full faith and credit shall be given to the records of said court and to the certificates of its judge or clerk, whether the seal of the court be affixed thereto or not, in like manner and with like effect as if the same were record of the circuit court or certificates of the judge or clerk of the circuit court similarly authenticated.

Sec. 8. The clerk of the circuit court of McDowell county shall be *ex-officio* clerk of said criminal court and perform the duties thereof, and shall receive the same fees as are allowed by law, for similar services to the clerk of the circuit court; and in the discharge of his duties as clerk of the criminal court he shall be subject to all statutes relating to the clerk of the circuit court; all process, rules and orders of said court in the exercise of its jurisdiction shall be signed by the clerk thereof, and be directed to the sheriffs of the proper counties, wherein the same are to be executed, and they shall be executed in like manner and with the same effect as process issuing from the circuit court of said county.

Sec. 9. The said judge shall for his services receive twenty-four hundred dollars per annum, to be paid out of the county treasury of said county of McDowell.

Sec. 10. The clerk of said court shall, in addition to the fees of his office, be paid out of the county treasury the sum of one thousand dollars per annum.

Sec. 11. There shall be four terms of said court held in each year, commencing on the second Monday in January, the second Monday in April, the second Monday in July and the second Monday in October. Adjourned and special terms of said court may be

called and held as provided for special and adjourned terms of the said court.

The terms of said court shall be held at the court house of said McDowell county.

Sec. 12. The sheriff of McDowell county and the sheriffs of the several counties of the state shall by themselves or their deputies execute all process of said court, or issued by the clerk thereof directed to them respectively, and all process emanating from said criminal court or issued by the clerk thereof, shall be directed to and executed by them in the same manner as is provided by law as to process issuing from the circuit court or its clerk; and the sheriff of McDowell county shall perform the same duties and the services for the criminal court of McDowell county as he now by law is required to perform for the circuit court of said county; and in the execution of the process, rules and orders of said court the said officers shall have the same power and rights, be subject to the same liabilities, govern themselves by the same rules and principles of law and the statutes of the state, and be entitled to the same fees as though the process issued from the circuit court of said county.

Sec. 13. The said criminal court shall empanel a grand jury at each term thereof, and said court, or the judge thereof, may in his discretion, order a grand jury to be drawn or summoned to attend at any special or adjourned term of said court, or at any other time when in his opinion it is proper to do so; such grand jury may consider any offense against the laws committed within said county of McDowell, whether the same shall have been committed before the next preceding term of the court, or not, and whether the accused shall have been held for trial or not, prior to the next preceding regular term, and all the provisions of chapter one hundred and fifty-seven of the code of West Virginia, in regard to grand juries in the circuit court, shall apply so far as applicable to grand juries in said criminal court; the grand and petit juries serving in said court shall be chosen and empaneled in the same manner as they are chosen and empaneled by law in the circuit court, and shall receive the same compensation as said jurors in the circuit court.

Sec. 14. If the judge of said criminal court in his judgment cannot properly preside at the hearing of any cause pending therein, said cause may be, in his discretion, certified to, and the original

papers, together with a copy of the orders of the court, filed in the circuit court of said county, and the cause shall be docketed therein and proceeded with as though the cause had originally been brought and the prior proceedings had in the circuit court to which it was transferred; and the said criminal court may in its discretion take such recognizance from the defendants in a bailable case, and from the witnesses for the state, as he may deem proper, for their appearance before said court; or when for any cause the judge of said criminal court is incapable of acting, or is absent, a special judge may be elected in the same manner as a special judge of the circuit court, and governed in all respects as far as applicable to said special judge of the circuit court, and shall be allowed five dollars per day to be paid out of the county treasury; and a change of venue of any case pending in said court may be ordered as provided in chapter one hundred and fifty-nine of the code of West Virginia.

Sec. 15. The circuit court of said county may in its discretion certify to said criminal court for trial all indictments and prosecutions for felonies, misdemeanors, and offenses, now pending in said court, and all which may hereafter be found by the grand juries empaneled in the circuit court, and may in its discretion take such recognizances from the defendants in bailable cases and also from all the witnesses as he may deem proper, for their appearance before said criminal court, or as he may order.

Sec. 16. Appeals may be allowed and writs of *supersedeas* awarded to the judgments, rules and orders of said court by the circuit court of said county, or the judge thereof in vacation, in cases involving the freedom of a person, or the constitutionality of a law, and when judgment is rendered against a defendant in case of felony or misdemeanor, and in cases relating to the public revenue, the right of appeal shall belong to the state as well as to the defendant.

Sec. 17. Any person who is a party to any such controversy wishing to obtain an appeal, writ of error or *supersedeas*, in the cases named in the sixteenth section of this act, may present to the circuit court of McDowell county, or the judge thereof in vacation, a petition therefor, and chapter one hundred and thirty-five of the code of West Virginia concerning appeals to the supreme court of appeals shall, so far as applicable, govern the proceedings on such appeal, writ of error or *supersedeas*, as to the duties of the petitioner, the said court and clerk thereof; *provided, however, no*

such appeal, writ of error or *supersedeas* shall be allowed to the judgment or order of said criminal court rendered in a case upon appeal from the judgment of a justice of said county, or judgment of the mayor of any incorporated city, town or village in said county, in a criminal case or proceeding had before them unless the petition therefor be presented in one year from the date of such judgment or order.

Sec. 18. Every appeal, writ of error or *supersedeas* from said criminal court shall be docketed in the circuit court of McDowell county, and shall be proceeded in in the same manner as appeals, writs of error or *supersedeas* are proceeded in, heard and determined in the supreme court of appeals.

Sec. 19. In a case wherein the appeal, writ of error or *supersedeas* is to the circuit court and the court or judge thereof deems the judgment or order plainly right, and rejects it on this ground, if the order of rejection so state, no further petition shall afterwards be presented for the same purpose, but the petition and order of rejection with the transcript of the record may be presented to the supreme court of appeals, or judge thereof in vacation, for an appeal from said order of rejection, and if allowed, the same proceeding may be had thereon as if the same was a petition originally from the circuit court of said county to the supreme court of appeals.

Sec. 20. The said circuit court where an appeal, writ of error, or *supersedeas* has been allowed by the said court or the judge thereof in vacation shall, upon the hearing thereof affirm said judgment or order if there be no error therein prejudicial to the appellant, or reverse the same in whole or in part if erroneous, and the circuit court may retain the case for trial or remand the same back to said criminal court to be further proceeded in and finally determined; and the clerk of said circuit court shall as soon as practicable transmit the decisions of said circuit court to the clerk of said criminal court.

Sec. 21. Every person sentenced to imprisonment by the judgment of a justice, or the judgment of the mayor of any incorporated city, town or village in said county, or to the payment of a fine of ten dollars or more, shall be allowed an appeal, as provided in section two hundred and thirty of chapter fifty of the code of West Virginia, to the criminal court of said county, concurrent with the circuit court of said county, and all the provisions of

said section shall apply to said appeal and govern the proceedings thereon, and the same shall be proceeded in, heard and determined, and with the like effect, as is provided in said section two hundred and thirty of chapter fifty of the code.

Sec. 22. If the office of judge of said criminal court be contested, the contest shall be heard and determined in the same manner as the election of judges of the circuit courts are determined.

Sec. 23. In the taxation of costs in said court, the clerk and court shall be governed by the same rules and provisions of law as are provided in the circuit court.

Sec. 24. Chapter one hundred and fourteen of the code of West Virginia shall apply to the criminal court of McDowell county, in the same manner and to the same extent that it does to the circuit courts of the state.

Sec. 25. Chapter one hundred and fifty-six of the code of West Virginia shall apply to the criminal court of McDowell county and to the judge thereof in vacation, in the same manner and to the same extent that it does to the circuit court of McDowell county, or the judge thereof in vacation, and the same powers may be exercised within the county of McDowell by said criminal court, and judge thereof in vacation, concurrent with the circuit court of said county as provided in said chapter. All examinations, recognizances, warrants of commitment and certificates or other proceedings, made returnable to the circuit court of McDowell county under the provisions of said chapter one hundred and fifty-six, may be made returnable likewise to said criminal court of McDowell county, concurrent with the circuit court of said county.

Sec. 26. The criminal court of McDowell county and the judge thereof in vacation shall, concurrent with the supreme court of appeals, the circuit court of said county or any judge of either of said courts in vacation, grant the writ of *habeas corpus ad subjiciendum*, as provided in chapter one hundred and eleven of the code of West Virginia, and all the provisions of said chapter shall be applicable thereto, and the same shall be governed as herein provided.

Sec. 27. The prosecuting attorney of McDowell county shall attend the terms of said criminal court, either by himself or his assistant, and perform the duties of his office as required by section six of chapter one hundred and twenty of the code, and for the compensation therein stated and provided.

Sec. 28. Sections forty-one, forty-two and forty-three of chapter

forty-one of the code of West Virginia shall apply to the criminal court of McDowell county and the judge thereof, in the same manner and to the same extent as they do to the circuit court of McDowell county and the judge thereof.

Sec. 29. The West Virginia reports and bound acts of the legislature are to be delivered to the said judge of the criminal court in the same manner as they are required to be delivered to the circuit courts of the state.

CHAPTER 29.

(Senate Bill No. 39.)

AN ACT establishing a court of limited jurisdiction for the trial of felonies, misdemeanors and offenses within and for the county of Raleigh.

[Passed February 2, 1907. In effect from passage. Became a law without the approval of the Governor.]

- | Sec. | Sec. |
|---|---|
| 1. Court of limited jurisdiction established; name of court. | cutting process. |
| 2. Jurisdiction concurrent with circuit court; in what cases and proceedings; power to admit attorneys to practice in courts of state. | 13. Grand jury for each term; except, etc., special grand jury; what offenses grand jury may consider; provisions of law applicable; how grand and petit juries chosen and empaneled; compensation. |
| 3. Judge now in office; successor; when to be elected; qualification; term of office and when to begin. | 14. When judge cannot preside he may certify cause to circuit court; proceedings; recognizances in bailable cases; special judge; when; how selected; per diem and how paid; change of venue. |
| 4. Powers and jurisdiction conferred on court; powers of judge in vacation. | 15. Indictments found or pending in circuit court may be certified to criminal court; recognizances in such cases. |
| 5. Facts authorizing jurisdiction need not be set forth upon record; jurisdiction presumed, unless, etc. | 16. Appeals and writs of error and supersedeas, in what cases allowed or awarded by circuit court. |
| 6. Power to punish for contempt. | 17. Appeal, writ of error or supersedeas; how obtained; what law to govern proceedings; no appeal allowed in certain cases, unless, etc. |
| 7. County court to provide office, books, stationery and seal; faith and credit given to records of court and to certificates of judge or clerk. | 18. Appeal, writ of error or supersedeas to be docketed in circuit court; how proceeded in. |
| 8. Clerk of criminal court; who to be; his fees; subject to what statutes; to sign all process, etc., and direct same; who to execute such process, etc., salary in addition to fees, how paid. | 19. In case the circuit court deems the judgment, etc., plainly right and rejects the appeal, etc., on that ground; what then. |
| 9. Salary of judge, how paid; disqualified from practicing law. | 20. Proceedings in circuit court on appeals, writs of error or supersedeas; duties of clerk. |
| 10. Terms of court and when to begin; special terms. | 21. Appeals allowed to criminal court concurrent with circuit court, in what cases; provisions of law governing proceedings thereon. |
| 11. Court, where held; sheriff to attend. | |
| 12. Duties of sheriff of Raleigh county and sheriffs of other counties as to process of court; other duties to be performed by sheriff of Raleigh county; powers and rights of officers ex- | |

SEC.		SEC.	
22.	Vacancies in office of judge; how filled.	29.	Prosecuting attorney or assistant to attend terms of court; duties; compensation.
23.	If office of judge be contested; how heard and determined.	30.	Certain sections of chapter forty-one of code made applicable.
24.	Removal.	31.	West Virginia reports and acts of legislature to be furnished judge of court.
25.	Taxation of costs.	32.	Authority of judge to employ shorthand reporter; to prescribe duties; to certify and provide for payment; out of what funds; state laws made applicable.
26.	Certain provisions of general law applicable to circuit court to apply to criminal court of Raleigh county.		
27.			
28.	Writs of habeas corpus, power to grant concurrent with that of supreme or circuit court; provisions of law governing.		

Be it enacted by the Legislature of West Virginia:

Sec. 1. That a court of limited jurisdiction is hereby established in and for the county of Raleigh, to be held and presided over by a judge to be appointed or elected as provided by this act, which court shall be named and designated "The criminal court of Raleigh county."

Sec. 2. The said criminal court shall have jurisdiction within the county of Raleigh, concurrent with the circuit court, of all felonies, misdemeanors and offenses committed within the said county, and also for the trial of all cases concurrent with the circuit court, for the maintenance of illegitimate children, as provided by chapter eighty of the code of West Virginia; said court shall also have jurisdiction, concurrent with the circuit court of said county as to the supervision and control of all criminal proceedings before justices of said county, the mayor and recorder of any incorporated city, town or village in said county, by appeal, *mandamus*, prohibition and *certiorari*; it shall also have jurisdiction concurrent with said circuit court for the collection of all the recognizances taken by said criminal court, and for the collection of all bonds taken by said criminal court, or the clerk thereof in vacation, to secure the payment of judgments for fines and costs rendered by said court and for the collection of all recognizances and bonds taken by the justices of the said county, or the mayor of any incorporated city, town or village in said county, in relation to criminal proceedings before said justices or mayor; it shall also have jurisdiction, concurrent with the circuit court and county court, of all proceedings for the removal from office of all county and district officers, and the same powers to admit attorneys to practice in the courts of this state as the judges of the circuit court. *et*

Sec. 3. The judge of said court elected at the general election held in this state on the Tuesday after the first Monday in Novem-

ber, one thousand nine hundred and eight, shall hold his office for the term of six years, and until his successor is duly elected and qualified; and there shall at the general election in this state, to be held on the Tuesday after the first Monday in November, one thousand nine hundred and eight, and every six years thereafter, be elected by the legal voters of said county a judge of the criminal court of Raleigh county, who shall be a resident member of the bar of said county, who shall preside over the said court for the term of six years from the first day of January succeeding said election, and shall be, except as to his term of office and jurisdiction, subject to the laws in force governing circuit judges.

Sec. 4. The powers and jurisdiction conferred by law upon the circuit courts in the trial of criminal cases and proceedings, and modes and procedure authorized therein, within the county of Raleigh, are hereby conferred upon, and shall be exercised by said criminal court of Raleigh county; and the judge of said criminal court shall have the same powers in vacation as to felonies, misdemeanors and other offenses committed in said county of Raleigh, that are now, or may hereafter be conferred upon the judge of the circuit court of Raleigh county.

Sec. 5. It shall not be necessary in any cause or proceeding in said criminal court that the facts authorizing it to take jurisdiction of the case or proceeding shall be set forth upon the record, but jurisdiction shall be presumed unless the contrary plainly appears by the record.

Sec. 6. The said criminal court shall have the same powers to punish for contempt as are conferred upon the circuit court by law.

Sec. 7. The county court of Raleigh shall provide a proper office for said judge in the court house of said county, and all record books and other books and stationary that may be necessary, and likewise a seal for said criminal court; full faith and credit shall be given to the records of said court, and to the certificates of its judge or clerk, whether the seal of the court be affixed thereto or not, in like manner and with like effect as if the same were records of a circuit court, or certificates of a judge or clerk of the circuit court similarly authenticated.

Sec. 8. The clerk of the circuit court of Raleigh county shall be *ex-officio* clerk of said criminal court and perform the duties thereof; and shall receive the same fees as are allowed by law for

similar services to the clerks of the circuit court; and in the discharge of his duties as clerk of the criminal court, he shall be subject to all statutes relating to the clerks of the circuit court. All processes, rules and orders of said court, in the exercise of its jurisdiction, shall be signed by the clerk thereof, and be directed to the sheriffs of the proper counties wherein the same are to be executed, and they shall be executed in like manner and with the same effect as processes issuing from the circuit court of said county; and the clerk of said court shall, in addition to the fees of his office, be paid out of the county treasury such amount as the county court may deem reasonable, but not to exceed two hundred dollars per annum.

Sec. 9. The said judge shall for his services receive not less than eighteen hundred dollars nor more than twenty-five hundred dollars per annum, to be paid out of the county treasury of said county of Raleigh in the same manner as the salary of the other county officers are paid; and he shall be disqualified from practicing law in all the courts of this state during his continuance in office.

Sec. 10. There shall be four terms of said court held in each year commencing on the second Monday in January, third Monday in March, second Monday in June and the third Monday in October; special terms of said court may be called and held as provided for special terms of the circuit courts.

Sec. 11. The terms of said court shall be held in Beckley in said county of Raleigh at the court house thereof, and shall be attended by the sheriff of said county in the same manner and to the same extent as required of him by law, in regard to the circuit court of said county.

Sec. 12. The sheriff of Raleigh county, and the sheriffs of the several counties of the state, shall by themselves or their deputies execute all processes of said court, or issued by the clerk thereof, directed to them respectively, and all process emanating from said criminal court, or issued by the clerk thereof, shall be directed to and executed by them in the same manner as provided by law as to process issuing from the circuit court or its clerk; and the sheriff of Raleigh county shall perform the same duties and services for the criminal court of Raleigh county, as he is now by law required to perform for the circuit court of said county, and in the execution of the processes, rules and orders of said court, the said officers shall have the same powers and rights. he subject to the same liabil-

ities, govern themselves by the same rules and principles of law, and the statutes of the state, and be entitled to the same fees as though the process issued from the circuit court of said county.

Sec. 13. The said criminal court shall empanel a grand jury at each term thereof, except that the criminal court of said county by an order entered of record, or the judge thereof in vacation, by a written order to the clerk of said court, at least twenty days before the term, may dispense with the grand jury for one of the four terms required by law to be held in said county, annually, for said court, and in such case no grand jury shall be drawn or summoned to attend such term until ordered either by the court or the judge thereof in vacation; and the said criminal court, at a special or adjourned term thereof, whenever it shall be proper to do so, may order a grand jury to be drawn or summoned to attend such term; such grand jury may consider any offenses against the laws committed within said county of Raleigh whether committed before the next preceding term or not, and whether the accused shall have been held for trial or not, prior to the next preceding regular term, and all of the provisions of chapter one hundred and fifty-seven of the code of West Virginia in regard to grand juries in the circuit court shall apply, so far as applicable, to grand juries in said criminal court. The grand and petit jurors serving in said criminal court shall be chosen and empaneled in the same manner as they are chosen and empaneled by law in the circuit court, and shall receive the same compensation as said jurors in the circuit court.

Sec. 14. If the judge of said criminal court, in his judgment, can not properly preside at the hearing of any cause pending therein, said cause may be, in his discretion, certified to and the original papers, with a copy of the orders of the circuit court, filed in the circuit court of the county, and the cause shall be docketed therein and proceeded with as though the cause had been originally brought and the prior proceedings had in the court to which it was transferred; and the said criminal court may in its discretion take such recognizance from the defendant in a bailable case, and from witnesses for the state, as he may deem proper for their appearances before said circuit court; or when for any cause the judge of the said criminal court is incapable of acting, or is absent, a special judge may be elected in the same manner as a special judge of the circuit court, and governed in all respects, as far as applicable,

to the said special judges of the circuit court, and shall be allowed five dollars each day, to be paid out of the county treasury of the said county of Raleigh; and a change of venue of any cause pending in said court may be ordered as provided in section fifteen of chapter one hundred and fifty-nine of the code of West Virginia.

Sec. 15. The circuit court of said county may, in its discretion, certify to said criminal court for trial all indictments and prosecutions for felonies, misdemeanors and offenses now pending in said circuit court, and all which may hereafter be found by the grand juries impaneled in the circuit court, or which may be removed into said circuit court from other circuit courts, and inferior tribunals, and may in its discretion take such recognizance from the defendant in bailable cases, as also, from the witnesses of the state, as may deem proper for their appearance before said criminal court or as he may order.

Sec. 16. Appeals may be allowed and writs of error and *supersedeas* awarded to the judgments, rules and orders of said court by the circuit court of said county, or the judge thereof in vacation, in cases involving the freedom of a person, or the constitutionality of a law, and when judgment is rendered against the defendant in a case of felony or misdemeanor, or in cases of public revenue, the right of appeal shall belong to the state as well as the defendant.

Sec. 17. Any person who is a party to any such controversy wishing to obtain an appeal, writ of error or *supersedeas* in the cases named in the sixteenth section of this act, may present to the circuit court of Raleigh county, or the judge thereof in vacation, a petition therefor, and chapter one hundred and thirty-five of the code of West Virginia, concerning appeals to the supreme court of appeals, shall so far as applicable, govern the proceedings on such appeal, writ of error or *supersedeas* as to the duties of the petitioner, the said court and clerks thereof; *provided, however*, no such appeal, writ of error or *supersedeas* shall be allowed to the judgment or order of said criminal court rendered in a case upon appeal from the judgment of a justice of said county of Raleigh, or the judgment of the mayor or recorder of any incorporated city, town or village in the said county of Raleigh, in a criminal case or proceeding had before them, nor shall the same be allowed unless the petition therefor be presented within one year from the date of such judgment or order.

Sec. 18. Every appeal, writ of error or *supersedeas* from said criminal court shall be docketed in the circuit court of Raleigh county and shall be proceeded in, in the same manner, as appeals, writs of error and *supersedeas* are proceeded in, heard and determined in the supreme court of appeals.

Sec. 19. In cases wherein the appeal, writ of error or *supersedeas* is to the circuit court, and the court or judge thereof deems the judgment or order plainly right, and rejects it on this ground, if the order or objection so state, no further petition shall afterwards be presented for the same purpose, but the petition and order of rejection with the transcript of the record may be presented to the supreme court of appeals, or a judge thereof in vacation, for an appeal from said order of rejection, and if allowed the same proceeding may be had thereon as if the same was a petition originally from the circuit court of said county to the supreme court of appeals.

Sec. 20. The said circuit court, where an appeal, writ of error or *supersedeas* has been allowed by the said court or the judge thereof in vacation, shall upon the hearing thereof, affirm said judgment or order, if there be no error therein prejudicial to the appellant, or reverse the same in whole or in part if erroneous, and the circuit court may retain the case for trial or remand the same back to said criminal court to be further proceeded in and finally determined; and the clerk of said circuit court shall, as soon as practicable after the adjournment of said court transmit the decision of said circuit court to the clerk of said criminal court.

Sec. 21. Every person sentenced to imprisonment by the judgment of a justice, or the judgment of the mayor or recorder of any incorporated city, town or village in the said county of Raleigh, or to the payment of a fine of ten dollars or more, shall be allowed an appeal, as provided in section two hundred and thirty of chapter fifty of the code of West Virginia, to the criminal court of said county, concurrent with the circuit court of said county, and all of the provisions of said section shall apply to said appeal and govern the proceeding thereon, and the same shall be proceeded in, heard and determined, and with the like effect, as is provided in said section two hundred and thirty of chapter fifty of the code.

Sec. 22. If from any cause the office of judge of said criminal court shall become vacant, the vacancy shall be filled in the same

manner as in the case of a vacancy in the office of judge of the circuit court.

Sec. 23. If the election of judge of said criminal court be contested, the contest shall be heard, tried and determined in the same manner as the election of judges of the circuit court are contested.

Sec. 24. The judge of said criminal court may be removed from office for the same reasons and in the same manner as judges of the circuit court.

Sec. 25. In the taxation of costs in said court, the clerk and the court shall be governed by the same rules and provisions of law as is provided in the circuit court.

Sec. 26. Sections ten, eleven and twelve of chapter one hundred and fourteen of the code of West Virginia shall apply to criminal court of Raleigh county, in the same manner and to the same extent as they do to the circuit courts of the state.

Sec. 27. Chapter one hundred and fifty-six of the code of West Virginia shall apply to the criminal court of Raleigh county, and the judge thereof in vacation, in the same manner and to the same extent that it does to the circuit court of Raleigh county, or the judge thereof in vacation, and the same powers may be exercised within the county of Raleigh by said criminal court and the judge thereof in vacation, concurrent with the circuit court of said county as provided for in said chapter. All examinations, recognizances, warrants or commitment and certificates or other proceedings made returnable to the circuit court of Raleigh county, under the provisions of said chapter one hundred and fifty-six may be made returnable likewise to the said criminal court of Raleigh county, concurrent with the circuit court of Raleigh county.

Sec. 28. The criminal court of Raleigh county, and the judge thereof in vacation shall, concurrent with the supreme court of appeals, or the circuit court of said county, or any judge of either court, in vacation, grant the writ of *habeas corpus ad subjiciendum* as provided in chapter one hundred and eleven of the code of West Virginia, and all of the provisions of said chapter shall be applicable thereof, and the same shall be governed as therein provided.

Sec. 29. The prosecuting attorney of Raleigh county shall attend the terms of said criminal court, either by himself or his assistant, and perform the duties of his office as required by section six of chapter one hundred and twenty of the code, and for the compensation therein stated and provided.

Sec. 30. Sections forty-one, forty-two and forty-three of chapter forty-one of the code of West Virginia, shall apply to the criminal court of Raleigh county and the judge thereof, in the same manner and to the same extent as they do to the circuit court of Raleigh county and the judge thereof.

Sec. 31. The West Virginia reports and bound acts of the legislature are to be delivered to the said judge of the criminal court in the same manner as they are required to be delivered to the circuit courts of the state.

Sec. 32. The judge of said criminal court shall have the authority to employ shorthand reporters at his discretion, and to prescribe their duties under the law as it now is, or may be hereafter changed; and to certify and provide for the payment of their services out of the public funds as is provided by law; and all the laws of said state relating to the employment of such shorthand reporters by the judges of circuit courts shall apply to the judge of said criminal court established by this act.

CHAPTER 30.

(Senate Bill No. 66.)

AN ACT to amend and re-enact section eight of chapter twenty-two of the acts of the legislature of West Virginia, passed February twenty-sixth, one thousand nine hundred and three, entitled "An act fixing the time for holding the circuit courts in each county of the several judicial circuits of the state," as amended and re-enacted by section eight of chapter eighty-four of the act of the legislature of West Virginia, passed January thirtieth, one thousand nine hundred and five.

[Passed January 21, 1907. In effect from passage. Approved by the Governor, January 26, 1907.]

SEC.

8. Beginning of Terms of circuit courts in each county composing the seventh circuit of the state.

Be it enacted by the Legislature of West Virginia:

That section eight of chapter twenty-two of the acts of the legislature of one thousand nine hundred and three entitled "An act fixing the time for holding the circuit courts in each county of the several judicial circuits of the state," as amended and re-en-

acted by section eight of chapter eighty-four of the acts of the legislature of one thousand nine hundred and five, be amended and re-enacted so as to read as follows:

Seventh Circuit.

Sec. 8. For the county of Boone on the second Monday in January, second Monday in April, second Monday in July and the second Monday in October.

For the county of Logan on the fourth Monday in January, fourth Monday in April, fourth Monday in July and the fourth Monday in October.

For the county of Wayne on the second Monday in February, second Monday in May, second Monday in August and the second Monday in November.

For the county of Mingo on the first Monday in March, first Monday in June, first Monday in September and the first Monday in December.

CHAPTER 31.

(Senate Bill No. 31.)

AN ACT to authorize any county to fund at a lower rate of interest or on better terms, the outstanding bonds of said county, or any part thereof.

[Passed February 12, 1907. In effect ninety days from passage. Approved by the Governor, February 19, 1907.]

SEC.	SEC.
1. Counties authorized to refund debt; denomination of bonds; time to be paid.	bonds, how sold; agents authorized to sell bonds.
2. Bonds exempt from levies; coupons receivable for levies.	4. Proceeds; how applied.
3. County court to appoint agent;	5. Power to lay levy.
	6. } Bond issue; how authorized.
	7. }
	8. Election; how conducted.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That any county in this state having a bonded debt is hereby authorized to refund such debt by issuing bonds of such county, registered or coupon, at a lower rate of interest than that borne by the bonds to be refunded, such refunding bonds to be in form prescribed by the county court of the county issuing the same, and of the denomination of one hundred dollars or multi-

ple thereof and payable at such time as may be deemed to the best interests of such county, not to exceed thirty years after the same are issued.

Sec. 2. The bonds issued under section one, if so provided on the face thereof by the court in issuing the same, shall be exempt from assessment for county, district or municipal levies, and the coupons thereof receivable for all county or district levies and assessments, claims or demands due to the county issuing the same.

Sec. 3. The county court of such county is hereby authorized to appoint an agent whose compensation shall not exceed one-third of one per cent, who after executing bond in such penalty and with such conditions as said court may prescribe, shall sell said bonds at not less than par and accrued interest to the highest bidder, after advertising the issue of said bonds in any newspaper of general circulation in such county, as the county court may designate, for a period of not less than four weeks, and with such proceeds of sale pay off and redeem any of the outstanding bonds of such county therefore issued; said agents shall also be authorized to exchange any of the bonds issued under the authority of this act for any bonds outstanding and to be refunded as aforesaid.

Sec. 4. Nothing in this act contained shall authorize any increase of the bonded debt of any county; nor shall the bonds issued under this act or the proceeds of sale thereof be used or applied to any other purpose than the payment and redemption of the outstanding bonds of such county theretofore issued and having a higher rate of interest.

Sec. 5. The county court of any county issuing bonds under this act shall have the power to lay a levy sufficient to raise a sinking fund to be used exclusively to liquidate said bonded indebtedness against the maturity thereof.

Sec. 6. Before any such bonds are issued the same shall be authorized by a three-fifths vote of the voters of the county, voting upon the question, to be ascertained at any general election or by a special election to be called and held in the county.

Sec. 7. The county court of any county shall by a resolution entered of record, specify the particular purpose or purposes, and amount for which said bonds are to be issued and the rate of interest said bonds shall bear, not exceeding six per centum per annum; said resolution shall appoint a day on which the election

shall be held by the qualified voters of the county, if a special election is to be held, to decide whether or not said bonds shall be issued; such resolution shall be published in two newspapers of opposite political parties, if such be published in the county; if not, then in some newspaper of general circulation in the county, for at least four weeks prior to said election.

Sec. 8. Such election shall be provided for, conducted and the result ascertained and declared as provided by law for holding and ascertaining and declaring the result of general elections, and the ballots to be voted at such election, after containing a statement of the amount and kind of bonds to be issued and the purpose or purposes for which they are to be used, shall contain the words, "for the bonds," and the words "against the bonds."

CHAPTER 32.

(Senate Bill No. 207.)

AN ACT fixing the number of terms and time for holding the circuit courts in each county of the second, third, fifth, eighth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth and eighteenth judicial circuits of the state.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 23, 1907.]

SEC.

1. Authorizing terms of circuits courts to be held in the several judicial circuits.
2. Beginning of terms in the second circuit.
3. Beginning of terms in the third circuit.
- 3-a. Beginning of terms in the fifth circuit.
4. Beginning of terms in the eighth circuit.
5. Beginning of terms in the eleventh circuit.
6. Beginning of terms in the twelfth circuit.

SEC.

7. Beginning of terms in the thirteenth circuit.
8. Beginning of terms in the fourteenth circuit.
9. Beginning of terms in the fifteenth circuits.
10. Beginning of terms in the sixteenth circuit.
11. Beginning of terms in the seventeenth circuit.
12. Beginning of terms in the eighteenth circuit.
13. Repealing clause.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be held in each year at least three terms of the circuit courts for the several counties of the second, third, fifth, eighth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth and eighteenth judicial circuits, excepting in the counties of Roane, Calhoun and Mason of the fifth circuit and the

counties of Mineral and Tucker of the seventeenth circuit, and the county of Hampshire of the eighteenth circuit there shall be at least four terms in each year, and the terms of the several courts aforesaid shall commence and be held as follows:

Second Circuit.

Sec. 2. For the county of Wetzel on the second Tuesday in January, the first Tuesday in May and the third Tuesday in September.

For the county of Tyler on the fourth Tuesday in February, the third Tuesday in June and the first Tuesday in November.

For the county of Doddridge on the third Tuesday in March, the second Tuesday in July and the fourth Tuesday in November.

Third Circuit.

Sec. 3. For the county of Ritchie on the first Tuesday in February, the first Tuesday in June and the second Tuesday in October.

For the county of Pleasants on the first Tuesday in January, the fourth Tuesday in April and the second Tuesday in September.

For the county of Gilmer on the first Tuesday in April, the first Tuesday in July and the third Tuesday in November.

Fifth Circuit.

Sec. 3a. For the county of Roane on the first Tuesday in January, first Tuesday in April, first Tuesday in July and the first Tuesday in October.

For the county of Calhoun on the third Tuesday in January, third Tuesday in April, third Tuesday in July and third Tuesday in October.

For the county of Jackson on the first Tuesday in February, first Tuesday in August and the first Tuesday in November.

For the county of Mason on the first Tuesday in March, first Tuesday in June, first Tuesday in September and the first Tuesday in December.

Eighth Circuit.

Sec. 4. For the county of Mercer on the second Tuesday in May,

the second Tuesday in August and the fourth Tuesday in November.

For the county of McDowell on the second Tuesday in February, the second Tuesday in June and the second Tuesday in September.

For the county of Monroe on the second Tuesday in April, the second Tuesday in July and the second Tuesday in November.

Eleventh Circuit.

Sec. 5. For the county of Pocahontas on the third Tuesday in January, the first Tuesday in June and the first Tuesday in October.

For the county of Greenbrier on the third Tuesday in April, the fourth Tuesday in June and the second Tuesday in November.

For the county of Fayette on the second Tuesday in February, the second Tuesday in May and the third Tuesday in September.

Twelfth Circuit.

Sec. 6. For the county of Upshur on the second Monday in January, the first Monday in May and the third Monday in September.

For the county of Nicholas on the fourth Tuesday in January, the fourth Tuesday in May and the second Tuesday in October.

For the county of Webster on the second Tuesday in February, the third Tuesday in June and the first Tuesday in November.

For the county of Braxton on the fourth Monday in February, the second Monday in July and the fourth Monday in November.

Thirteenth Circuit.

Sec. 7. For the county of Lewis on the first Monday in March, the first Monday in July and the first Monday in November.

For the county of Harrison on the first Monday in January, the first Monday in May and the first Monday in September.

Fourteenth Circuit.

Sec. 8. For the county of Monongalia on the first Thursday after the first Monday in February, the first day of May and the first Thursday after the first Monday in October.

For the county of Marion on the second Monday in March, the first day of June, unless said first day of June be Friday, Saturday or Sunday, in which event then on the following Monday, and on the second Monday in November.

Fifteenth Circuit.

Sec. 9. For the county of Barbour on the first Tuesday in January, the second Tuesday in April and the fourth Tuesday in September.

For the county of Taylor, on the fourth Tuesday in January, the fourth Tuesday in April and the third Tuesday in October.

For the county of Randolph on the third Tuesday in February, the second Tuesday in May and the second Tuesday in November.

For the county of Preston on the third Tuesday in March, the second Tuesday in June and the first Tuesday in December.

Sixteenth Circuit.

Sec. 10. For the county of Grant on the first Tuesday in April, the second Tuesday in July and the third Tuesday in November.

For the county of Mineral on the third Tuesday in January, the third Tuesday in April, the fourth Tuesday in July and the third Tuesday in October.

For the county of Tucker on the first Tuesday in March, the first Tuesday in June, the third Tuesday in September and the third Tuesday in December.

Seventeenth Circuit.

Sec. 11. For the county of Hampshire on the first Tuesday in January, the first Tuesday in March, the first Tuesday in July, and the third Tuesday in September.

For the county of Hardy on the third Tuesday in February, the third Tuesday in June and the third Tuesday in October.

For the county of Pendleton on the third Monday in March, the fourth Monday in July and the first Monday in December.

Eighteenth Circuit.

Sec. 12. For the county of Morgan on the first Tuesday in January, the first Tuesday in April and the first Tuesday in September.

For the county of Berkeley on the second Tuesday in January, the third Tuesday in April and the second Tuesday in September.

For the county of Jefferson on the second Tuesday in February, the third Tuesday in May and the third Tuesday in October.

Sec. 13. In so far as section three of chapter twenty of the acts of the legislature of nineteen hundred and three, and all other acts are inconsistent herewith the same are hereby repealed.

CHAPTER 33.

(Senate Bill No. 126.)

AN ACT to prohibit the issuance of non-participating policies by certain life insurance companies.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 27, 1907.]

<p>SEC. 1. Life insurance companies to issue no policies, except annuities; after when; not to apply to</p>		<p>SEC. certain policies. 2. Inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. On and after the first day of January, one thousand nine hundred and eight, no domestic life insurance company and no domestic stock life insurance company, hereafter issuing or professing to issue any participating policies, shall issue any policies, except annuities, which do not by their terms give to the holders thereof full right to participate in the accumulations of said company, as provided by law.

This act shall not apply to paid up or temporary and pure endowment insurance issued or granted in exchange for lapsed or surrendered policies.

Sec. 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAPTER 34.

(Senate Bill No. 127.)

AN ACT regulating disbursements by life insurance companies.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 27, 1907.]

<p>SEC. 1. Disbursements; what vouchers to contain; course in case vouchers can not be obtained.</p>		<p>SEC. 2. Inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. No domestic life insurance company shall make any disbursement of one hundred dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm, or corporation receiving the money and correctly describing the consideration for the payment; if the expenditure be for both services and disbursements the voucher shall set forth the services rendered and an itemized statement of the disbursements made; if the expenditure be in connection with any matter pending before any legislative or public body, or before any department or officer of any state government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such company therein; when such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining such voucher.

Sec. 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAPTER 35.

(House Bill No. 122.)

AN ACT prohibiting the drinking of intoxicating liquors aboard engines and cars propelled by steam or electricity.

[Passed February 11, 1907. In effect ninety days from passage. Approved by the Governor February 20, 1907.]

<p>SEC. 1. Unlawful to drink whiskey, etc., aboard cars, engines, etc., except, etc.</p>	<p>SEC. 2. Penalty for violation; justices to have jurisdiction to try.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That it shall be unlawful for any person to drink whiskey, beer, ale or any other intoxicating beverages while aboard any engine or car or train of cars in this state, propelled by steam or electricity, except it be in a diner, cafe or other car with buffet or cafe attachment, coach or car licensed to sell same.

Sec. 2. Any one offending against the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall

be fined not less than five dollars nor more than one hundred dollars for each offense, and may be apprehended and brought before any justice in the county in which said offense is committed. Justices of the peace shall have jurisdiction to try and determine all offences under this act.

CHAPTER 36.

(House Bill No. 222.)

AN ACT to amend and re-enact section thirteen of chapter thirty-six of the acts of one thousand nine hundred and three, relating to toll roads and turnpikes.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 25, 1907.]

<p>SEC. 13. County courts authorized to macadamize and keep in good repair certain toll roads and turn-</p>		<p>SEC. pikes: when; may surrender control to corporate authorities.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 13. That whenever the collection of tolls for travelling over or upon any toll road or turnpike has been abandoned by any county, person, company or corporation, or is prevented by law or by final order of any court having competent jurisdiction; or whenever any main county roads is improved under the provisions of section twenty-six of chapter forty-three of the code of one thousand eight hundred and ninety-nine, it shall be the duty of the county court in the county wherein such road or turnpike, or any part thereof is located, to keep the same macadamized and piked and in good repair, and shall pay for the work and all expenses incident thereto out of the county treasury. *Provided*, that whenever any such road passes through or into any incorporated town or city so as to form a street or streets of the same, the county court may enter an order surrendering the management, maintenance and control of that portion of such road to the corporate authorities of such town or city; but no order shall be made by the county court until there has been filed in the office of the county clerk a petition therefor which has been adopted by the common council of such town or city.

CHAPTER 37.

(House Bill No. 58.)

AN ACT to amend and re-enact section one, of chapter one hundred and one, of the code of West Virginia, relating to sureties.

[Passed February 19, 1907. In effect ninety days from passage. Approved by the Governor, February 22, 1907.]

SEC.

1. Sureties, guarantors or indorsers may require creditors to sue; notice to be given; specifications or breach of undertaking.

SEC.

Surety, guarantor or indorser allowed to make defense, under certain conditions.

Be it enacted by the Legislature of West Virginia:

That section one of chapter one hundred and one, of the code of West Virginia, relating to sureties, be amended and re-enacted so as to read as follows:

Sec. 1. The surety or guarantor or endorser (or his personal representative) of any person bound by any contract may, if a right of action has accrued thereon, require the creditor (or his personal representative,) by notice in writing, forthwith to institute suit thereon; and if he be bound in a bond with collateral condition or for the performance of some collateral undertaking, he shall also specify in such requisition the breach of the condition or undertaking for which he requires suit to be brought; *provided, however,* that whether the surety, guarantor or indorser (or his personal representative) shall have given notice or not, no judgment or decree or recovery rendered, entered or had in any suit, action, prosecution or proceeding, to which the surety, guarantor or indorser (or his personal representative) was not a party regularly served with process, shall be in any wise binding on such surety, guarantor or indorser (or his personal representative), and notwithstanding such decree, judgment or recovery the surety, guarantor or indorser shall be allowed to make any such defense in any action, suit or proceeding instituted against him, that could have been made in the suit in which such decree, judgment or recovery was had.

CHAPTER 38.

(House Bill No. 111.)

AN ACT prescribing certain rules for the circuit courts of West Virginia, as to instructing petit juries upon the trial of cases both civil and criminal.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 27, 1907.]

SEC.

1. Instructions to juries in civil and criminal cases to be plainly written; not to be changed, unless, etc., instructions to discharge incompetent testimony.
2. Before instructions read; to whom submitted.
3. Court may instruct jury; must be in writing; to whom submitted

SEC.

- before given; objections.
4. Court may amend instructions, provided, etc., to whom submitted before given; action of court in case of objection.
5. Instructions to be read before argument; in what order; no instructions to be read twice, unless, etc.

Be it enacted by the Legislature of West Virginia:

Sec. 1. In the trial of all issues in both civil and criminal cases before juries all of the instructions of the court to the jury shall be plainly written in longhand or typewriting before given to the jury by the court and not changed in any way thereafter, unless the same be re-read to the jury as changed; *provided*, that the court may instruct the jury to disregard incompetent testimony during the trial without reducing such instructions to writing, as aforesaid.

Sec. 2. Before an instruction may be read the jury, for the plaintiff in any case, either civil or criminal, it must be shown to the defendant's attorney; and, before an instruction may be read for the defendant in any case, it must be shown to the plaintiff's attorney; and either party may object to the instructions given for the other before the same are read to the jury.

Sec. 3. The court may instruct the jury upon its own motion, but shall, before doing so, reduce its instruction or instructions to writing, and submit the same to the attorneys for both plaintiff and defendant for examination, and either plaintiff or defendant, or both plaintiff and defendant may object to the same before given.

Sec. 4. The court may amend the instructions of either party provided it consider them improper, and after such amendment and before giving same as amended shall show them to the attorney for the party who offered such instructions prior to such amendment; and the party whose, or any of whose instructions are so

amended may object to such amendment, or amendments, and in case of such objection the court shall not give such amended instructions as upon the motion of the party so objecting to such amendment, or amendments, but shall specifically state to the jury that such amended instructions are given by the court upon its own motion.

Sec. 5. All instructions shall be read before the argument to the jury in the following order, to-wit:—the instructions given by the court upon its own motion if any, shall be read first; those given upon the motion of the plaintiff shall be read second, and in any event before the instructions for the defendant are read; and those given upon the motion of the defendant shall be read last; no instructions shall be read twice, unless it be necessary to read them after being changed as provided in section one of this chapter, or upon special request by the jury.

CHAPTER 39.

(House Bill No. 146.)

AN ACT to authorize the comparison of writings as evidence in any civil suit or proceeding at law or in equity and in any criminal action or proceeding.

[Passed February 22, 1907. In effect from passage. Approved by the Governor, February 26, 1907.]

SEC.

1. Writings proven to be genuine may be used with or without testimony; for what purpose.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That in any civil suit or proceeding at law or in equity, and in any criminal action or proceeding, any writing proved to the satisfaction of the judge to be genuine, may be used with or without the testimony of witnesses for the purpose of making a comparison with a disputed writing as evidence of the genuineness or otherwise of such disputed writing.

CHAPTER 40.

(House Bill No. 104.)

AN ACT to amend and re-enact sections one, two and seven of chapter nine of the acts of one thousand eight hundred and ninety-nine, relating to "The West Virginia Humane Society."

[Passed February 20, 1907. In effect ninety days from passage. Approved by the Governor, February 24, 1907.]

<p>SEC. 1. Establishing state board; name of board; how board composed. 2. Governor to appoint; term of office of board; Governor to fill vacan-</p>		<p>SEC. 3. cy; board a corporate body. Time to hold meetings; compensation of board.</p>
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Be it enacted by the Legislature of West Virginia:

That sections one, two and seven of chapter nine of the acts of one thousand eight hundred and ninety-nine be amended and re-enacted so as to read as follows:

Sec. 1. There shall be and is hereby established a state board to be known as "The West Virginia Humane Society" for the protection of children and the helpless aged, and the prevention of cruelty to animals; said board shall consist of five reputable citizens, one of whom shall be from each of the five congressional districts, and may consist in part of women.

Sec. 2. The governor shall, on and before the fifteenth day of March, one thousand nine hundred and seven, nominate, and by and with the advice and consent of the senate, appoint from the first congressional district one member, from the second congressional district one member, from the third congressional district one member, and from the fifth congressional district one member, whose terms of office shall begin on the first day of April, one thousand nine hundred and seven, and continue respectively, one, three, four and five years. During the month of March in every year after the year one thousand nine hundred and seven, the governor shall nominate and by and with the advice and consent of the senate, appoint, to take the place of the member whose term shall next expire, one member of said board, whose term of office shall begin on the first day of April following his appointment and continue five years. The governor may in like manner fill any vacancy that may occur in the board, and any one appointed by him during the recess of the senate shall serve until the next session of the senate

thereafter. The members of the said board shall constitute a body corporate under the style and name of "The West Virginia Humane Society," and by said name may sue and be sued, and may have a common seal.

Sec. 7. The board shall hold its annual meeting as soon as practicable after the close of each fiscal year, but other and special meetings may be held at such time and places as may be mutually agreed upon or determined by the president. The members of said board shall be paid the same compensation as is allowed the directors of the industrial home for girls and the reform school for boys.

CHAPTER 41.

(Senate Bill No. 15.)

AN ACT relating to and regulating passenger rates upon railroads in the state of West Virginia, and prescribing penalties for the violation thereof.

[Passed February 20, 1907. In effect ninety days from passage. Approved by the Governor, February 24, 1907.]

SEC.

1. Railroads limited in charges for transportation of persons with ordinary baggage; rate per mile; minimum charge; children under twelve years of age; to board train where tickets are sold without securing same, additional charge; rebate slip, re-

SEC.

deemable; not to apply to railroads under fifty miles in length and not part of railroads over fifty miles.
2. Penalty for violations; not to apply to electric lines or street railways.
3. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That all railroad corporations organized or doing business in this state under the laws or authority thereof shall be limited in their charges for the transportation of any person with ordinary baggage, not exceeding one hundred pounds in weight, to the sum of two cents per mile, or fractional part of a mile, but the fare shall always be made the multiple of five nearest reached by multiplying the rate by the distance, and if for any one passenger the rates herein provided shall be less than five cents, the said sum of five cents may be charged as a minimum; children under twelve years of age shall be carried for one-half fare above prescribed; *provided*, that any passenger boarding a train at a sta-

tion where tickets are sold, without having procured a ticket, may be charged an additional fare of ten cents, for which sum a rebate slip, redeemable in money, upon presentation to any ticket agent of the company, shall be issued and delivered to such passenger; and *provided, further*, that nothing in this act shall apply to any railroad in this state under fifty miles in length and not a part of, or under the control, management or operation of any other railroad, over fifty miles in length, operating wholly or in part in the state.

Sec. 2. Any railroad company which shall charge, demand or receive any greater compensation for the transportation of any passenger than is authorized by this act, shall be fined for each offense not less than fifty dollars nor more than five hundred dollars; *provided*, that nothing contained in this act shall apply to electric lines and street railways owned or operated in this state.

Sec. 3. All acts or parts of acts inconsistent herewith are hereby repealed.

CHAPTER 42.

(House Bill No. 160.)

AN ACT to amend and re-enact section one of chapter one hundred and twenty-nine of the code of West Virginia, as amended and re-enacted by chapter thirty-seven of the acts of one thousand nine hundred and one, concerning commissioners in chancery.

[Passed February 19, 1907. In effect ninety days from passage. Approved by the Governor, February 22, 1907.]

SEC.	1. Commissioner in chancery; by whom appointed; number of commissioners based on popu-	SEC.	lation of city, town or village; powers and removal.
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Be it enacted by the Legislature of West Virginia:

That section one of chapter one hundred and twenty-nine of the code of West Virginia, as amended and re-enacted by chapter thirty-seven of the acts of one thousand nine hundred and one, be amended and re-enacted so as to read as follows:

Sec. 1. Each circuit court and every court of limited jurisdiction now existing, or which may hereafter be established for any incorporated city, town or village, may from time to time appoint

not more than four commissioners in chancery or for stating accounts, except that the circuit court of any county whose population exceeds thirty thousand and less than fifty thousand, may appoint not more than six of such commissioners, and that the circuit court of any county whose population exceeds fifty thousand, may appoint not more than eight of such commissioners, who shall be removable at its pleasure, with power to take depositions and to swear and examine witnesses and to certify their testimony. The judge of any court empowered to appoint commissioners in chancery or for stating accounts may in vacation appoint such commissioners with as much effect as if appointed by the court, and they shall have like powers.

CHAPTER 43.

(House Bill No. 128.)

AN ACT to amend and re-enact section eleven of chapter fifty-two of the code.

[Passed February 19, 1907. In effect ninety days from passage. Approved by the Governor, February 26, 1907.]

<p>SEC. 11. Crossings, connections or alteration of works; payment of dam-</p>		<p>SEC. ages; suit in equity; alteration of county roads.</p>
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Be it enacted by the Legislature of West Virginia:

That section eleven of chapter fifty-two of the code be amended and re-enacted so as to read as follows:

Sec. 11. If any railroad, turnpike, or canal company, or any company organized for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise, deem it necessary in the construction of its work, or any branch or siding thereof, to cross any other railroad, turnpike, or canal, or pipe line, or any state or county road at grade or otherwise, it may do so; *provided*, its work be so constructed as not to impede the passage or transportation of persons or property along the same. If any such company desire that the course of any other railroad, turnpike, canal, pipe line, or state road, or any stream which is not a public highway, should be altered to avoid the necessity of any crossing, or of frequent crossings, or to facilitate the crossing thereof, or the construction of a parallel work, the alteration may

be made in such manner as may be agreed between the company desiring such alteration and the other railroad, turnpike, or canal company, or pipe line company, or the board of public works in the case of a state road, or the owner of the land to be affected by the alteration of the course of such stream. In case the parties interested fail to agree upon such crossing or alteration as is desired, the company desiring it may bring suit in equity, and in such suit the court may, in a proper case, decree that such, or any proper crossing, or alteration, may be made upon payment of damages to be ascertained as provided in chapter forty-two of the code, and the company desiring such crossing or alteration may thereupon proceed under said chapter to obtain the right to make such crossing or alteration. If such crossing or alterations as is allowed by this section, shall cause damage to any company, or to the owner of any lands, the railroad, turnpike, canal, or pipe line company first mentioned shall pay such damages; but any county road may be altered by any such company for the purpose aforesaid, whenever it shall have made an equally convenient road in lieu thereof.

CHAPTER 44.

(House Bill No. 223.)

AN ACT to amend section four (section two thousand seven hundred and twenty-nine) of chapter sixty of the code of one thousand eight hundred and ninety-nine, relating to stock running at large.

[Passed February 18, 1907. In effect ninety days from passage. Approved by the Governor, February 24, 1907.]

SEC. 4. Duty of county court upon petition; stock law submitted to vote; result of election; district divided by river; county court

SEC. to designate voting places; election officials; separate returns; if portion of district vote against stock law, what then.

Be it enacted by the Legislature of West Virginia:

That section four (section two thousand seven hundred and twenty-nine) of chapter sixty of the code of one thousand eight hundred and ninety-nine be and the same is hereby amended so as to read as follows:

Sec. 4. It shall be the duty of the county court of any county, upon the petition of fifty voters of any district therein, to submit

to a vote of such district, at a general or school election, the question of enforcing this act in said district; at such election those voting for the enforcement thereof shall have written or printed on their ballots, "for stock law," and those voting against the enforcement thereof, shall have written or printed on their ballots, "against stock law." If a majority of the votes cast be for stock law, this act shall be in force in said district, from the date of said election; *provided*, that in all cases where such district is divided by a river, the county court, upon the petition of twenty-five voters on one side of such river, shall submit to the voters residing in that portion of such district the question in the manner as provided in this section. If there be no voting precinct established within that portion of the district in which such election is to be held, then in that case, for the purpose of this act, the county court shall designate a convenient place in which to hold such election, and if one or more petitions shall be presented at the same time from one or more such districts, then and in that case the county court may, in its discretion, order the election to be held by the same officials at the same place for all of said districts; but there shall be a separate ballot box and separate returns made for the several districts voting upon the question; and the result shall be ascertained and certified as in other like cases, and if a majority of the votes cast for and against stock law, be against stock law then and in that case this act shall not be in force in that portion of said district wherein such election is held.

CHAPTER 45.

(Senate Bill No. 137.)

AN ACT to provide for the defense of the equity suit of the Commonwealth of Virginia against the state of West Virginia, now pending in the supreme court of the United States, and appropriate money for such purposes.

[Passed February 4, 1907. In effect from passage. Approved by the Governor, February 19, 1907.]

SEC.
1. } Duty of attorney general in equity
sult of Commonwealth of Vir-
ginia against State of West Vir-
ginia; board of public works au-
thorized to employ assistants to
attorney general; make report
to board of public works and to
2. } legislature.

SEC.
3. } Necessary money appropriated;
how paid.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the attorney general of West Virginia be and he is hereby authorized and directed to defend the equity cause of the Commonwealth of Virginia against the state of West Virginia, now pending in the supreme court of the United States; and the board of public works is hereby authorized to employ such attorneys and agents to assist the attorney general in the defense of such suit as in its judgment shall be necessary for the purpose.

Sec. 2. The attorney general is further authorized and directed to have made as soon as possible such searches and investigations as may be necessary to ascertain all the facts, which in his opinion, are needed for the proper defense of said suit; and the attorney general is further authorized, if in his opinion it is necessary, to request of the officers of the said Commonwealth of Virginia reasonable access to the records of said Commonwealth so far as it may be necessary for such purpose; and to cause such copies and extracts of such records made as he or his associates may deem necessary for such purpose; and the attorney general is directed to make full and complete reports of his acts hereunder to the board of public works, from time to time, as he may deem proper or as requested by said board, and to the legislature at each session thereof during the pendency of said suit.

Sec. 3. To carry out the provisions of this act, the sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, to be paid out of the treasury from time to time on the requisition of the board of public works.

CHAPTER 46.

(House Bill No. 224.)

AN ACT amending the charter of Storer College.

[Passed February 14, 1907. In effect ninety days from passage. Approved by the Governor, February 20, 1907.]

SEC. 3.	Number of trustees; superintendent of free schools shall be one.	SEC. ex officio; quorum, how constituted.
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Be it enacted by the Legislature of West Virginia:

That section three of chapter one hundred and seventeen of the

acts of one thousand eight hundred and sixty-eight, amended February twenty-third, one thousand eight hundred and eighty-three, relating to the board of trustees of Storer College be and the same is hereby further amended so as to read as follows:

Sec. 3. The number of trustees of said corporation shall not be more than twenty-five, of whom the superintendent of free schools shall be one, *ex-officio*. One of said trustees shall be elected president of the corporation; five of said trustees shall constitute a quorum to accept this act and transact business.

CHAPTER 47.

(Senate Bill No. 186.)

AN ACT appropriating money to pay the expenses of the joint committee raised by House Joint Resolution No. 19, and House Concurrent Resolution No. 5, of the present session.

[Passed February 8, 1907. In effect from passage. Approved by the Governor, February 11, 1907.]

SEC.

1. Appropriation; for what purpose; how paid.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay the expenses and costs of the joint committee raised by House Joint Resolution No. 19, and House Concurrent Resolution No. 5, providing for an investigation of the Stuart and Thomas mine disasters, which resolution was adopted on the sixth day of February, one thousand nine hundred and seven; said sum shall be paid from the state treasury on the warrant of the auditor on requisitions signed by the chairman of said joint committee, in such amounts as may from time to time be required.

CHAPTER 48.

(House Bill No. 49.)

AN ACT to amend and re-enact section one hundred of chapter thirty-five of the acts of one thousand nine hundred and five, relating to the payment of taxes upon property assessed by the board of public works.

[Passed January 22, 1907. In effect from passage. Approved by the Governor, January 25, 1907.]

SEC.
100. Duty of auditor to transmit to owner or operator statement of levies charged; duty of owner or operator as to payment of taxes and levies; deductions if paid before certain date; if not paid; duty of sheriff; payment of taxes and levies not to affect

SEC. owner or operator from obtaining relief; duty of auditor in case assessment found too high; assessment for 1906, when paid; deduction allowed; under what conditions; to whom auditor certify over-payments.

Be it enacted by the Legislature of West Virginia:

That section one hundred of chapter thirty-five of the acts of one thousand nine hundred and five be amended and re-enacted so as to read as follows:

Sec. 100. The auditor shall, as soon as possible after the said assessment is completed, make out and transmit by mail or otherwise to such owner or operator, a statement of all taxes and levies so charged, and it shall be the duty of such owner or operator so assessed and charged, to pay the whole amount of such taxes and levies into the treasury of the state by the twentieth day of January next after the assessment thereof, subject to a deduction of two and a half per centum upon the whole sum, if the same be paid on or before that day. If such owner or operator fail to pay such taxes and levies by the said twentieth day of January, the auditor shall add ten per centum to the amount thereof to pay the expense of collecting the same, and shall certify to the sheriff of each county the amount of such taxes and levies assessed within his county; and it shall be the duty of every sheriff to collect and account for such taxes and levies in the same manner as other taxes are levied or collected and accounted for by him.

The payment of such taxes and levies by any such owner or operator shall not prejudice or affect the right of such owner or operator to obtain relief against the assessment or valuation of its property in proceedings now pending or hereafter brought under

the provisions of section ninety-four of this chapter, or in any suit, action or proceeding in which such relief may be obtainable; and if under the provision of said section ninety-four or in any suit, action or proceeding, it be ascertained that the assessment or valuation of the property of such owner or operator is too high and the same is accordingly corrected, it shall be the duty of the auditor of the state to issue to the owner or operator a certificate showing the amount of the taxes and levies which have been overpaid, and such certificate shall be receivable thereafter for the amount of such overpayment in payment of any taxes and levies assessed against the property of such owner or operator, its successors or assigns, and in case the taxes charged against such owner or operator upon the assessment for the year one thousand nine hundred and six shall not be paid on or before the twentieth day of January, one thousand nine hundred and seven, the same can be paid by such owner or operator within ten days after the provisions hereof become a law, and if such owner or operator shall pay said taxes within said ten days, it shall be entitled to the benefit of the two and a half per centum deduction upon the whole sum, the same as if said taxes had been paid on or before the twentieth day of January, one thousand nine hundred and seven.

It shall likewise be the duty of said auditor to certify to the county courts, school districts and municipalities, the amounts of the respective overpayments distributable to said counties, school districts and municipalities.

CHAPTER 49.

(House Bill No. 186.)

AN ACT to provide for a compensation for John C. Keister for injuries received while in the service of the state and acting as cadet under orders of the military department at the West Virginia university.

[Passed February 11, 1907. In effect from passage. Approved by the Governor, February 19, 1907.]

SEC.

1. Appropriation to pay John C. Keister: how paid.

WHEREAS, John C. Keister was on the — day of October, one thousand nine hundred and three, regularly appointed a cadet of

the state university from the county of Pendleton, and entered into the service as such, on the — day of October of said year, one thousand nine hundred and three, at said university, and

WHEREAS, on the thirtieth day of June, one thousand nine hundred and five, he was cadet sergeant of Company "C," cadet corps, West Virginia university, and was a member of the artillery section, on the above date; and

WHEREAS, the said Keister was on duty with the said artillery section on said above date, and while firing one of the guns belonging to the state of West Virginia, and in use by the West Virginia university, for the instruction of the cadet corps, a premature discharge occurred, badly injuring the said John C. Keister; his left eye being injured, left side of face badly torn, nose and mouth very badly torn, three fingers entirely blown off, index finger and thumb partly blown off of right hand, flesh on palm of right hand torn out, and the flesh of his neck and body badly lacerated; and

WHEREAS, the said injury was received by the said cadet, John C. Keister, while in the time of duty, and the injuries he received by the said premature discharge of the said field piece, seriously injured and made him a cripple for life, for which he was in no wise responsible; therefore,

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the said John C. Keister shall be allowed two thousand five hundred dollars, to be paid out of the state treasury, by a warrant drawn on the auditor of the state to be paid out of the funds not otherwise appropriated.

CHAPTER 50.

(House Bill No. 25.)

AN ACT authorizing the county courts of the several counties to mark by suitable monuments the sites of the frontier forts and blockhouses occupied by the early settlers during the Indian wars, also the graves of soldiers of the war of the revolution.

[Passed February 9, 1907. In effect from passage. Approved by the Governor, February 14, 1907.]

SEC.	1. County courts authorized in their discretion, to erect memorial	SEC.	monuments; in memory of what.
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That in order to perpetuate the memory of the pioneers of this state, the county courts of the several counties be and the same are hereby authorized, in their discretion, to cause to be erected monuments or tablets in memory of any person or persons engaged in the Indian wars, to mark the sites of the frontier forts and blockhouses constructed and occupied by the early settlers during the Indian wars, and other historic localities, and also the graves of soldiers of the war of the revolution, in their respective counties.

CHAPTER 51.

(Senate Bill No. 53.)

AN ACT to extend the time in which distraint and sales may be made for taxes.

[Passed January 30, 1907. In effect from passage. Approved by the Governor, February 14, 1907.]

SEC.
1. Sheriffs, whose terms expired December 31, 1900, allowed until December 31, 1909, to make distraint or sale for collection of

SEC.
taxes not returned delinquent for certain years; how taxes collected from persons removing from one county to another.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the sheriffs of the several counties in the state of West Virginia, whose terms expired on the thirty-first day of December, one thousand nine hundred, be allowed until the thirty-first day of December, one thousand nine hundred and nine, within which to make distraint or sale for the collection of taxes not returned delinquent for the years one thousand eight hundred and ninety-seven, one thousand eight hundred and ninety-eight, one thousand eight hundred and ninety-nine, and one thousand nine hundred; and any person who shall remove from the county wherein he or she has been assessed, before paying the tax on said assessment, the sheriff of said county may forward the tax receipt of said assessment to the sheriff of the county in which said person has removed, who is hereby empowered to make, levy and collect said tax the same as he is empowered to make, levy and collect tax on assessments made in his own county.

CHAPTER 52.

(Senate Bill No. 125.)

AN ACT regulating life insurance companies and prohibiting the diversion of funds for political purposes.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 26, 1907.]

SEC.

1. No insurance company allowed to financially aid any political party or association organized for political purposes; penalties for violation; no person excused

SEC.

from testifying or producing books, etc., on the ground of incriminating himself; no testimony so given shall be used against him, etc.

Be it enacted by the Legislature of West Virginia:

Sec. 1. No insurance company or association including fraternal beneficiary associations, doing business in this state shall directly or indirectly, pay or use or offer, consent or agree to pay or use any money or property for, or in aid of any political party, committee or organization, or for or in aid of any corporation, joint stock or other association, organized or maintained for political purposes, or for or in aid of any candidate for political office, or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used. Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this act, who participates in, aids, abets or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this act, shall be guilty of a misdemeanor and be punished by imprisonment for not more than one year and a fine of not more than one thousand dollars, and any officer aiding or abetting in any contribution made in violation of this act, shall be liable to the company or association for the amount so contributed.

No person shall be excused for attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigations, proceeding or trial, for a violation of any of the provisions of this act upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of any transaction, matter or thing concerning

which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding.

CHAPTER 53.

(Senate Bill No. 128.)

AN ACT defining the status of persons soliciting life insurance.

[Passed February 22, 1907. In effect from passage. Approved by the Governor, February, 27, 1907.]

SEC. 1. Agents of insurance companies de- fined.	SEC. 2. Repealing clause.
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Be it enacted by the Legislature of West Virginia:

Sec. 1. . Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the assured or his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the assured.

Sec. 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAPTER 54.

(House Bill No. 212.)

AN ACT to amend and re-enact section two of chapter forty-seven of the code, as amended by the acts of one thousand nine hundred and one, chapter forty-one, relating to the incorporation of towns, cities and villages, and providing for the forfeiture and dissolution of charters heretofore and hereafter granted.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 25, 1907.]

SEC. 2. Incorporation of city, town or vil- lage; under what conditions; by whom granted; forfeiture of	SEC. charter; when; how forfeited; inconsistent acts repealed.
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Be it enacted by the Legislature of West Virginia:

That section two of chapter forty-seven of the code, as amended

by the acts of one thousand nine hundred and one, chapter forty-one, be re-enacted so as to read as follows:

Sec. 2. Any part of any district or districts not included within any incorporated town, village or city, and containing a resident population of not less than one hundred persons, and if it shall include within its boundaries a territory of not less than one-quarter of one square mile in extent, and not more than a reasonable amount of territory proportionate to the number of residents therein (the exact extent of the territory to be included therein, to be within the discretion of the circuit court granting the charter) may be incorporated as a city, town or village, under the provisions of this act; and any city, town or village heretofore incorporated under the provision of said chapter forty-seven of said acts of one thousand nine hundred and one, or which shall hereafter be incorporated under the provisions of this act, and which has no bonded indebtedness, and which shall fail for one year to exercise its corporate powers and privileges, or which has not twenty legal voters residing therein, or in which there were not twenty legal votes cast at its last election, or the population of which shall be reduced below seventy-five persons and so remain for six months, shall in either event thereby forfeit its charter so granted, and all rights, powers and privileges so conferred to such town, city or village. And the circuit court of the county where any such city, town or village is located within this state shall have jurisdiction to hear and determine all matters relating to the forfeiture and dissolution of all such charters granted as hereinbefore provided, upon the petition of one or more of its inhabitants, or any ten freeholders of the county wherein such city, town or village is located, to annul and declare forfeited such charter and shall dissolve the corporation. Ten days' notice of the filing of such petition with the clerk of the circuit court of the county wherein such city, town or village is located, served upon the mayor and recorder thereof shall be sufficient notice upon which the judge of such court shall so act, and upon proper proof of the allegations of such petition, all such charters so granted shall be declared forfeited and the corporation dissolved.

All acts and parts of acts heretofore enacted and inconsistent herewith are hereby repealed.

CHAPTER 55.

(Senate Bill No. 178.)

AN ACT to amend and re-enact sections one and two of chapter thirty-three of the code of West Virginia, relating to taxes on inheritances, devises, distributive shares and legacies.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 27, 1907.]

<p>SEC. 1. Transfers, in trust or otherwise of any property, etc., except for educational purposes, etc., subject to taxation, also inherit-</p>		<p>SEC. ances, devises, distributive shares and legacies. 2. Rate of tax; property not taxable.</p>
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Be it enacted by the Legislature of West Virginia:

That sections one and two of chapter thirty-three of the code of West Virginia be and the same are hereby amended and re-enacted so as to read as follows:

Sec. 1. A tax payable into the treasury of the state shall be imposed upon the transfer in trust or otherwise, of any property or interest therein, real, personal or mixed, except a transfer to a person or corporation in trust or use for educational, literary, scientific, religious or charitable purposes, or to the state or any county or municipal corporation thereof for public purposes; if such transfer be

(a) By will or by the laws of this state regulating descents and distributions from any person who is a resident of the state at the time of his death, and who shall die seized or possessed of the property;

(b) By will or by laws regulating descent and distributions of property within the state, and the decedent was a non-resident of the state at the time of his death;

(c) By a resident or be of property within the state by a non-resident, by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor, bargainer or donor, or intended to take effect in possession or enjoyment at or after such death.

(d) If any person shall transfer any property which he owns or shall cause any property to which he is absolutely entitled, to be transferred to or vested in himself and any other person jointly, so that the title therein, or in some part thereof vest no survivorship in such other person, a transfer shall be deemed to occur and to be

taxable under the provisions of this act upon the vesting of such title.

(e) Whenever a person shall exercise by will a power of appointment derived from any disposition of property, such appointment when made shall be deemed a transfer taxable under the provisions hereof.

Sec. 2. The amount of such tax shall be one per cent of the market value of the property transferred, if it be transferred to or for the use of the father, mother, husband, wife, child, or lineal descendent of the decedent, grantor, vendor, bargainer or donor; three per cent if the brother or sister; five per cent if to the grandfather or grandmother and seven and one-half per cent if to any other person or to any corporation; *provided*, that when property, real or personal, or any beneficial interest therein, of the value of less than twenty thousand dollars, passes by any such transfer to or for the use of any father, mother, husband, wife, child or lineal descendents of the person from whom the property is transferred, such transfer of property shall not be taxable under this act.

CHAPTER 56.

(House Bill No. 172.)

AN ACT to amend and re-enact sections one, five and twelve of chapter eighty-five of the code, relating to personal representatives, their powers and duties.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 27, 1907.]

SEC.

1. Power of executor before qualifying.
5. Bond and oath of administrator; to file affidavit; no affidavit required if decedent has been dead over five years, etc., termination of grant of administration.
12. Appraisal of estate; number of appraisers; their duties; no judg-

SEC.

ments rendered by courts unless evidence of debt be listed by appraisers; appraisements to be signed by appraisers and recorded by clerk; *prima facie* evidence of value; compensation of appraisers; no person permitted to avoid appraisement, etc.

Be it enacted by the Legislature of West Virginia:

That sections one, five and twelve of chapter eighty-five of the code be and the same are hereby amended and re-enacted so as to read as follows:

Sec. 1. A person appointed by a will executor thereof, shall not

have the powers of executor until he qualify as such by taking an oath and giving bond before the county court in which the will, or an authenticated copy thereof is admitted to record, or before the clerk thereof in vacation, except that he may provide for the burial of the testator, pay reasonable funeral expenses and preserve the estate from waste. At the time of the qualification of the executor of any estate as provided by this chapter, he shall file his own affidavit, or the affidavit of some credible person, showing the names of the distributees of said estate, their post office address and their relation to the decedent.

Sec. 5. Before any grant of administration, as of the estate of any intestate, the person to whom it is granted shall, before the court granting it, give bond and take an oath that the deceased has left no will as far as he knows, and that he will faithfully perform the duties of his office to the best of his skill and judgment; and file his own affidavit, or the affidavit of some credible person, at the time of his qualification, showing the names of the distributees of said estate, and their relation to the decedent; which affidavit shall be recorded by the clerk in the fiduciary record, and shall be *prima facie* evidence of what is contained therein; *provided*, that said affidavit may not be required where the decedent has been dead more than five years prior to the time of said qualification; and no other oath or affidavit shall be required of him. If a will of the deceased be afterwards admitted to record, or if after administration is granted to a creditor, or other person than a distributee, any distributee who shall not have before refused, shall apply for administration, there may be a grant of probate or administration in like manner as if the former grant had not been made, and the said former grant shall thereupon cease.

Sec. 12. The personal estate of every deceased person, together with all real estate which his personal representative is authorized by will to lease or sell, or which is subject to a tax as provided by chapter thirty-three of the code, shall be appraised as follows:— The court by whose order any person is authorized to act as personal representative shall appoint not less than three nor more than five appraisers, any three of whom may act, in the county in which deceased last had his residence, and a like number in every other county in which there may be any goods or chattels of the deceased or, in the case of a will in which there may be any real estate which the personal representative is authorized to lease or sell, or

which is subject to a tax as provided by chapter thirty-three of the code, said appraisers after first taking an oath for the purpose, shall appraise at its real and actual value all the tangible personal property of every description owned by deceased at the time of his death and located in their respective counties, and all real estate in their respective counties which his personal representative is authorized by will to receive the rents from, or to lease or sell, or which is subject to tax as provided by chapter thirty-three of the code; they shall also make a list of all his intangible property of every description, including moneys, credits, investments, annuities, insurance policies, judgments and decrees for moneys, notes, bonds, accounts and all other evidences of debt, whether owing to him by persons or corporations in or out of the state; the number and value, including both the par value and the actual value of any shares of capital stock owned by him in any joint stock company or corporation, whether located in this state or elsewhere; they shall designate such intangible property as good, bad or doubtful, as to them may appear to be correct, and by whom owing and when payable, and from what time such of them as are interest-bearing, bear interest.

Every such note, bond or evidence of debt shall have endorsed thereon the word "appraised," under which each acting appraiser shall sign his name. No judgment shall be rendered by any of the courts of this state upon such note, bond or evidence of debt unless and until the same shall be first shown to have been listed by the appraisers; *provided, however,* that any note, bond or evidence of debt which bears the endorsement by the appraisers, as above required, shall need no further proof that the same was listed.

The several appraisements and lists aforesaid shall be signed by the appraisers who made the same, and returned to the clerk of said court who shall record them; every such appraisalment and list shall be *prima facie* evidence of the value of the estate embraced therein, and that it came to the hands of the personal representatives; said appraisers shall receive each one dollar per day and their actual expenses necessarily incurred in making said appraisalment. No person shall be permitted by any means whatsoever to avoid the appraisalment and listing of his estate, as herein provided.

CHAPTER 57.

(House Bill No. 315.)

AN ACT for the protection of birds and their nests and eggs.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 26, 1907.]

SEC.	SEC.
1. Wild birds, resident and migratory, property of state.	not under fifteen years of age permitting them to take birds, etc., for scientific purposes; qualifications for holding permit; charge; penalty for violation.
2. Violation to kill, catch, etc., certain birds; what considered game birds.	8. Certificates; when to expire; not transferrable.
3. Not to destroy nests or eggs.	9. Birds not protected by act.
4. Shipments within or without this state.	10. May keep wild non-game birds as domestic pets; not to be sold or transported out of state.
5. Penalties for violations.	11. Inconsistent acts repealed.
6. Previous sections not applicable to birds, etc., taken for scientific purposes.	
7. Certificates to be granted persons	

Be it enacted by the Legislature of West Virginia:

Sec. 1. That all wild birds both resident and migratory, in this state, shall be, and are hereby declared to be the property of the state.

Sec. 2. That no person shall within the state of West Virginia, kill or catch or have in his or her possession, living or dead, any wild bird other than a game bird; or purchase, offer or expose for sale, transport or ship within or without the state, any such wild bird after it has been killed or caught, except as permitted by this act. No part of the plumage, skin, or body of any bird protected by this section shall be sold or had in possession for sale, irrespective of whether said bird was captured or killed within or without the state. For the purpose of this act the following only shall be considered game birds: the anaticæ, commonly known as swans, geese, brant, and river and sea ducks; the rallidae, commonly known as rails, coots, mud-hens and gallinules; the limicolæ, commonly known as shore birds, plovers, surf birds, snipe, wood-cocks, sand pipers, tattlers and curlews; the gallinae, commonly known as wild turkeys, grouse, prairie chickens, pheasants, partridges and quails; all other species of wild birds either resident or migratory, shall be considered non-game birds.

Sec. 3. That no person shall, within the state of West Virginia take or needlessly destroy or attempt to take or destroy the nest or the eggs of any wild bird other than a game bird, or have such

nest or eggs in his or her possession, except as permitted by this act.

Sec. 4. That no person or persons or any corporation acting as a common carrier, its officers, agents or servants, shall ship, carry, take or transport, either within or beyond the confines of the state, any resident or migratory wild non-game bird, except as permitted by this act.

Sec. 5. Any person who violates any of the provisions of this act shall be guilty of a misdemeanor, and shall be liable to a fine of five dollars for each offense, and an additional fine of five dollars for each bird, living or dead, or part of bird, or nest, or set of eggs, or part thereof, possessed in violation of this act, or to imprisonment for thirty days, or both, at the discretion of the court.

Sec. 6. That sections two, three, four and five of this act shall not apply to any person holding a certificate giving the right to take birds, their nests, or eggs for scientific purposes only, as provided for in section seven of this act.

Sec. 7. That certificate may be granted to any properly accredited person of the age of fifteen years or upward, permitting the holder thereof to collect birds, their nests, or eggs for scientific purposes only; the applicant for same must present to said officer written testimonials from two well known ornithologists who must be residents of West Virginia, certifying to the good character, and fitness of said applicant to be intrusted with such privilege; must pay said officer one dollar to defray the necessary expenses attending the granting of such certificate; on proof that the holder of such certificate has killed any bird, or taken the nest or eggs of any bird for other than strictly scientific purposes, his certificate shall become void and he shall be liable to a fine of one hundred dollars or imprisonment of thirty days, or both, at the discretion of the court.

Sec. 8. The certificates authorized by section seven of this act shall expire on the thirty-first day of December of the year issued, and shall not be transferable.

Sec. 9. That the english or european house sparrow, great horned owl, sharp shinned hawk and cooper's hawk, are not included among the birds protected by this act.

Sec. 10. That nothing in this act shall prevent a citizen of West Virginia from taking or keeping any wild non-game bird in

a cage as a domestic pet; *provided*, that such bird shall not be sold or exchanged, or offered for sale or exchange, or transported out of this state.

Sec. 11. All other acts or parts of acts in conflict with this act are hereby repealed.

CHAPTER 58.

(Senate Bill No. 86.)

AN ACT to amend and re-enact section fifty-three of chapter forty-five of the code of West Virginia, relating to the qualifications and salary of county superintendents.

[Passed February 20, 1907. In effect ninety days from passage. Became a law without the approval of the Governor.]

SEC. 53. County superintendents of schools; his qualifications and duty as such; compensation; conduct dis-

SEC. trict institutes; teachers compensation for attendance; vacancies, how filled.

Be it enacted by the Legislature of West Virginia:

That section fifty-three of chapter forty-five of the code be amended and re-enacted so as to read as follows:

Sec. 53. The county superintendent of free schools shall be a person of good moral character and of temperate habits, literary acquirements and skill and experience in the art of teaching.

The county superintendent shall receive for his services an annual compensation, as follows: In counties having not more than fifty schools, five hundred dollars; in counties having more than fifty and not more than seventy-five schools, five hundred and seventy-five dollars; in counties having more than seventy-five and not more than one hundred schools, six hundred and fifty dollars. and in counties having more than one hundred and not more than one hundred and twenty-five schools, seven hundred and twenty-five dollars, and in counties having more than one hundred and twenty-five schools he shall be allowed two dollars for each additional school more than one hundred and twenty-five. In addition thereto the county superintendent shall be allowed the same compensation for conducting examinations as is allowed his assistants; *provided*, that the salary in no case shall exceed twelve hundred dollars; such compensation shall be paid quarterly upon

orders drawn by the county superintendent on the state superintendent of free schools, who shall upon receiving the same draw his warrant upon the auditor therefor, payable to the said county superintendent, or to such person as he may direct; but the payment of the fourth quarter shall not be made until the county superintendent has made the reports to the state superintendent of free schools required by section twenty-two of this chapter and for every day after the first day of September before the receipt of these reports the state superintendent shall deduct three dollars from the salary of the county superintendent, unless said reports are delayed by sheriffs' settlements or reports from secretaries of boards of education; the salary of the county superintendent shall be paid out of the general school fund, but the amount thereof shall be deducted by the auditor from the amount next to be distributed to each county.

As a further means of improvement among teachers, the county superintendent shall arrange for and conduct district institutes, or teachers' round table, one or more to be held in each district of his county within the school year, and at such time and place as is most convenient for the teachers. Boards of education shall allow the teachers of their respective districts at least one day's pay in each school year for their actual attendance upon said district institute, such day to be counted as if spent in teaching, and as a part of the school term. The county superintendent shall certify to the secretary of each board of education the attendance of teachers of the different district institutes, and credit shall be allowed for the one day's attendance herein provided for, in the school month in which said institute is held; *provided*, that no teacher shall be allowed such pay unless he has been regularly employed by the trustees or board of education.

The county superintendent shall, before entering upon the duties of his office, execute a bond conditioned according to law, before the county court of his county, or the clerk thereof in vacation, in the sum of one thousand dollars with approved security, upon which bond he shall be liable in any court having jurisdiction, to any person or persons, or to any board of education for losses sustained by reason of his neglect, or non-performance of his duties imposed by this chapter; said bond shall be filed in the office of the clerk of the county court, who shall within five days, certify to the state superintendent of schools the name of said

county superintendent and his post office address, *provided*, that the county superintendents heretofore elected shall continue in office until their successors shall have been elected and qualified under this chapter.

A vacancy in the office of county superintendent shall be filled for the unexpired term by the presidents of the boards of education in the county, at a meeting to be called for that purpose by the clerk of the county court at the court house of the county within thirty days after the vacancy occurs. A majority of said presidents shall be necessary to constitute a quorum at such meeting.

CHAPTER 59.

(Senate Bill No. 6.)

AN ACT limiting the hours of service of train dispatchers, telegraph and telephone operators in certain cases in twenty-four consecutive hours.

[Passed February 21, 1907. In effect ninety days from passage. Approved by the Governor, February 25, 1907.]

Sec.

1. Telephone or telegraph operators serving in certain capacity of railroads not to be on duty more than eight out of twenty-four consecutive hours; when

SEC.

- permitted to work twelve hours; how long; agreement between company and operator.
2. Penalty for violations.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That it shall be unlawful for any person, corporation or association, operating a railroad within this state to permit any person employed by them, or on their railroad, in the capacity of telephone or telegraph operator, whose duty it is to space or block trains or engines, or handle train orders governing the movement of trains or engines, or handling interlocking switches governing the movement of trains or engines, to permit such telephone or telegraph operator so employed to be on duty more than eight hours in any twenty-four consecutive hours; *provided*, that the provisions of this act shall apply only to such parts of a railroad where three or more passenger trains pass each way in twenty-four consecutive hours, or where ten or more freight trains pass each way in twenty-four consecutive hours, or at any office where said telegraph

or telephone operators are employed twenty or more hours in twenty-four consecutive hours, and *provided, further*, that in case of necessity caused by the sickness of any such operators or by an accident on such railroad, such telephone and telegraph operators may be permitted to be on duty for a period of twelve consecutive hours in any twenty-four consecutive hours, but such extension of time shall extend only for a period long enough to enable such railroad company to supply the required number of operators at such office, and shall in no case extend over a period of more than two days, nor under this provision shall it be lawful for any telegraph or telephone operator to be on duty twelve consecutive hours in any twenty-four consecutive hours for more than three times in any calendar month; but nothing in this act shall prevent any such company and operator agreeing to a longer day than eight hours, but in no case shall any such operator be permitted to be on duty longer than twelve consecutive hours in any twenty-four consecutive hours under such agreement.

Sec. 2. Any person, corporation or association convicted of violating the provisions of this act shall be guilty of a misdemeanor and pay a fine of one hundred dollars for the first offense, and for each offense committed after the first conviction hereunder, pay a fine of three hundred dollars.

CHAPTER 60.

(House Bill No. 291.)

AN ACT providing for the appointment and removal of a state highway inspector and prescribing his duties and compensation.

[Passed February 10, 1907. In effect ninety days from passage. Approved by the Governor, February 24, 1907.]

SEC.

1. Governor authorized to appoint state highway inspector; qualification; term of office.
2. Oath of office; where filed.
3. Removal and vacancy; how filled.
4. Salary and traveling expenses; itemized account to be filed with auditor before payment; to be provided with office in capitol.
5. Duties of state highway inspector.

SEC.

6. State board of agriculture to render all assistance possible.
7. With consent of governor, highway inspector authorized to have printed and distributed bulletins concerning public highways.
8. Duty of other officers as to furnishing information required by highway inspector.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the governor by and with the advice and consent of

the senate, shall appoint as state highway inspector some citizen of this state entitled to vote, whose term of office shall begin at the date of appointment, and shall continue for two years unless he be sooner removed.

Sec. 2. The person so appointed shall make the oath or affirmation prescribed by section five of article five of the constitution, and such oath shall be certified by the person who administers the same and shall be filed in the office of the secretary of state.

Sec. 3. The governor may remove such officer in case of incompetency, neglect of duty, gross immorality, or malfeasance in office, and in case of a vacancy, whether occurring by reason of removal or otherwise, may declare the office vacant, and fill the same by appointment for the unexpired term.

Sec. 4. The salary of the state highway inspector shall be two thousand dollars a year; he shall be repaid his actual disbursement for traveling expenses, not exceeding one thousand dollars in any one year, an itemized account of which shall be filed with the auditor to be audited by him before payment thereof; he shall be provided with an office in the capitol and with such furniture, stationery and clerical assistance as shall be necessary.

Sec. 5. It shall be the duty of the state highway inspector to consider and report to the governor and to the next regular session of the legislature of this state, what changes are required in the laws of West Virginia relating to the construction and maintenance of the public highways of the state to meet the conditions as they exist within the several counties of the state, with the least possible burden upon the people and property of the state; he shall submit to the governor and to the legislature, together with his report, such measure or measures as he may deem necessary or expedient to remedy defects; remove irregularities in our present laws relating to the subject named and give the state a more efficient system of laws relating to the construction and maintenance of the public highways together with a brief report giving the total number of miles of road in each of the counties, the manner in which roads are constructed and maintained, the manner in which money for such purpose is raised and how expended, the manner in which accounts pertaining to the same are reported, the amounts expended annually during the past five years by the various counties of the state for the construction and maintenance of public highways, and with what results as may be shown by their present condition of improve-

ment; he shall make or cause to be made tests of materials found within the various counties of the state suitable for road construction, and it is hereby made the duty of the chemical and engineering departments of the West Virginia university to make such tests whenever requested by the highway inspector to do so.

Sec. 6. It is hereby made the duty of the state board of agriculture, through their official force, to render all assistance possible without neglect to their own official duties.

Sec. 7. By and with the consent of the governor the said highway inspector may from time to time cause to be printed and distributed throughout the state, bulletins containing useful information concerning the construction and maintenance of public highways; such printing to be done by the state printer and at the expense of the state.

Sec. 8. It is hereby made the duty of all state, county, and district officers to render free of charge, any information which may be required by the state highway inspector in carrying out the duties imposed upon him by this act.

CHAPTER 61.

(House Bill No. 1.)

AN ACT to provide for the erection of a building and for the display of the state of West Virginia at the Jamestown exposition of one thousand nine hundred and seven, and to make an appropriation for the expenses therefor.

[Passed January 29, 1907. In effect from passage. Approved by the Governor, February 9, 1907.]

Sec.

1. Organization; president and treasurer; secretary; qualification; commission to appoint committees.
2. Power of commission; quorum; removals and vacancies; how filled.
3. Treasurer to give bond; his duties.
4. Duties of Jamestown Exposition Commission.
5. Commission to make report; to whom.
6. Nothing in act shall be construed as to create debt to state in excess of appropriation; salaries

Sec.

- and expenses; out of what fund paid.
7. No member of said commission personally liable for debt created by said commission.
8. Erection of building; by whom authorized; cost; money derived from sale of building at close of exposition; to whom paid unless same needed for deficiency; exhibits to be returned to state; compensation of commission and secretary; appropriation to carry out provisions.

Be it enacted by the Legislature of West Virginia:

That the action of his excellency, Governor Wm. M. O. Dawson

in appointing the Jamestown exposition commission is herein confirmed and the said parties, Stephen B. Elkins, A. B. Fleming, W. A. MacCorkle, G. W. Atkinson, A. B. White and F. M. Staunton are hereby constituted a commission to be known as the "West Virginia Commission for the Jamestown Exposition," whose duties it shall be to carry out the provisions of this act in reference to the representation of the state of West Virginia at said exposition. And the acts of said commission in and about the organization of said exposition for the state of West Virginia are hereby confirmed and approved.

Sec. 1. The commission shall organize by the election from among themselves, of a president and treasurer, and shall at the same time appoint as secretary a person experienced and skilled in bookkeeping; said commission shall appoint such committees as they may deem expedient.

Sec. 2. The commission shall have power to make rules and by-laws for its government not inconsistent with the provisions of this act and not in conflict with the regulations adopted under the act of the commonwealth of Virginia for the government of the Jamestown exposition. Three members of the commission shall constitute a quorum for the transaction of business. Any member of the commission may at any time be removed for cause by the governor, and any vacancy in the membership of the commission resulting from death or resignation shall be filled by the governor.

Sec. 3. The treasurer shall give bond in the penalty of twenty thousand dollars, payable to the state of West Virginia, to be approved by the governor, and conditioned for the faithful performance of his duties and to account for and pay over all moneys that may come into his hands as such treasurer; the duties of the treasurer shall be prescribed by said commission and entered in their journal of proceedings.

Sec. 4. The said commission shall have charge of the interests of the state and its citizens in the preparation and exhibition at the Jamestown exposition of nineteen hundred and seven of the natural and industrial products of the state, and of the object illustrating its history, progress, moral and material welfare and future development, and in all other matters relating to the said Jamestown exposition. It shall communicate with the officers of, and obtain and disseminate throughout the state all necessary information regarding said exposition, and in general have and exercise full

authority in relation to the participation of the state of West Virginia and its citizens in the Jamestown exposition of one thousand nine hundred and seven; said commission shall expend on the historical exhibit not less than seven thousand dollars nor more than eight thousand dollars, and shall expend on the coal exhibit not less than seven thousand dollars nor more than eight thousand dollars, and shall expend on the agricultural exhibit not less than seven thousand dollars nor more than eight thousand dollars, out of the sum herein appropriated.

Sec. 5. The said commission shall make a report of its proceedings and expenditures from time to time to the governor; and at any time upon his written request, to be by him transmitted to the legislature, together with such suggestions as he may deem important regarding provisions for a complete and creditable representation of the state at the Jamestown exposition of one thousand nine hundred and seven.

Sec. 6. Nothing in this act shall be so construed as to create any liability of the state of West Virginia, direct or indirect, for any debt or obligation incurred, nor for any claim for aid or pecuniary assistance from the state, in support or liquidation of any debts or obligations created by said commission in excess of the appropriation herein made therefor; and all salaries and expenses of said commission, and of its members and appointees, herein authorized shall be paid out of the money hereby appropriated:

Sec. 7. No member of said commission, whether an officer or otherwise, shall be personally liable for any debt or obligation which may be created or incurred by said commission.

Sec. 8. The said commission shall itself, or by its president, cause a suitable building to be erected on the site selected by the West Virginia commission for the Jamestown exposition, but the contract for said building shall not exceed the sum of \$20,000, which said building shall be disposed of at the close of the exposition to the best advantage by said commission. The proceeds arising out of any sale of said building shall be paid into the treasury of the state of West Virginia, by said commission, unless the same is needed to discharge any deficiency which may occur in the appropriation made by this act. All permanent exhibits of an historical nature, that should be preserved, in the opinion of the commission, shall be returned to the state of West Virginia.

The members of the commission appointed under this act shall

be entitled to their actual expenses in and about their work connected with their duties as commissioners, and said commission shall have the authority to pay the secretary and other agents which may be necessarily employed by them, whatever sum in their opinion may be necessary for the services so rendered.

To carry out the provisions of this act the sum of fifty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, to be paid out of the treasury from time to time on the requisition of said commission, signed by its president and secretary, and approved by the governor and accompanied by estimates of the expenses to the payment of which the money so drawn is to be applied.

CHAPTER 62.

(Senate Bill No. 76.)

AN ACT to amend and re-enact chapter fifty of the acts of the legislature of nineteen hundred and five, limiting the power of municipal corporations to impose taxes.

[Passed February 15, 1907. In effect ninety days from passage. Approved by the Governor, February 21, 1907.]

SEC.

1. Duties of council of incorporated city, etc., to estimate necessary levy for current fiscal year; notice by publication; when council to reconvene; objections as to proposed levy; from whom received; power of council as to corrections; **m a x i m u m**

SEC.

amount; question of additional levy to be submitted to voters; limit of additional levy in certain cases only; when discontinued; unlawful to contract debt in excess of levy, etc., penalty for violation.

Be it enacted by the Legislature of West Virginia:

That chapter fifty of the acts of the legislature of nineteen hundred and five, entitled "An act limiting the power of municipal corporations to impose taxes," be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 1. The council of each city, town or village in this state shall at a session thereof held for the purpose on the first Tuesday in July of each year, proceed to make up an estimate of the amount necessary to be levied for the current fiscal year to cover all debts and liabilities payable during such year, after deducting the amount in the treasury applicable to the service of the year, and such other claims for collection, of which during the year may, in the opinion

of such council be relied on; which estimate shall set forth the several heads of expenditures, with the amount estimated as necessary under each head. The said council shall thereupon cause to be published in at least two newspapers of opposite politics in said county, if there be such, and if there be none then in some newspaper of general circulation, for at least three weeks, said estimates of expenditures proposed to be levied for; said council shall on the first Tuesday after the last of such publications has been made, reconvenne, at which time it shall be the duty of said council to hear and consider any objections raised by any municipal officer, state tax commissioner or any tax payer of said municipality to said proposed levy, or any item thereof, and it shall be the further duty of said council to enter an order of record showing the objections of any municipal officer or any tax payer of such municipality to the proposed levy, setting forth the reasons and grounds of said objections, and after said objections have been made and heard, the said council shall thereupon reconsider the proposed original estimates, and if the objections to the same, or any part thereof, appear to be well taken, the council shall correct the same accordingly, and it shall thereupon be approved, and when approved shall with the order approving it, be entered of record by the clerk of such municipality in the proper book; the said council shall thereupon levy so many cents on every one hundred dollars of the valuation of the property taxable in such municipality as will cover the estimated amount necessary to be raised for municipal purposes as aforesaid approved, during the fiscal year. But notwithstanding the provisions of chapter forty-seven of the code of West Virginia, or of any act of the legislature, special or general, incorporating any city, town or village, or amending the charter thereof, no council of any city, town or village, shall in any one year assess or levy taxes upon property, real or personal, at more than forty cents on the one hundred dollars valuation of taxable property in such city, town or village, according to the last assessment thereof, as ascertained and reported under the provisions of section thirty-eight, chapter twenty-nine of the code, as amended and re-enacted by chapter thirty-five of the acts of the legislature of nineteen hundred and five; *provided*, that the council of any city, town or village believing that the maximum amount of revenues herein provided will not be sufficient for any one year, may submit the question of an additional levy to the voters of such city, town or village,

and if a majority of the votes cast thereon be in favor of such increased levy, the council may levy the same; the amount of rate of such additional levy shall be named in the order of the council submitting the question to the voters. *Provided*, second, that in any city town or village, which has at the time this act goes into effect, an outstanding indebtedness, may lay an additional special levy of ten cents on each one hundred dollars valuation of the taxable property to pay off such outstanding indebtedness; such additional levy shall be designated as "a special levy for the payment of outstanding indebtedness," and shall only be levied in cases where there is an outstanding indebtedness represented by city, town or village orders, or bonds. and it shall not be continued after such outstanding indebtedness has been paid off and discharged.

It shall be unlawful for any city, town or village council to contract or attempt to contract any debt or liability against such city, town or village, or issue or cause to be issued any order or orders which cannot be paid out of the levy or levies of the fund against which such orders are issued for the current year; any member or members of any city, town or village council who shall violate the provisions of this act shall forfeit his office, and there shall be no liability upon the funds of such city, town or village on account of any such debt, obligation or contract.

CHAPTER 63.

(Senate Bill No. 75.)

AN ACT to amend and re-enact section twenty-nine of chapter thirty-nine of the code of West Virginia, as last amended and re-enacted by chapter forty-eight of the acts of the legislature of nineteen hundred and five, relating to county levies.

[Passed February 15, 1907. In effect ninety days from passage. Approved by the Governor, February 21, 1907.]

SEC.
29. County court to make estimate and lay levy; when; estimate of expenditures to be published; to consider objections raised by; fixing rate of levy; increase levy to be determined by election;

SEC. counties with outstanding indebtedness may lay additional levy; county clerk to audit the indebtedness; unlawful to contract debt in excess of levy, etc.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine of chapter thirty-nine of the code, as

last amended and re-enacted by chapter forty-eight of the acts of the legislature of nineteen hundred and five, be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 29. The county court of every county shall, at a regular or special session of said court, held for the purpose on the first Tuesday in July of each year, proceed to make up an estimate of the amount necessary to be levied for the current fiscal year to cover all county debts and liabilities payable during each year, including the probable expenditures for county purposes and proper allowance for delinquent taxes, discount allowed on taxes paid on or before the thirtieth day of November, expenses of collection and contingencies; but deducting the money in the county treasury applicable to the service of the year, and county claims, the collection of which during the year may in their opinion, be relied upon; which estimate shall set forth the several heads of expenditures with the amount estimated as necessary under each head; the said court shall thereupon cause to be published in at least two newspapers of opposite politics in said county, if there be such, for at least three weeks, the said estimates of expenditures proposed to be levied for, and said special session of said court shall stand adjourned until said publications have been made; said county court shall on the first Tuesday after said publications have been made, reconvene, at which time it shall be the duty of said court to hear and consider any objections raised by the prosecuting attorney, state tax commissioner or any tax payer of said county to said proposed levy or any item thereof; and it shall be the further duty of said court to enter an order of record showing the objection of the prosecuting attorney, state tax commissioner or any tax payer or tax payers to the proposed levy, setting forth the reasons and grounds of said objections; and after said objections have been made and heard the said court shall thereupon reconsider the proposed original estimates, and if the objections to the same or any part thereof appear to be well taken, the court shall correct the same accordingly, and it shall thereupon be approved, and when approved shall with the order approving it, be entered by the clerk in the proper record book. The said county court shall thereupon levy so many cents on every hundred dollars of the valuation of the property taxable in the county, according to the last assessment thereof, as will cover the estimated amount necessary to be raised for county purposes and as aforesaid approved during the fiscal year; but such levy

shall in no case exceed thirty-five cents on the one hundred dollars valuation of property; *provided, first*, that if the county court of any county shall be of the opinion that the maximum fixed by this proviso is insufficient for any year, it shall make up an itemized estimate of the expenses to be provided for in such year with the rate of levy in cents on each one hundred dollars on the valuation necessary to provide for the payment thereof, and may submit the question of an increased levy to the voters of the county at an election to be held therein on not less than thirty days published notice, and may make such rules and regulations as may be necessary for the holding of such election; and if a majority of the votes cast on the question of increased levy at such election be in favor of such levy, the county court may levy such amount stated in the notice of the election as necessary; *provided, second*, that any county which has at the time this act goes into effect, an outstanding indebtedness may lay an additional special levy of ten cents on each one hundred dollars valuation of the taxable property of such county for the purpose of paying off such outstanding indebtedness; such additional levy shall be designated as "a special levy for the payment of outstanding indebtedness," and shall be levied in cases where there is an outstanding indebtedness represented by county orders, or other indebtedness for which orders have not been issued and are outstanding at the time this act may take effect, and it shall not be continued after such outstanding indebtedness has been paid off and discharged.

Before laying the special levy herein provided for or any part thereof, the county court of any county which has an outstanding indebtedness and desires to liquidate same by the laying of a special levy, shall within one year from the time this act goes into effect cause the same to be audited by the county clerk, in order to ascertain the amount thereof, and it shall be the duty of the county clerk to correctly audit and report the exact amount of indebtedness of said county represented by outstanding county orders, including the interest thereon, which interest shall be shown separately, and when the amount has been fully ascertained as aforesaid, the county court shall be authorized to lay said special levy, but not otherwise, which said outstanding indebtedness shall be paid out of said special levy laid for the purpose according to the priority of their dates; and when said outstanding indebtedness has been paid off and discharged, it shall be unlawful for the county

court of any county to contract or attempt to contract any debt or liability against the county, or issue or authorize to be issued any county orders which can not be paid out of the levy or levies of the fund against which such orders are drawn; and any member or members of said county court who shall violate the provisions of this act shall forfeit his office.

CHAPTER 64.

(Senate Bill No. 109.)

AN ACT to authorize grand lodges in West Virginia of the Knights of Pythias, Independent Order of Odd Fellows, Ancient Free and Accepted Masons, Junior Order United American Mechanics, Improved Order of Red Men and other organizations of like character, to acquire and hold real estate in this state for the purpose of establishing, erecting and maintaining thereon homes and asylums for the care and support of orphans and widows of deceased members, and of disabled and aged members of said organizations in indigent circumstances, respectively, limiting the quantity thereof; and to exempt same from taxation.

[Passed February 9, 1907. In effect from passage. Approved by the Governor, February 14, 1907.]

SEC.

1. Authority given grand lodges to acquire and hold real estate; amount; for what purposes; exempt from taxation.
2. Duties of grand lodges as to prescribing rules and regulations for government and control of homes.

SEC.

3. Corporate powers and name; chapter fifty-seven of code made applicable.
4. May acquire, hold and dispose of additional land; amount; for what purposes.
5. Not to include religious denominations.

Be it enacted by the Legislature of West Virginia:

Sec. 1. It shall be lawful for the Grand Lodges of the Knights of Pythias, Independent Order of Odd Fellows, Ancient Free and Accepted Masons, Junior Order United American Mechanics, Improved Order of Red Men and other organizations of like character, to acquire by purchase, devise or gift, and hold the same for the purpose of establishing, erecting, and maintaining thereon homes or asylums for the care and support of orphans and widows of deceased members, and of disabled and aged members of said organizations in indigent circumstances, respectively, such quantity of real estate within this state, as shall be necessary, not exceeding

three hundred acres of land in the aggregate, upon which to erect, construct and maintain such buildings as may be necessary to care for and maintain therein and thereon, all such persons as may be eligible to admission thereto; and all of said land to be cultivated, or otherwise utilized, for the benefit and support of such homes or asylums. And said real estate thus acquired together with such personal property as may be needed in the administration of the affairs of said homes or asylums shall be exempt from every species of taxation as long as used for the purpose of these homes or asylums.

Sec. 2. Each of such grand lodges desiring to establish such home or asylum shall adopt and prescribe such rules and regulations for the government and control thereof, as may be deemed wise by such grand body; and it shall appoint boards of directors, trustees, regents or commissioners, composed of a specified number of persons from its own membership, not fewer than five nor more than seven, to serve definite periods; which board shall have the management and control of such home or asylum, under the prescribed rules and regulations adopted by said body for the government thereof; said board of directors, trustees, regents or commissioners, shall organize by the election of a president, secretary and treasurer, and if necessary or expedient an executive committee, all from its own membership. Such boards shall be corporate bodies; may have a common seal, sue and be sued, plead and be impleaded, contract and be contracted with, take, hold and possess such real estate and personal property for the grand bodies respectively, as may be necessary for the use of said homes or asylums.

Sec. 3. Each board of directors, trustees, regents, or commissioners thus appointed by these grand bodies and others of like character, as are mentioned in the title and first section of this act, and vested with corporate powers by the provisions of the second section of said act, shall be styled and known by such corporate name as may be designated and bestowed thereon by the grand body appointing or creating such board; and in this name it may take and hold the real estate and personal property as the said grand body shall direct, and in the manner prescribed in chapter fifty-seven of the code of this state.

Sec. 4. *Be it further enacted:*—that any grand lodges enumerated in this act, or similar grand lodges heretofore incorporated as such grand lodge under the laws of this state, or which may here-

after be incorporated under said laws, shall be authorized and empowered to take by purchase, gift, devise or otherwise, land not to exceed five hundred acres for the purpose of establishing and maintaining homes or asylums for orphans, widows, aged and indigent members and independents, as prescribed in section two of this act, and in and under its corporate name may hold or dispose of said land under such regulations and restrictions as said grand lodge may prescribe for the uses and purposes as set forth in sections one and two of this act.

Sec. 5. Nothing in this act contained shall authorize the incorporation of any society or organization connected directly or indirectly with any church, religious sect or denomination, and nothing in this act contained shall authorize any society or organization, connected directly or indirectly with any church, religious sect or denomination to have or acquire any real estate.

CHAPTER 65.

(House Bill No. 5.)

AN ACT amending and re-enacting section twelve of chapter twenty-three of the acts of the extra session of the legislature of West Virginia of one thousand nine hundred and four.

[Passed February 12, 1907. In effect ninety days from passage. Approved by the Governor, February 20, 1907.]

Sec.
12. Roll of patients to be kept; what roll to contain; expense of keeping patients; how paid; county court to estimate and lay levy; duties of superintendent as to

Sec. lists of patients; duty of auditor as to expenses; relation of inmates liable; money due county from state treasury applied on bill, etc.

Be it enacted by the Legislature of West Virginia:

That section twelve of chapter twenty-three of the acts of the extra session of the legislature of West Virginia of one thousand nine hundred and four, be amended and re-enacted so as to read as follows:

Sec. 12. The superintendent shall keep a roll or list of all patients in the asylum, showing as to each the name, age, disability or affliction from which he is suffering, the time admitted, the county from which he came or was sent, and the time during the preceding year he was in the asylum; the clerk of the county court

of any county having patients in such asylum shall keep a list. The cost of providing buildings and lands for said asylum and of the maintenance of the same, and for board and supplies for the patients, the pay of the superintendents and all other employes, and all other proper and legitimate expenses of maintaining the same, shall be paid out of the state treasury appropriated for the purpose; but every county in the state shall, after the year one thousand nine hundred and five, refund to the state by paying into the state treasury fifty dollars per annum, or at that rate per annum for every epileptic, idiot or such other incurable defective admitted as a patient or inmate from such county, excepting, however, those admitted under the provisions of section sixteen of this act and not including such insane as may be inmates or patients; the insane patients or inmates to be governed by the same laws that govern the insane in the other asylums of the state. At every levy term of a county court it shall estimate for and levy a sufficient amount to meet all such expenses. The superintendent of the asylum, on or before the tenth day of January of each year, shall certify to the auditor a list of all the patients in the asylum during the whole or any part of the preceding year for which the counties are to pay, showing together on such list, under the name of the county, the number from each county, and also showing as to each patient whether he was in the asylum the whole term or part thereof, and if only part thereof, what part; as soon as such list is received by the auditor he shall charge to each county on account of each of such patients who are in the asylum from such county for the whole of the year, fifty dollars, and on account of each of such patients from the county who are in the asylum for only part of such year, he shall charge the county for the time such patient was in the institution at the rate of fifty dollars for the year. Within ten days after the receipt of such list by the auditor he shall certify to the county court of every county in the state, a list of such patients for the county in the asylum during the year, whether the whole of the year or less, each patient was therein, the amount charged for each patient and the total amount charged on account of all such patients; which statement and list shall constitute a bill against the county for the total amount thereof. Relations of any such inmates of the asylum shall be liable to the county court of the same degree and in the same order, when of sufficient means, for the amount paid for the maintenance and treat-

ment of such inmates as provided for the support of the poor by section fourteen of chapter forty-six of the code.

Whenever there is in the treasury of the state any sum of money due any county from any source, the same shall at once be applied on the bill aforesaid against the county, and the fact of such application of such fund shall be reported by the auditor to the county court of the county, which report shall be a receipt for the same.

CHAPTER 66.

(House Bill, No. 31.)

AN ACT to amend sections six, nine and eleven of chapter one hundred and fifty of the code of one thousand eight hundred and ninety-nine, relating to the practice of medicine in this state, and to repeal section twelve of said chapter.

[Passed February 12, 1907. In effect from passage. Approved by the Governor, February 18, 1907.]

Sec.	Sec.
<p>6. Appointment of local boards of health; of whom composed; term of office; duties; compensation; establish sanitary regulations; duty of every practicing physician; local board to report to state board; duty council of city, town or village; jurisdiction of county board; vacancy, how filled; persons falling or refusing to perform duty required of them shall be guilty of misdemeanor.</p> <p>9. Physicians and surgeons, who may practice medicine; qualifications; examination by state board of</p>	<p>health; how and when held; duty of president and secretary of state board; notice of time and place of holding examinations to be published; the board to call to their assistance certain physicians in certain examinations; non-resident physicians may be called into consultation; compensation; does not apply to persons acting in certain capacity.</p> <p>11. Examination fees; re-examinations; section twelve of chapter one hundred and fifty of the code repealed.</p>

Be it enacted by the Legislature of West Virginia:

Sections six, nine and eleven of chapter one hundred and fifty of the code of nineteen hundred and six, relating to the practice of medicine in this state, be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 6. It shall be the duty of the county court to nominate and the state board of health to appoint, in each of the counties in this state, three intelligent and discreet persons residing therein, two of whom shall be citizens and one a physician qualified to practice medicine under the provisions of this chapter, and the persons so appointed, shall with the president of the county court and the

prosecuting attorney for the county, constitute a local board of health for the county of their residence except as hereinafter otherwise provided; they shall hold their office for four years and until their successors are appointed, unless sooner removed from office by the state board of health; the physician of the local board shall be the executive officer of the board and the health officer of the county, and he shall, out of the treasury of the county receive a yearly salary to be fixed by the county court, and the other members of the local board shall be paid their expenses when actually employed; vacancies of the said board shall be filled by the state board for the unexpired term, upon the nomination of the county court; the said local board of health shall make and establish for their county, or for any district, or place therein, such sanitary regulations or rules as they may deem proper to prevent the outbreak and spread of cholera, small-pox, scarlet fever, diphtheria, tuberculosis and other endemic, epidemic, infectious and contagious diseases, any they or any of them may, except in the night time, in the performance of the duty imposed upon them, enter into or upon any house or premises and inspect the same, whenever they have reason to believe that such house or premises is in an unclean or infectious condition; and if any house or premises so inspected, is found in such condition as aforesaid, said local board of health shall direct and require the person in charge or occupying the same, if of sufficient means, to cleanse and purify same according to the sanitary rules and regulations made by the said board as aforesaid; such local board shall enforce within their county all the lawful rules and regulations of the state board of health applicable to such county; it shall be the duty of every practicing physician in any county in which there is such local board of health to report promptly all or any diseases of the above named character under treatment by him, and said local board shall, once at least in every three months, report to the state board of health the character of all such infectious, contagious and epidemic diseases, the number of persons reported as infected with such diseases, naming the same; the action taken by the local board to arrest the progress of every such disease and the visible effects, if any, of such action.

It shall be the duty of the council of every incorporated city, town or village to nominate and the state board of health to appoint, in each incorporated city, town or village within this state, three intelligent and discreet persons of said city, town or village;

one of whom shall be a practicing physician, if there be such physician within the corporate limits of said city, town or village, and the persons so appointed shall, with the mayor and city solicitor, if there be a city solicitor, constitute a local board for the city, town or village of their residence, whose duties and powers within the corporate limits of their said city, town or village and terms of office shall be the same as those of the local county board of health hereinbefore mentioned; the physician of the board shall be the executive officer of the board and health officer of the city, town or village and he shall, out of the treasury of the city, town or village receive a yearly salary fixed by the council of said city, town or village, and the other members of the board shall be paid their expenses when actually employed. The jurisdiction of the county board of health shall not extend thereto, but said city, town or village board of health shall be auxiliary to and act in harmony with the state board of health. When a vacancy shall occur in the membership of either of the local boards herein provided for either by the expiration of the term of office or otherwise, it shall be the duty of the county court or the municipal council, as the case may be, in the county or city, town or village in which the vacancy exists, at its next regular meeting after such vacancy shall occur to nominate and the state board of health to appoint a person to fill said vacancy, and if the said county court or municipal council fail or refuse to make said nomination at the time above specified it shall be the duty of the state board of health to appoint a person to fill said vacancy notwithstanding. Any person failing or refusing to perform any duty required of him by this section shall be guilty of a misdemeanor and fined not less than ten nor more than one hundred dollars.

Sec. 9. The following persons and no others shall hereafter be permitted to practice medicine in this state.

1st. All such persons as shall be legally entitled to practice medicine in this state at the time of the passage of this act.

2nd. All such persons as shall be graduates of a reputable medical college, recognized as such by the state board of health, who shall pass an examination before said state board of health and shall receive certificates therefrom, as hereinafter provided. *Provided, also,* that the state board of health, or a majority of them, may accept in lieu of an examination, the certificate of license to practice medicine legally granted by the board of registration or

examination or licensing board of any other state, territory or any foreign country whose standard of qualification for the practice of medicine is equivalent to that of this state, and grant to the said applicant a certificate of license to practice medicine in this state; *provided*, such states, territories or foreign countries accord like privilege to medical licentiates of this state. The state board of health shall at such times as a majority of them may deem proper, hold examinations for the licensing of practitioners of medicine; such examinations shall not be less in number than three during each year, and shall be held at such points in the state as shall be most convenient to those presenting themselves for examination, or to the state board of health; at such examinations written and oral questions shall be submitted to the applicants for license, covering all the essential branches of the sciences of medicine and surgery, and the examination shall be a thorough and decisive test of the knowledge and ability of the applicants. The president and secretary of the state board of health shall issue certificates to all who successfully pass the said examination, and to all those whose certificates said board of health or a majority of them shall accept in lieu of an examination as hereinbefore provided, except that in all the certificates issued to applicants who adhere to the osteopathic school it shall appear that it is for the practice of osteopathy, and such certificates after being duly recorded as herein-after provided, shall be deemed licenses to practice medicine, surgery and osteopathy in all their branches in this state. The state board of health shall give timely notice of the time and place of holding each such examination, by publishing such notice in at least three newspapers of general circulation in this state, and all such persons wishing to present themselves for examination shall notify the secretary and comply with the rules of the state board of health. No applicant for license to practice medicine in this state shall be rejected because of his or her adherence to any particular school or theory of medicine. The state board of health shall call to their assistance in the examination of any applicant who professes the homeopathic, osteopathic or eclectic school of medicine, a homeopathic, osteopathic or eclectic physician entitled to practice medicine in this state under this act, and such homeopathic, osteopathic or eclectic physician so called to the assistance of the state board of health, shall be allowed the per diem and actual expenses incurred hereinbefore allowed to regular members of the

state board of health; *provided, however*, that the provisions of this and the preceding section shall not apply to physicians living in other states and duly qualified to practice medicine therein, who shall be called into consultation into this state, by a physician legally entitled to practice medicine in this state under this chapter, and, *provided, further*, that the provisions of this chapter shall not apply to females practicing midwifery, or to commissioned officers of the United States army and navy and marine hospital service when in the actual discharge of their duties as such commissioned officers; *provided, further*, that this act shall not apply to osteopathic physicians practicing in the state at the time this act takes effect who are graduates of any recognized, reputable school of osteopathy.

Sec. 11. Every person on presenting himself for examination as hereinbefore provided, shall pay to the state board of health, or to the members thereof by whom he is examined, a fee of ten dollars, which shall not be returned if a certificate be refused him; but he may again at any time within one year after such refusal present himself for examination as aforesaid, without the payment of an additional fee, and if a certificate be again refused him, he may as often as he sees fit thereafter, on the payment of a fee of ten dollars, be examined as herein provided until he obtains such certificate. All other persons who shall be granted a license to practice medicine in this state under the provisions of section nine of this chapter shall each pay a fee of twenty-five dollars to the state board of health.

Section twelve of chapter one hundred and fifty of the code of nineteen hundred and six is hereby repealed.

CHAPTER 67.

(Senate Bill No. 124.)

AN ACT to require an annual apportionment and accounting of surplus of life insurance companies.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 27, 1907.]

SEC.

1. Duties of life insurance companies as to annual apportionment, etc.
2. Life insurance companies may accumulate and maintain a contingency reserve, not exceeding, etc., percentage of net values; insurance commissioner may permit contingency reserve in excess of limit; for what period;

SEC.

- not applicable to certain companies.
3. Policy holder to select manner and method of application of surplus.
4. Default in payment of premiums; rights of insured.
5. Agreement between company and policy holder, etc.
6. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. Every life insurance company doing business in this state conducted on the mutual plan or in which policy holders are entitled to share in the profits or surplus, shall make an annual apportionment and accounting of divisible surplus to each policy holder, beginning not later than the end of the third policy year on all participating policies thereafter issued; and each such policy holder shall be entitled to and be credited with or paid in the manner hereinafter provided, such a portion of the entire divisible surplus as has been contributed thereto by his policy.

Sec. 2. Any life insurance company doing business in this state may accumulate and maintain, in addition to the capital and surplus contributed by its stockholders and in addition to an amount equal to the net values of its policies, computed according to the laws of the jurisdiction under which it is organized, a contingency reserve not exceeding the following respective percentages of said net values, to-wit:—when said net values are less than one hundred thousand dollars, twenty per centum thereof or the sum of ten thousand dollars, whichever is the greater; when said net values are greater than one hundred thousand dollars, the percentage thereof measuring the contingency reserve shall decrease one-half of one per centum for each one hundred thousand dollars of said net values up to one million dollars; one-half of the per centum for each additional one million dollars up to ten million dollars; one-half of one per centum for each additional two million five hundred thousand dollars up to twenty million dollars; one-half of one per centum for each additional five million dollars up to fifty million dollars; one-half of one per centum for each additional twenty-five million dollars up to seventy-five million dollars; and if said net values equal or exceed the last mentioned amount, the contingency reserve shall not exceed five per centum thereof; *provided*, that as the net values of said policies increase and the minimum percentage measuring the contingency reserve decreases such corporation may maintain the contingency reserve already accumulated hereunder,

although for the time being it may exceed the maximum percentage herein prescribed, but may not add to the contingency reserve when the addition will bring it beyond the maximum percentage; *provided, further*, that for cause shown the commissioner of insurance may at any time and from time to time permit any corporation to accumulate and maintain a contingency reserve in excess of the limit above mentioned for a prescribed period, not exceeding one year under any one permission, by filing in his office a decision stating his reasons therefor and causing the same to be published in his next annual report. This section shall not apply to any company doing exclusively a non-participating business.

Sec. 3. Every policy holder shall on all participating policies hereafter issued, be permitted annually to select the manner and method of the application of the surplus to be annually apportioned to his policy from among those set forth in the policy. All apportioned surplus not actually paid over to the insured, or applied in the reduction of current or future premiums or in the purchase of paid up insurance or pure endowment additions shall be credited to the insured and carried as an actual liability and be paid at the maturity of the policy.

Sec. 4. In event of default in payment of any premium due on any policy, provided not less than three full years' premiums shall have been paid, there shall be secured to the insured without action on his part, either paid up or extended or extended as specified in the policy, the net value of which shall be at least equal to the entire net reserve held by the company on such policy, less two and one-half per centum of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the company on the policy at time of default.

There shall be secured to the insured the right to surrender the policy to the company at its home office within one month after date of default for the cash value otherwise available for the purchase of the paid up or extended insurance as aforesaid.

Sec. 5. No agreement between the company and the policy holder or applicant for insurance shall be held to waive any of the provisions of this act.

Sec. 6. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

CHAPTER 68.

(House Bill No. 11.)

AN ACT regulating the manufacture and sale of food, drink, drugs and against fraud and deception therein, together with the punishment for the violation of such law.

[Passed February 16, 1907. In effect January 1, 1908. Approved by the Governor, February 19, 1907.]

Sec.

1. Powers and duties of prosecuting attorney; duties chemist of state agricultural department.
2. Manufacture and sale of adulterated food or drugs; drugs and food defined.
3. Adulteration of drugs and food; provisions of act not to apply to mixtures or compounds recognized as ordinary articles of food or drink; packages to be labeled; how.
4. Adulteration of drugs; original contents of packages not to be removed; packages to be labeled; shall not be construed to apply

Sec.

- to dispensing of prescriptions by regular licensed practicing physicians, etc., sale of drugs recognized in United States Pharmacopœia.
5. Violations; penalties for violation.
 6. The word "person" as used in this act defined.
 7. Killing of calves less than four weeks old; penalties for violation.
 8. Additional penalties; cost of examination of food, drinks and drugs; how paid.
 9. When act to take effect.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The prosecuting attorney of each county in this state shall have the power, and it will be his duty under this act, to enter during the usual hours of business into any creamery, factory, store, sales-room, drug store or laboratory, or any place where he has reason to believe food, drink or drugs are made, prepared or sold or offered for sale, and to open any case, tub, jar, bottle or package containing or supposed to contain any articles of food, drink or drugs, and examine or cause to be examined and analyzed the contents thereof.

It shall be the duty of the chemist of the state agricultural department to analyze any of the above enumerated articles that may be sent him by the prosecuting attorney, and certify the result of said analysis to said prosecuting attorney.

Provided, that if less than a whole package shall be taken under this section, the sample as taken shall be sealed and prepared in every manner for shipment to the person who shall make the analysis hereinafter provided for. No package taken and prepared for shipment shall be opened before it has been received by the analyst aforesaid. If a whole package be taken it shall not be opened before it has been received by the analyst aforesaid.

Sec. 2. No person shall, within this state, manufacture for sale, offer for sale, or sell any drug or article of food which is adulterated within the meaning of this act.

The term "drug" as used in this act, shall include all medicines for internal or external use, antiseptics, disinfectants and cosmetics. The term "food" as used herein shall include all articles used for food, drink, confectionery or condiment by man, whether simple, mixed or compound.

Sec. 3. An article shall be deemed to be adulterated within the meaning of this act:

(a) In cases of drugs; one, if when sold under or by a name recognized in the United States Pharmacopœia official at the time, if it differs from the standard of strength, quality or purity laid down therein; two, if when sold under or by a name not recognized in the United States Pharmacopœia official at the time, but which is found in some other pharmacopœia or other standard work of materia medica, it differs materially from the standard of strength, quality or purity laid down in such work; three, if its strength, quality or purity falls below the professed standard under which it is sold.

(b) In case of food, drink, confectionery or condiment.

One, if any substance or substances have been mixed with it, so as to lower or depreciate or injuriously affect its quality, strength or purity; two, if any inferior or cheaper substance or substances have been substituted wholly or in part for it; three, if any valuable or necessarily constituent or ingredient has been wholly or in part abstracted from it; four, if it is an imitation of, or is sold under the name of another article; five, if it consists wholly or in part of diseased, decomposed, putrid, infected, tainted or rotten animal or vegetable substance or article, whether manufactured or not, or in the case of milk, if it is the product of a diseased animal; six, if it is colored, coated, polished or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is; seven, if it contains any added substance ingredients which is poisonous or injurious to the health; eight, if it is sold under a coined name and does not contain some ingredient suggested by such name or contains only an inconsiderable quantity; nine, if the package containing it or any label thereon shall bear any statement regarding it or its composition which shall be false or misleading in any particular, *provided*,

that the provisions of this act shall not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food or drink, if each and every package sold or offered for sale is distinctly labeled in words of the English language as mixtures or compounds, with the name and per cent of each ingredient therein; the word "compound" or "mixture" shall be printed in type not smaller in either height or width than one-half the largest type upon any label on the package and the formula shall be printed in letters not smaller in either height or width than one-fourth the largest type upon any label on the package, and said compound or mixture must not contain any ingredient injurious to the health.

Sec. 4. In the case of drugs:

First: If it be an imitation of, or offered for sale under the name of another article.

Second: If the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if the package fails to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, ascetanilide or any derivative or preparation of any such substance contained therein.

Provided, that nothing in this paragraph shall be construed to apply to the dispensing of prescriptions written by regular licensed practicing physicians, veterinary surgeons and dentists, and kept on file by the dispensing pharmacist, nor to such drugs as are recognized in the United States Pharmacopœia and the National Formulary, which are sold under the name by which they are recognized.

Sec. 5. Whoever by himself or his agents, violates any of the provisions of this act, shall upon conviction be punished by a fine of not less than fifty nor more than one hundred dollars, or by imprisonment in the county jail not less than twenty days nor more than sixty days, or both for each subsequent offense.

Sec. 6. The word "person" as used in this act shall include persons, corporations and co-partnerships.

Sec. 7. Whoever by himself or his agents, kills for the purpose of sale, any calf less than four weeks old, or sells, or has in his possession with the intent to sell, the meat of any calf which he knows to have been killed when less than four weeks old, shall be fined not

less than five dollars, nor more than fifteen dollars or imprisonment not more than sixty days, or both.

Sec. 8. Any person guilty of violating any of the provisions of this act, shall be adjudged to pay, in addition to the penalties herebefore provided for, all necessary costs and expenses incurred in inspecting and analyzing any such adulterated food, drink, or drugs of which said party may have been guilty of adulterating, or selling, or keeping for sale or offering for sale, including a fee of twenty dollars to the prosecuting attorney; the costs incurred by reason of the examination of such food, drink or drugs shall be paid, when collected, into the county treasury.

Section. 9. This act shall not go into effect until January the first, one thousand nine hundred and eight.

CHAPTER 69.

(Senate Bill No. 88.)

AN ACT to amend and re-enact section twenty-nine-a of chapter one hundred and fifty of the West Virginia code of eighteen hundred and ninety-nine, said section relating to the practice of dentistry.

[Passed February 22, 1907. In effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.
29a. Dentistry; who may practice; board of examiners created, to consist of whom; how appointed; qualifications and duty; vacancy; how filled; board to make annual report to the gov-

Sec. error; qualifications and duty of applicants to practice; penalties for violations of this act; fees to be paid for certificates; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine-a of the West Virginia code of eighteen hundred and ninety-nine, be and the same is hereby amended and re-enacted to read as follows:

Sec. 29a. It shall be unlawful for any person who is not at the time of the passage of this act lawfully engaged in the practice of dentistry in this state to practice dentistry therein, unless such person shall have obtained a certificate as hereinafter provided. A board of examiners to consist of five practicing dentists is hereby created, whose duty it shall be to carry out the purpose and enforce the provisions of this act; the members of said board shall be ap-

pointed by the governor; the term for which the members of said board shall hold their office shall be four years, except that two of the members of the board first be appointed under this act shall hold their office for the term of two years, two for the term of three years and one for the term of four years, respectively, and until their successors shall have been appointed and qualified; in case of a vacancy occurring in said board, such vacancy shall be filled by the governor as hereinbefore provided; each member of said board shall take the oath prescribed by the constitution of this state; said board shall choose one of its members president and one, the secretary and treasurer thereof, and it shall meet on the second Wednesday in June in each year, and as much oftener and at such time and place as a majority of the board may decide upon; the secretary and treasurer shall keep a record of all the transactions of the board in a minute book which the board shall provide for that purpose, and shall make an annual report to the governor; a majority of the board shall at all times constitute a quorum. Any person who desires to begin the practice of dentistry in the state of West Virginia after the passage of this act, shall file an application for examination with the secretary of the state board of dental examiners at least one week before the regular meeting, and shall present himself at the first regular meeting thereafter of such board to undergo examination before that body; any person successfully passing such examination shall be registered as hereinafter provided, and also receive a certificate from said board. It shall be the duty of every person lawfully engaged in the practice of dentistry in this state, upon the passage of this act, to cause his or her name, residence, date of diploma or license, to be registered with the secretary of the state board of dental examiners within ninety days after the passage of this act. The board may, without examination as above provided, issue a certificate to any applicant who shall furnish satisfactory proof to the board that he is a graduate of a reputable dental college, as determined by the board, and that he has been licensed, after examination by a state board of dental examiners, that recognizes this interchangeable clause. Any person who shall receive a certificate from the board without examination under this provision shall also be registered as hereinafter provided. All persons who shall be understood to be practicing dentistry within the meaning of this act who shall for a fee, salary, or reward paid either to himself or some other person, perform operations or

parts of operations of any kind; treat diseases or lesions of the human teeth or jaw, or manufacture or insert artificial dentures, fixtures or appliances for restoration, regulation or improvement of the dental organs, or who shall display a sign or in any way advertise himself as a dentist, and any person who shall, after this act takes effect, use any other than his or her individual name, or in case of a firm, the names of the individuals composing the firm for the purpose as a dentist, shall be liable to the penalties hereinafter prescribed for every violation of the provisions of this act; *provided*, that nothing in this act contained shall apply to *bona fide* students of dentistry in pursuit of clinical advantages in the office of, and under the immediate supervision of a licensed dentist in this state, or shall prevent any person from extracting teeth with or without compensation in an emergency; any person who shall in violation of this act practice dentistry in the state of West Virginia, shall be liable to prosecution and upon conviction of such person so offending, he shall be fined not less than fifty dollars nor more than two hundred dollars or confined in the county jail not less than one, nor more than three months or both for each and every offense; *provided*, that any person so convicted shall not be entitled to any fee for services rendered, and if a fee has been paid, the patient or his or her guardian or heir may recover the same as debts of like amount are now recovered by law. All fines collected under this act shall inure to the common school fund.

It shall also be the duty of said board to issue a certificate to any applicant who shall furnish satisfactory proof that he was engaged in the practice of dentistry in the state of West Virginia, before the passage of any law of said state regulating such practice, and that since said time, such applicant has been continuously engaged in the practice of dentistry in this state. To provide for the proper and effective enforcement of this act said board of examiners shall be entitled to the following fees, to-wit:—for each certificate issued to persons in lawful practice in this state at the passage of this act, the sum of two dollars, and each applicant for examination, or who is granted a certificate to practice dentistry without examination as above provided, shall pay into the treasury of the board twenty-five dollars.

All acts or parts of acts inconsistent with this act are hereby repealed.

CHAPTER 70.

(House Bill No. 277.)

AN ACT to amend and re-enact sections thirty-eight and forty of chapter forty-five of the code of West Virginia as last amended and re-enacted by chapter sixty-seven, acts of the legislature of one thousand nine hundred and five, relating to education.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 27, 1907.]

Sec.	Sec.
38. Building fund; annual levy for; limit; additional levy submitted to vote; limit of additional levy; for what purpose used;	board to make estimate of necessary amount required. 40. Teachers' fund; annual levy for; provisions as to rate of levy.

Be it enacted by the Legislature of West Virginia:

That sections thirty-eight and forty of chapter forty-five of the code of West Virginia as last amended and re-enacted by chapter sixty-seven of the acts of the legislature of one thousand nine hundred and five, be and the same are hereby amended and re-enacted so as to read as follows:

Sec. 38. To provide school houses and grounds, furniture, fixtures and apparatus, and keep the same in good order and repair; to supply said schools with fuel and other things necessary for comfort and convenience; to pay teachers for institute attendance, and to pay any existing indebtedness against the building fund, and all other expenses incurred in the district in connection with schools not chargeable to the "teachers' fund", the board of education shall annually on the first Monday in July, or as soon as practicable thereafter, levy a tax on the property taxable in each district, not to exceed the rate of fifteen cents on every one hundred dollars valuation thereof; *provided, first*, that if the board of education of any district shall be of the opinion that the maximum fixed herein is insufficient for any year, it shall make up an itemized estimate of the expenses to be provided for in such year with the rate of levy in cents on each one hundred dollars on the valuation necessary to provide for the payment thereof, and may submit the question of an increase levy to the voters of the district at an election to be held therein on not less than thirty days published notice, and may make such rules and regulations as may be necessary for the holding of such election, and if the majority of votes cast on the question of an increased levy at such election be in favor of such levy,

the board of education may levy such amount stated in the notice of the election as necessary; *provided, second*, that in case it is necessary to construct a new school building in any year or to finish paying for any building already erected, or being erected, the levy for such year may be made any amount necessary, not exceeding twenty-five cents on the one hundred dollars valuation of property; *provided, further*, that if there is any indebtedness contracted for and not provided for, against said fund on account of any building now under construction, the board of education may issue orders for such indebtedness, which orders shall bear interest from date, and a list of such orders shall be kept by the secretary, and the board may from year to year, lay such additional levy not to exceed twenty-five cents on every one hundred dollars worth of taxable property within the said magisterial district from year to year until all of such indebtedness and orders are paid off.

Provided, third: Districts and independent districts having outstanding bonds may increase the levies aforesaid by an amount sufficient to pay the interest on such bonds and the principal thereof in the time provided in the issue of such bonds, but the proceeds of such additional levy may be used for that purpose and no other.

Before laying the levy herein provided for, or any part or portion thereof, the board shall proceed to make up an estimate of the amount necessary to be levied for, which estimate shall set forth the several heads of expenditures with the amount estimated as necessary under each head and shall enter the same on its record or minutes; such record shall be open to the inspection of any tax payer of the district or any official or officials whose duty it is to see that the laws concerning the levying of taxes are faithfully enforced.

Sec. 40. For the support of the primary free schools of the district, and of each independent school district, and to pay any existing indebtedness against the "teachers' fund", the board of education thereof shall annually, on the first Monday in July, or as soon thereafter as possible, levy by the authority of the people as prescribed in section two of this chapter, such tax on the property taxable in the district as will, with the money received from the state for the support of free schools, be sufficient to keep the schools in operation at least six months in the year; the proceeds of this levy, together with the money received from the state as aforesaid and this amount in the hands of the sheriff to the credit of the teachers' fund of any district, shall constitute a special fund to be

called the "teachers' fund" and no part thereof shall be used for any other purpose than the payment of teachers' salaries for the current year. Upon the failing of any board of education to lay such levy as is herein required, or any other levy provided for in this chapter, they shall be compelled to do so by the circuit court of the county by writ of *mandamus*, unless good cause be shown to the contrary; *provided, first*, the levy herein provided for shall not in any one year exceed the rate of twenty-five cents on every one hundred dollars valuation of the property in the district, according to the latest available assessments; *provided, second*, that if the levy provided for in this section shall not be sufficient to run the schools in the district six months the board may increase such levy to any amount actually necessary to run the schools not less than six months, nor longer in the independent school districts; *provided, third*, that in any magisterial, or any independent school district where such district maintains a high school, the board of education may levy for said high school in any one year a rate not to exceed ten cents on each one hundred dollars valuation of the property in the district, according to the latest available assessment, in addition to the levy that is provided for above.

CHAPTER 71.

(Senate Bill No. 46.)

AN ACT to amend and re-enact section thirty-four of chapter three of the code of West Virginia as to the form of ballot to be used at any election held in the state of West Virginia.

[Passed February 22, 1907. In effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

34. Ballots, how prepared and printed; residence and name of candidates, how designated on ballot; political party to adopt emblem; shall certify to clerks of cir-

SEC.

cult courts; persons nominated by petition to adopt emblem; how ballots shall be marked; form of ballot to be used.

Be it enacted by the Legislature of West Virginia:

That section thirty-four of chapter three of the code be amended and re-enacted so as to read as follows:

Sec. 34. All ballots prepared under the provisions of this chapter shall be prepared on white paper of uniform size, of the same quality and sufficiently thick that the printing cannot be distinguished from the back, and shall contain the name and residence of

every candidate whose nomination for any office has been certified or filed according to the provisions of this chapter, and no other.

The names of all candidates nominated by each political party or by petition, respectively, shall be printed upon the ballots in columns containing the names and residences of all candidates nominated by the same political party or by petition, and no others; and if any candidate be nominated by a convention or primary election for any office, the name of any other candidate nominated in any other way not provided in this chapter for the same office shall not be printed on the ballot in the same column with the names of said candidates nominated by said convention or primary election.

The state executive committee of any political party in the state shall select and adopt a party emblem for its party, and shall, at least ninety days before any election, certify the same to the clerks of the circuit courts of the several counties of this state, and the emblem adopted shall remain the same until changed and certified as aforesaid; but no two parties shall adopt the same emblem; and when a ticket or person is nominated by petition as provided by law, the petitioners shall adopt and designate an emblem which shall be set out in said petition.

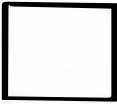
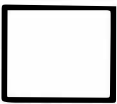
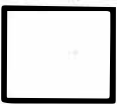





































At the head of each column of political party nominations there shall be printed in clean, bold type an emblem such as may be decided upon by the state executive committee of that party, or petitioners as aforesaid.

Under the emblem so selected by said executive committee or petitioners the names of the respective political parties or principle shall be printed, and under the name of said party or principle shall be printed a space one-half inch square; also there shall be printed a space one-fourth of an inch square at the right of the name of each candidate.

The several party tickets shall be similar in form, except the emblems and name at the head of the ticket.

The voter shall mark a cross in the square at the head of the ticket he wishes to vote, and in case the voter wishes to vote for a candidate on another party column he shall make a cross in the square opposite the name of the candidate for whom he wishes to vote, using pen and ink or indelible pencil in marking said ticket.

The following form of ballot modified to meet the requirements of any election may be used, and is hereby appended and made a part of this act.

Party Emblem.	Party Emblem.	Party Emblem.	Party Emblem.	Party Emblem.
DEMOCRATIC TICKET.	PROHIBITION TICKET.	UNION LABOR TICKET.	POPULIST TICKET.	REPUBLICAN TICKET.
				
Governor, John Ball,	Governor, Jas. Davis,	Governor, Issac Jones	Governor, W. Amoss	Governor, John Long.
Barbour County.	Harrison County.	Marion County.	Berkeley County.	Wood County.
Auditor 	Auditor, 	Auditor, 	Auditor, 	Auditor, 
Jackson County	Tyler County,	Pleasants County.	Ohio County.	Ritchie County.
Attorney General. 	Attorney General, 	Attorney General 	Attorney General, 	Attorney General, 
Kanawha County,	Cabell County.	Putnam County.	Gilmer County.	Lewis County.
Treasurer, 	Treasurer, 	Treasurer, 	Treasurer, 	Treasurer. 
Calhoun County.	Wirt County.	Roane County.	Fayette County.	Ohio County.
Secretary of State, 	Secretary of State, 	Secretary of State, 	Secretary of State, 	Secretary of State, 
Brooke County.	Marion County.	Preston County.	Braxton County.	Tucker County.
State Supt. Schools, 	State Supt. Schools, 	State Supt. Schools, 	State Supt. Schools, 	State Supt. Schools, 
Logan County.	Wyoming County.	Randolph County.	Mercer County.	Barbour County.
For Congress— 1st District, 	For Congress— 1st District, 	For Congress— 1st District, 	For Congress— 1st District, 	For Congress— 1st District, 
Hancock County.	Marshall County.	Brooke County.	Ohio County.	Harrison County.
Senator— First District 	Senator— First District. 	Senator— First District. 	Senator— First District, 	Senator— First District. 
Marshall County.	Ohio County.	Brooke County.	Hancock County.	Tyler County.
COUNTY TICKET.	COUNTY TICKET.	COUNTY TICKET.	COUNTY TICKET.	COUNTY TICKET.

CHAPTER 72.

(House Bill No. 243.)

AN ACT to amend and re-enact sections two and three of chapter thirty-three of the acts of one thousand nine hundred and one as amended and re-enacted by chapter forty-nine of the acts of one thousand nine hundred and three, entitled "An act to prevent the introduction and spread of the San Jose scale and other dangerous insects, and dangerously contagious diseases affecting trees, vines, shrubs, plants and fruits."

[Passed February 19, 1907. In effect ninety days from passage. Approved by the Governor, February 24, 1907.]

SEC.

2. San Jose scale, etc., the director of the agricultural station required to seek out and devise means of eradicating, etc., all dangerous insects and diseases affecting trees, etc., examination of nurseries; when filing of certificates, etc., effect of failure; nursery stock shipped, etc., into state; what required; growing trees, etc., for sale; what required before selling same.

SEC.

3. Examination of orchards, gardens and other premises, when invested with what authority for such purpose, and to prevent the spread of dangerously injurious insects or infectious diseases; any tree, etc., may be declared nuisance; when; notify owner in writing; infected property not to be removed from premises; penalty for violations.

Be it enacted by the Legislature of West Virginia:

Sec. 2. It shall be the duty of the director, either in person or through his assistants, to seek out and devise means of suppressing and eradicating throughout the state the San Jose scale and other dangerous insects, and tree, shrub, vine or plant disease. Black-knot and peach-yellows are hereby declared to be dangerous within the meaning of this act, and trees, shrubs, vines or plants affected with either of these diseases shall be subject to its provisions; the mention of San Jose scale, peach-yellow or black-knot in this section shall not be held to exclude other insects or diseases which may be found to be dangerous from the provisions of this act; said director in person or through his assistants, shall examine once in each year, not later than September fifteenth, all nurseries in the state of West Virginia as to whether they are infested with San Jose scale or other dangerous insects with dangerous contagious tree, vine, shrub or plant diseases, and if upon inspection such nurseries appear to be free from such insects or disease, the director shall give each owner of such nursery or nurseries a certificate to the facts. Nurserymen must furnish transportation to and from

railway station and facilities for reaching their growing stock to such person or assistants selected by the director to make such inspection. This certificate shall be void after September fifteenth of the year following. A duplicate of each certificate, together with a statement of amount received therefor, shall be filed by said person or said assistant with said director within ten days of its issue, and neglect to file such duplicate of certificate and statement shall be treated as a misdemeanor. If any dangerously injurious insects or infectious diseases are found on the premises of any nursery or nursery stock the director may order and enforce such treatment of said nursery stock as he may deem sufficient, in addition to a thorough inspection before granting a certificate.

Whenever a nurseryman, or any person, shall ship or deliver within this state, except for scientific purposes, trees, shrubs, plants or other stock, he shall place upon each carload, box, bale or package a copy of a certificate, the original of which is signed by a state or government inspector, stating that such stock has been inspected and has been found apparently free from dangerous insects and dangerously contagious tree, shrub, vine and plant diseases. The illegal use of said certificate by changing, defacing, or placing it on uninspected stock, or using the same after date of expiration or revocation, shall render the owner or shipper liable to the penalty prescribed for a violation of this act. No person growing for sale any trees, shrubs, vines or plants shall deliver the same without applying to the director for the certificate provided for in this act.

No person shall deliver to any purchasers any trees, vines or shrubs that shall have been consigned into this state from points without the same, unless they have at least ten days before the time of delivery given notice in writing to the director of the West Virginia experiment station of the number of trees in such consignment, the place from whence said trees were shipped and the destination of the same, and said director of said experiment station shall in person or by his assistant, if he have good cause to believe that any of the trees included in said consignment are affected with San Jose scale or any infectious disease, or if such consignment shall come from any nursery or section where any such disease is prevalent, inspect the same at the railway station where such consignment is delivered, and before the trees are taken away by the purchaser thereof, and if he or his assistant find any scale or evidence of infectious disease among any of the stock in any consignment as

aforesaid, then said director or his assistant may order the fumigation or destruction of said trees, vine or shrub, or compel the consignor to remove them from the state. Any person who shall fail to comply with any written order given by the said director or his assistant for the fumigation, destruction or removal of any stock as aforesaid shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars, nor more than one hundred dollars, and said director or his assistant shall have the power and authority to take charge of any such stock so diseased and destroy the same, and they shall in no way be liable for damage therefor.

No person growing for sale, or having in his possession with intent to sell, any trees, shrubs, vines or plants shall deliver the same before having thoroughly fumigated the same according to rules prescribed by said director, or other state and government inspector.

Sec. 3. It shall further be the duty of said director through his assistants, to cause the examination of all orchards, gardens and other premises either public or private, which they shall have reason to suppose to be infested or infected with any dangerously injurious insects or infectious diseases liable to spread or to be conveyed to other premises, and for this purpose said director and his assistants are authorized, during reasonable business hours, to enter into or upon any farm, orchard, nursery, garden, store house or other building or place used for growing, storing, packing or sale of nursery or other horticultural products.

And for the purpose of examination of orchard, gardens and other premises, and of ascertaining whether any such within the state are infected with infectious or dangerous diseases, said director shall in person or by the aid of his assistants, duly appointed and authorized, visit each county or locality where there are commercial orchards within the state, at least once in each year, and make personal inquiry among the citizens and fruit growers as to the prevalence of any such disease or insects and examine any orchard that shall be reported to him as having such disease.

If said director or his assistant shall find on inspection as aforesaid, that any nursery, orchard, garden, or other property or place is infested or infected with such dangerously injurious insects or infectious diseases, liable to spread or be conveyed to other premises, to the serious injury of the property thereon, the same shall

be declared a public nuisance; and he shall notify in writing the owner or person in charge of such infested or infected property, and shall direct him, within a time and in a manner prescribed in such notice, to use such means as shall prevent the conveyance or spread of such insects or diseases to the property of others; and such infested or infected property must not be removed from the premises after the owner or person in charge of the same shall have been notified as aforesaid, without the written permission of said director or his assistants.

If the person so notified shall refuse, or neglect to treat and disinfect said premises or property in the manner and within the time prescribed by the director or his assistants, he shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars, and it shall be the duty of the director or his assistant to report to the prosecuting attorney of any county when notice is given to the owner of any orchard to disinfect or treat his premises, and the prosecuting attorney shall make diligent inquiry to ascertain whether such order has been complied with.

CHAPTER 73.

(Senate Bill No. 188.)

AN ACT to amend and re-enact section twenty-two of chapter forty-four of the code of West Virginia, in reference to bridges constructed and maintained by corporations.

[Passed February 14, 1907. In effect from passage. Approved by the Governor, February 21, 1907.]

SEC.
22. Bridges over Ohio, Great Kanawha and Big Sandy rivers; bridge corporations; tolls; real estate; purchases from other corpora-

SEC.
tions; subscription to stock; channel spans in bridges; corporate powers.

Be it enacted by the Legislature of West Virginia:

That section twenty-two of chapter forty-four of the code be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 22. Corporations may be formed under the provisions of the first twenty-four sections of chapter fifty-four of the code for the purpose of bridging the Ohio river. Any such corporation or any

railroad corporation is hereby authorized to construct and maintain a bridge across said river in the manner now, or which may hereafter be provided by the congress of the United States, upon complying with the requirements, conditions and provisions so prescribed, and not otherwise, and such corporation is authorized to take tolls for the passage of persons, railroad cars, engines, vehicles and other things passing on and over such bridge; any such corporation may obtain the real estate necessary for the construction of its bridge and its approaches thereto, under the provisions of chapter forty-two of the code, and may purchase from any other corporation which may have taken steps toward the erection of a bridge in the manner aforesaid, all the rights, franchises and property it may have acquired; subscriptions to the stock or bonds of any such corporation may be made by counties, districts and municipal corporations, in the manner provided for in chapter thirty-nine of the code; and subscriptions may be made thereto by other corporations, including railroad corporations, with the assent of the holders of two-thirds of the stock of any such corporation, at any general or special meeting of the stockholders; and any corporation heretofore or hereafter formed for the purpose of bridging the Great Kanawha or Big Sandy rivers, or any railroad corporation constructing such bridge, shall have all the privileges accorded by this section to corporations formed for the purpose of bridging the Ohio river; *provided, however*, that every bridge erected across the Great Kanawha river, at and above the U. S. government lock No. 6 shall have at least one channel span, the center of which shall be in the middle of the channel usually run by descending coal fleets in high towing stages; said channel span to have a clear opening of four hundred feet at low water line and be at least seventy-five feet above low water; but the benefits of this section shall not inure to any corporation whose corporate rights have lapsed, been forfeited or become forfeitable. Every corporation formed under the laws of this state for the purpose of the construction and maintenance of a bridge or bridges, in addition to the powers heretofore conferred upon or possessed by it, shall have power from time to time, to borrow such sums of money as may be necessary for the purpose and business of the company, and to issue bonds, bills of credit or indebtedness and preferred stock, and dispose of the same for any amount so borrowed, and to mortgage or encumber, by deed of trust, its corporate property and franchises to secure payment

of any debt contracted by such corporation for its purposes and business; but no such mortgage or deed of trust shall be valid unless authorized by a resolution adopted by the affirmative votes of the holders of a majority stock of the company; and any such mortgage or deed of trust may include, grant and convey and make subject to the lien thereof, all betterments, improvements and works made or constructed and property and franchises acquired and used in the company's business, after the making of such mortgage or deed of trust; money and debts due the granting company excepted, and the purchaser at any sale under such mortgage or deed of trust shall be entitled to such betterments, improvements, works, property and franchises, with the exceptions aforesaid, as well as the property and franchises granted, thereby owned and possessed by the company, at the time of the making of the mortgage, or deed of trust, under which the sale is made; any other law or statute to the contrary notwithstanding. Such purchaser shall be a corporation in the same manner as is provided in relation to purchasers of railroad property by sections seventy-two and seventy-three of chapter fifty-four of the code of West Virginia, and all the provisions of said two sections shall apply to the last mentioned corporation. All mortgages or deeds of trust heretofore made by any bridge company incorporated under the laws of this state, whether the same shall have been executed by virtue of a resolution adopted by a vote of the stockholders, or shall have been executed by virtue of a resolution adopted by the board of directors of such corporation, without any action on the part of the stockholders thereof, which purport to grant and convey property and franchises of the granting company owned and possessed at the time of making the mortgage or deed of trust, or such property and franchises, together with property or franchises, or both, of such company, which it may have acquired subsequently to the making of such mortgage or deed of trust, shall be as valid and effectual for the purpose of effecting such grant and conveyance, and make the same as effectually, as if this section as amended by this act had been in full force before and at the time of the execution of such mortgages or deeds of trust and purchasers at any sales thereunder shall have the same rights, powers and privileges as are by this section conferred upon purchasers at sales made under mortgages and deeds of trust executed by such companies after this act takes effect.

CHAPTER 74.

(House Bill No. 127.)

AN ACT to amend and re-enact sections eighteen and twenty of chapter forty-two of the code, relating to taking land without the owner's consent for purposes of public utility.

[Passed February 19, 1907. In effect ninety days from passage. Became a law without the approval of the Governor.]

<p>Sec. 18. Payment of compensation: when; land paid for vested in fee simple in applicant, except, etc.; if less than fee is taken in assessing damages, what then; duty of assessor in assessing value of real estate taken.</p> <p>20. Payment of compensation: effect of setting aside or recommit-</p>	<p>Sec. tal of report: the company shall attempt to agree with land owner as to damage; failing to agree, what then; trust company authorized to do business in the state sufficient surety on bond; court to approve bond; commissioners appointed on petition of whom; duties.</p>
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Be it enacted by the Legislature of West Virginia:

That sections eighteen and twenty of chapter forty-two of the code be amended and re-enacted so as to read as follows:

Sec. 18. At any time within three months after the report, or verdict of a jury, if there be one, has been confirmed and ordered to be recorded, or where such report or verdict has already been confirmed, at any time within three months after this chapter takes effect, the sum so ascertained with legal interest thereon from the date of the report or verdict until payment, may be made by the applicant to the persons entitled thereto or into court; upon such payment the title to that part of the land so paid for, shall be absolutely vested in fee simple in the applicant, except that in case of a turnpike, or other road, (not including however a railroad), the right of way only shall be so vested; *provided*, that a railroad company desiring to construct a bridge, viaduct, tunnel or any part of its railroad, or a pipe line company organized for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise, and desiring to construct its pipe lines, may as to all or any part of the real estate sought to be taken for that purpose, describe in its application an estate or interest therein less than a fee, and with respect to the same may proceed as in other cases; and upon payment therefor, such estate and interest as is stated and described in the application shall vest in the applicant; but when less than a fee is taken in assessing damages, the commissioners and jury shall take into consideration the actual damages

that is done or that may be done to the fee by such construction; *provided*, that when an estate or interest less than a fee is taken by a railroad company for any part of its railroad, the assessor shall assess the value of said real estate, as if taken in fee, against such party condemning less than a fee, and the provisions of section forty-three (*a*) of chapter twenty-nine of the code of one thousand eight hundred and ninety-one, shall apply to such cases.

Sec. 20. After such report has once been made, whether it be set aside, recommitted, or new commissioners appointed or not, or whether a trial by jury be demanded and had or not, the applicant upon paying into the court the sum ascertained by such report, with legal interest thereon from the date of the report until payment, may, notwithstanding the pendency of further proceedings, enter upon, take and use for the purposes specified in the application, that part of the land in respect to which such payment is made and where such payment has been made and possession taken, or where payment has been made without taking such possession in a pending case, it shall have the same effect as if such payment were made or possession taken, or both, in a case hereafter commenced; and no order shall be made or any injunction awarded by court or judge to stay him in so doing, unless it be manifest that applicant is insolvent or that he or his officers, agents or servants, are transcending their authority or that such interposition is necessary to prevent injury which can not be adequately compensated in damages.

Provided, however, that if the company desiring to condemn be a pipe line company organized for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise and seeking to condemn an easement, then in addition to the procedure in this chapter provided, such company, at its election, may proceed as follows:—the company shall attempt to agree with the owner of the land as to the damage properly payable for such easement, if such owner can be found and is *sui juris*, and failing to agree, the applicant shall tender to the owner a bond with sufficient surety to secure him or her in the payment of damages, to which bond a plan shall be attached showing the route of the proposed pipe line over said land; upon acceptance of said bond the right of the applicant to enter upon the enjoyment of its easement shall be complete; if the owner refuse to accept said bond, or cannot be found, or is not *sui juris*, said bond shall then be presented to the circuit court

of the county in which the land is situated, or to a judge thereof in vacation, after five days' written notice shall have been given to the owner of said land, or to his guardian or committee if he be not *sui juris*, and if said owner cannot be found, or his guardian or committee, being not *sui juris*, then after five days' written notice posted upon the said land; said notice shall state the time and place for the presentation of said bond, and shall state that unless exceptions to the form, amount or surety of said bond be filed within three days after presentation, said bond shall be approved by the court. Any trust company authorized to do business in the state of West Virginia shall be considered a good and sufficient surety on such bond.

If no exception to the said bond be filed within the said time, the said court shall approve the said bond and shall direct the said bond, with the plan thereto attached, be filed for the benefit of the owner of said land and of said applicant; if any exception to the said bond be filed within three days after the presentation thereof, the said court shall thereupon fix a day not more than five days thereafter for the hearing thereof, and may require evidence, either by testimony or otherwise, as to the sufficiency of the sureties or surety, and as to the sufficiency of the amount of the bond, and may in its discretion require new surety or may require bond for a larger amount or in more satisfactory form, and when the court shall approve said bond it shall be ordered to be filed as aforesaid; upon the approval of said bond and the filing thereof the right of the applicant to enter upon the enjoyment of its easement shall be complete.

Upon petition of either the property owner or the applicant, at any time after said bond shall have been presented and filed, five disinterested free holders shall be appointed as in this chapter provided, to serve as commissioners to ascertain what will be a just compensation to the person entitled thereto for the easement so appropriated, and thereafter the proceedings shall be in accordance with the provisions of this chapter.

CHAPTER 75.

(House Bill No. 42.)

AN ACT to amend and re-enact section fifty-seven of chapter twenty-nine of the code of West Virginia, as last amended and re-enacted by chapter thirty-five of the acts of one thousand nine hundred and five, relating to property exempt from taxation.

[Passed February 16, 1907. In effect ninety days from passage. Approved by the Governor, February 20, 1907.]

SEC.
57. Property exempt from taxation.

Be it enacted by the Legislature of West Virginia:

That section fifty-seven of chapter twenty-nine of the code, as last amended and re-enacted by chapter thirty-five of the acts of one thousand nine hundred and five, be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 57. All property, real or personal, described in this section, and to the extent herein limited, shall be exempt from taxation; that is to say:—property belonging to the United States, or which by the laws of the United States, is exempt from taxation by or under state authority; property belonging exclusively to the state; property belonging exclusively to any county, district, city, village or town in this state and used for public purposes; property used exclusively for divine worship, parsonages, and the household goods and furniture pertaining thereto; cemeteries; property belonging to colleges, academies, and free schools, if used for educational, literary or scientific purposes, including books, apparatus, annuities, money and furniture; public and family libraries; property used for charitable purposes and not held or leased out for profit; all real estate not exceeding one-half acre in extent and the buildings thereon and used exclusively by any college or university society as a literary hall or as a dormitory or club room if not leased or otherwise used with a view of profit, and all books, furniture, apparatus, and instruments belonging to such society; property belonging to any public institution for the education of the deaf, dumb or blind, or to any hospital, house of refuge, lunatic or orphan asylum; homes for children or for the aged, friendless or infirm, not conducted for private profit, fire engines and implements for the extinguishing of fire and property used exclusively for the

safe keeping thereof, and for the meetings of fire companies; but no property shall be exempt from taxation which shall have been purchased or procured for the purpose of evading taxation, whether temporarily holding the same over the first day of the assessment year or otherwise, whether same be in this state or elsewhere; *provided, however,* that the property, both real and personal, which is exempt from taxation by this section shall be entered upon the assessors' books, together with the true and actual value thereof, but no taxes shall be levied upon the same or extended upon the assessors' books.

CHAPTER 76.

(Senate Bill No. 20.)

AN ACT to give force and effect to title to land or any interest in land in the state of West Virginia which has been heretofore or shall hereafter be sold or partitioned or disposed of under judicial proceedings.

[Passed February 9, 1907. In effect ninety days from passage. Approved by the Governor, February 21, 1907.]

SEC.

1. Lands disposed of under judicial proceedings prior to formation of state or which have been or shall be disposed of in this state; to be presumed that court obtained due jurisdiction, etc., to whom apply.
2. Deeds made previous to formation of state under judicial proceedings or which have been or shall

SEC.

- be made by commissioners, etc., presumption in absence of evidence to contrary.
3. Court of United States deemed court of state within which held.
4. Act not to apply to any order, etc., heretofore or hereafter introduced in evidence in action, etc., now pending.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That when land or any interest in land in this state has heretofore been sold, partitioned or disposed of prior to the formation of this state, under the order, judgment or decree of any court of competent jurisdiction of the state of Virginia, or has heretofore been or shall hereafter be sold, partitioned or disposed of under the order, judgment or decree of any court of competent jurisdiction of this state, it shall be presumed, in the absence of evidence to the contrary, that every such court obtained due jurisdiction in the cause by the institution of all proper proceedings and by the service or execution of proper process over any and all persons whose names appear in any part of the record of the cause

as persons embraced therein or against whom the court proceeded, and this presumption shall apply to any person or persons named by the designation of child, children, heir-at-law, heirs-at-law, devisee, devisees, or other sufficient designation or classification from which it can be shown by the record or otherwise the person or persons included therein or intended thereby.

Sec. 2. That when any deed has heretofore been made prior to the formation of this state for land or any interest in land therein, which purports on its face to be made under judicial proceedings of a court of the state of Virginia by a commissioner, special commissioner, guardian or other person, or when any deed has heretofore been made or shall hereafter be made for land or any interest in land in this state which purports on its face to be made by a commissioner, special commissioner, guardian or other person under the judicial proceedings of a court of this state, then in every such case it shall be presumed, in the absence of evidence to the contrary, that the person executing such deed was authorized by the court to convey the land or interest therein which is conveyed by such deed, and if any such deed was duly, or shall hereafter be duly admitted to record in any county, and not less than ten years shall have elapsed after such record thereof, it shall be presumed, in the absence of evidence to the contrary, that the title of all persons which said deed professes to convey, under such judicial proceedings, did in fact pass by such deed.

Sec. 3. For the purpose of this act a court of the United States shall be deemed a court of the state within which it has been or may be held.

Sec. 4. This act shall not apply to any order, judgment, decree or deed hereinbefore mentioned which has been or may hereafter be offered or introduced in evidence in any action, suit or proceeding now pending in any court of this state; and this act shall not permit any such order, judgment, decree or deed to be evidence in any action, suit or proceeding now pending in any court of this state, which would not have been evidence had this act never been passed.

CHAPTER 77.

(Senate Bill No. 94.)

AN ACT to revise, amend and re-enact chapter thirty-four of the code of West Virginia.

[Passed February 14, 1907. In effect ninety days from passage. Approved by the Governor, February 25, 1907.]

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25.</p> | <p>State insurance commissioner; his duties and compensation.</p> <p>Life insurance companies to make report; what report to contain; duty of insurance commissioner upon receipt of report; proviso governing policies issued by companies doing business in this state.</p> <p>Payments in form of dividends, etc., shall not be made to stockholders, unless, etc., no payments made to policyholders, except, etc., unless, etc.</p> <p>Every officer, or director; who knowingly votes to any payments, etc., in violation of section nine, shall forfeit to the state the sum, etc., how recovered.</p> <p>Insurance commissioner to visit life insurance companies; how often; for what purpose.</p> <p>Examination of companies not incorporated in this state; expenses; by whom borne.</p> <p>Commissioner to have access to all books and papers; penalty for refusal.</p> <p>No life insurance company incorporated in this state to issue policies until certificate has been issued by commissioner.</p> <p>No life insurance company to make discriminations, etc.</p> <p>Certificate of authority to be granted agents, etc.; penalty for acting without authority.</p> <p>Life insurance companies may issue annuities.</p> <p>Life insurance companies of other states before doing business in this state must submit report of condition; issuance of license.</p> <p>License must be obtained before doing business in this state.</p> <p>Duty of insurance commissioner if he finds assets less than liabilities.</p> <p>Liabilities to include net present value of policies.</p> <p>Receiver to certify proceedings to circuit court.</p> <p>Proceedings pending in circuit court.</p> <p>Circuit court may limit and extend time for presentation of claims; when; commissioners appointed to decide upon claims.</p> <p>Duty of insurance commissioner in case of repeal of charter of company.</p> | <p>SEC.
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53.</p> <p>How loans and investments made.</p> <p>Director or officer of company not to receive compensation for recommending loans, etc.</p> <p>Loans of capital assets to be secured by mortgage, etc.</p> <p>No portion of capital assets, etc., to be used in purchase of stocks in certain companies.</p> <p>May take premium notes.</p> <p>Penalty for violation of certain provisions.</p> <p>When life insurance companies may take in payment stocks, etc.</p> <p>Provisions governing mutual life insurance companies.</p> <p>Misrepresentation of terms of policies, etc., prohibited.</p> <p>Fire and marine insurance companies to make report to insurance commissioner; what report to contain.</p> <p>When fire and marine insurance companies may transact business in this state; certificate to be issued.</p> <p>Commissioner may inquire into financial condition of company.</p> <p>When fire and marine insurance companies located in other states may transact business in this state.</p> <p>Provisions governing investigation into affairs of company.</p> <p>Fire insurance company may make insurance against wind, etc.</p> <p>Fire insurance companies of foreign countries; requirements before doing business in this state.</p> <p>No insurance company to limit time within which suit may be brought to less than one year.</p> <p>Duty of insurance commissioner if he finds company not incorporated in this state to be in unsound condition.</p> <p>Accounts of receivers of insolvent companies to be submitted to commissioner before presented to court.</p> <p>Receivers to make report to commissioner annually.</p> <p>No person to act as agent until he has complied with laws of this state.</p> <p>Agent of company of other state or foreign countries which has not been permitted to transact business in state personally liable upon contracts.</p> |
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| <p>SEC.
 54. Companies incorporated in this state to file copy of charter, etc., with insurance commissioner.
 55. When certificate authorizing company to issue policies, to be granted.
 56. Persons shall not act as agent without first securing certificate of authority.
 57. Penalty for violations.
 58. Certificates or licenses; how long to continue in force.
 59. Amount of fine, where penalty not provided for violations in preceding sections.
 60. Provisions relating to insurance companies other than life or fire; requirements before doing business in this state.
 61. What deemed domestic and what deemed foreign companies.
 62. Penalty for fraudulently representing insured person as dead.
 63. Insurance companies incorporated under laws of other states to report annually; what report to contain; duty of commissioner upon receipt of report.
 64. Insurance companies organized under laws of foreign government to report annually; what</p> | <p>SEC.
 report to contain; license tax.
 67. Cancellation of fire insurance policies; notice given to insured.
 68. Laws of state of New York, regarding fire insurance issued, to be applicable to insurance issued in this state, with changes deemed proper by commissioner.
 69. No conditions valid unless stated in policy or attached thereto.
 70. Mutual companies shall cause to appear in body of policy the total amount for which assured may be liable.
 71. Assessor's duty as to transmission of list of companies doing business within his district.
 72. Papers required to be deposited with commissioner shall be received as evidence in courts.
 73. License tax paid by foreign insurance companies; rate of tax.
 74. Duties of secretary of state as to issuance of certificate of incorporation.
 75. Fire and marine insurance companies to furnish statement in connection with report; what statement to contain.
 76. Word "company" defined; inconsistent acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

That chapter thirty-four of the code of West Virginia be revised, amended and re-enacted so as to read as follows:

Sec. 1. The auditor of this state is hereby made and shall be the insurance commissioner of this state; he shall be repaid his actual disbursements for traveling expenses, not exceeding one thousand dollars in any one year, an itemized account of which shall be filed with the board of public works and be audited by it before payment thereof; he shall be provided with furniture, clerical assistance and actuaries and other help as shall be necessary; such clerical assistance and actuaries to be appointed by the auditor and their compensation fixed by him and paid by the auditor's warrant drawn on the treasurer.

Sec. 2. The commissioner shall see that all laws respecting insurance companies are faithfully executed; may employ clerical aid; shall furnish to each insurance company doing business in this state printed forms of the statements required by law; shall on or before the tenth of each month pay into the state treasury all the fees which he may have received during the month previous, and may administer oaths in the discharge of his duties; he shall report to the governor changes which in his opinion, should be made in the laws relating to insurance.

Sec. 3. The insurance commissioner may from time to time examine the methods of business of any company, corporation, association, partnership, or combination of persons doing any kind or form of insurance business in this state; and may require them to answer such questions as he may think necessary for the purpose of such inquiry; and if in his opinion, any such company, corporation, association, partnership or combination of persons is doing business in an illegal, improper or unjust manner, or failing to adjust and pay losses and obligations when they become due, excepting claims to which there is a substantial defense, he may order it to discontinue such illegal or improper method of doing business and may order it to adjust and pay its losses and obligations as they become due.

Sec. 4. If any such company, corporation, association, partnership, or combination of persons shall fail within ten days to obey any such order of the commissioner, he may apply to a court or judge having jurisdiction for an injunction or for the appointment of a receiver, or for both, and such court or judge may enforce such order of the commissioner by injunction, or by appointing a receiver to take charge of the property and affairs of such company, corporation, association, partnership or combination of persons, or both; and may make all such further orders as may be necessary or proper to carry into effect such an injunction and receivership.

Sec. 5. The commissioner shall demand and receive the following fees from all insurance companies:—for annual fee for each license, ten dollars; for receiving and filing annual reports, ten dollars; for valuation of policies of life insurance companies organized under the laws of this state, one cent for each one thousand dollars of insurance; for valuation of policies of life insurance companies organized under the laws of any other state admitted to transact business in this state, such rate for each one thousand dollars of insurance valued as is imposed by such other state upon any similar insurance company organized under the laws of this state admitted to transact business in such other state; for filing any additional paper required by law, twenty-five cents; for every certificate of valuation, copy of report of certificate of condition of company to be filed in any other state, five dollars; for each agent's certificate of authority and copy of report, five dollars.

Sec. 6. The commissioner shall annually submit to the governor a report of his official acts, and condition of insurance companies

doing business in this state, with a condensed statement of their reports made to him, an abstract of all accounts rendered to any court by the receivers of insolvent insurance companies, and the reports, or abstracts of the reports made to the insurance commissioner by such receivers, together with a statement of the fees received from all such companies and paid by him into the state treasury.

Life Insurance Companies.

Sec. 7. Every life insurance company chartered by this state shall, on or before the first of March in each year, render to the insurance commissioner a report, signed and sworn to by its president and secretary or other proper officers, of its condition upon the preceding thirty-first of December, which shall include a detailed statement of its assets and liabilities on that day; the amount and character of the business transacted, moneys received and expended during the year, a descriptive list of all policies and contracts of insurance in force on that day, sufficient to enable the commissioner to calculate the reserve, and such other information as the commissioner may deem necessary.

Sec. 8. Upon the receipt of such report the commissioner shall make a valuation of all outstanding policies, additional thereto, unpaid dividends and all other obligations of such company; all valuations made by him or by his authority shall be made upon the net premium basis, according to the standard of valuations adopted by the company for the obligation to the valued; *provided*, that in every case the standard of valuation employed shall be stated in his annual report. Any company may adopt different standards for obligations of different dates or classes, but if the total value determined by any such standard for the obligations for which it has been adopted shall be less than that determined by the legal minimum standard hereinafter prescribed, or if the company adopt no standard, said legal minimum standard shall be used; the commissioner may vary the standards of interest and mortality in the case of corporations from foreign countries and in particular cases of invalid lives and other extra hazards, and value of policies in groups, use approximate averages for fractions of a year or otherwise, and calculate values by net premiums or otherwise, and accept the valuation of the department of insurance of any other state in place of the valuation herein required if the insurance of-

ficer of such state accepts as sufficient and valid for all purposes, the certificate of valuation of the insurance commissioner of this state.

It is also provided that policies issued by companies doing business in this state may provide for not more than one year preliminary term insurance; *provided, however*, that if the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for like insurance under whole life preliminary term policies of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a whole life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period, equal to the difference between the value at the end of such period of such a whole life preliminary term policy and a full reserve at such time of such a limited payment life or endowment policy.

The legal minimum standard for contracts issued before the first day of January, A. D., one thousand nine hundred and one, shall be actuaries' or combined experience table of mortality with interest at four per centum per annum, and for contracts issued on or after said date shall be the American experience table of mortality with interest at three and one-half per centum per annum, except, however, that any such life insurance company may at any time elect to reserve upon a three per centum reserve basis, and then upon its policies issued upon such reserve, shall be computed upon the basis of the American experience table of mortality with interest at three per centum per annum and except as hereinbefore provided.

Sec. 9. Payments in form of dividends or otherwise shall not be made to its stockholders by any life insurance company organized under the laws of this state, unless its assets exceed by the amount of such payment the amount of its paid up capital stock and all of its liabilities, including its reinsurance reserve upon policies issued before January first, one thousand nine hundred and one, computed upon the basis of the actuaries, or combined experience table of mortality with compound interest at four per cent per an-

num, and upon policies issued after said date, computed upon the American experience table of mortality with compound interest at three and one-half per centum per annum; and no payment shall be made to the policy holders of any such company except for matured claims and in the purchase of surrendered policies, unless the assets of such company exceed by the amount of such payments its liabilities, including its reinsurance reserve, computed as above provided in this section; but for all other purposes the reinsurance reserve of every such company shall be computed as provided in section eight.

Sec. 10. Every officer or director of any such company who knowingly votes or assents to any payment either to stockholders or policy holders in violation to any of the provisions of section nine shall forfeit to the state the sum of five thousand dollars to be recovered in an action brought in the name of the insurance commissioner of the state.

Sec. 11. The insurance commissioner shall at least once in four years, visit each life insurance company incorporated by this state; thoroughly examine its financial condition, and ascertain whether it has complied with all the provisions of this law.

Sec. 12. The commissioner may in like manner, examine any life insurance company not incorporated by this state but doing business herein, and may employ assistants in making the examination; and all the expenses of an examination without the state shall be borne by the company examined.

Sec. 13. For such purposes the commissioner shall have free access to all books and papers of any life insurance company doing business in this state, and may examine under oath, its officers or agents relative to its condition; and if any company not incorporated by this state, or its officers or agents, shall refuse to submit to such examination, or to comply with any provisions of this chapter, the authority of such company to do business in this state shall be revoked.

Sec. 14. No life insurance company incorporated by this state shall issue policies until, upon examination by the commissioner, it shall be found to have complied with the laws thereof, nor until he shall have issued his certificates setting forth such fact and authorizing such company to issue policies.

Sec. 15. No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of

individuals between insurance (the insured) of the same class and equal expectation of life in the amount of payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the issued policy thereon; nor shall any such company or any officer, agent, solicitor, or representative thereof, pay, allow or give, or offer to pay, allow or give directly or indirectly as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the policy contract of insurance, or give, sell or purchase, or offer to give, sell or purchase as inducement to insurance or in connection therewith any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon or anything of value whatsoever not specified in the policy, and any policy sold in violation of this clause shall be null and void.

Sec. 16. No person shall act in the solicitation or procurement of applicants for, or policies of insurance for any company referred to in this chapter, without first procuring a certificate of authority as agent from the insurance commissioner, which certificate shall be renewed on the first of March of each year; and on conviction of any person acting as such agent, sub-agent or broker of the violation of any provision of section fifteen, the insurance commissioner shall forthwith revoke the certificate of authority issued to him and no certificate shall be thereafter issued to said convicted person until after three years from the date of conviction; every person violating any provision of section fifteen or of this section shall be fined not more than five hundred dollars.

Sec. 17. Life insurance companies chartered by and doing business in this state, and empowered to make contracts contingent upon life, may grant and issue annuities either in connection with or separate from contracts of insurance predicted upon life risks; and all such annuities heretofore issued by such companies shall be valid.

Sec. 18. Every life insurance company organized under the

laws of any other state or country, before being admitted to do business in this state, on or before the first of March annually, shall furnish to the insurance commissioner, on blanks to be furnished by him for that purpose, a full report of its condition on the preceding thirty-first of December, duly sworn to by its president and secretary or other proper officer; together with a certificate of the proper officers of the government by whose authority it is organized, of a valuation of its policies by said officers by a standard equivalent to that provided in sections eight and nine, and that it has complied with the laws of such government and is authorized to transact business therein; if said commissioner is satisfied with said certificate, and if said company shall have complied with all other provisions of law, he shall thereupon issue his license to it to transact business in this state, which shall continue in force as provided in section fifty-eight, unless sooner revoked for cause; but no such license shall be issued unless such certificate is furnished, nor unless such government shall license life insurance companies incorporated by this state to transact business within its jurisdiction upon a similar certificate from the insurance commissioner, until such company makes the report required by companies incorporated by this state. The insurance commissioner may accept the valuation of the policies of any such company made by the proper officer of the government by whose authority it is organized, providing such officer accepts the valuation made by said commissioner of policies of companies incorporated by this state; otherwise said commissioner may at his discretion value such policies.

Sec. 19. No person or corporation or association shall issue or deliver within this state any policy or contract of insurance of a life insurance company or association, which has not obtained a license to transact business within this state and complied with all the laws of this state in regard thereto, or after revocation of such license.

Sec. 20. If the insurance commissioner shall at any time find that the assets of any life insurance company incorporated by this state are less than its liabilities, or if such company shall fail to comply with any requirement of law, he may notify it to cease the issue of new policies or the payment of dividends to stockholders, or both, until the deficiency be made good or the law complied with; and he may bring his petition to the circuit court of the county in which the principal office of such company is located, or to the

judge thereof in vacation, or to a judge of the supreme court praying for the appointment of a receiver, and that the charter of such company may be annulled; said judge or court shall forthwith issue a citation to such company to appear at a day and place to be named therein, and answer to said petition; and if upon the hearing of said petition, said court or judge shall find the assets of such company to be less than its liabilities, said court or judge may appoint some disinterested person to be receiver of such company. Said court or judge may provide the mode of proving claims against such company, appoint a committee to hear and decide upon them, may limit and extend the time for the presentation of such claims, make all necessary orders in reference to the delivery to and possession by such receiver of the assets and property of such company and the sale and conveyance of the same by him, and may direct the application of the avails of such assets and property equitably in satisfaction of the claims provided against such company, and the payment of the present value of its outstanding policies to policy holders, either in whole or in part, or to the reinsurance of its outstanding policies in some solvent company; and said court or judge shall annul the charter and decree the dissolution of such company, and may make all other orders and decrees necessary and proper in reference to winding up the affairs of such company and the disposition of its property.

Sec. 21. The liabilities of any such company for all the purposes of the proceedings mentioned in section twenty shall include the net present value of the policies of such company, or reinsurance reserve, ascertained as required by law.

Sec. 22. Whenever a receiver of such company has been appointed by a judge of the supreme court, such judge may at any time cause such petition and his proceedings thereon to be certified to the circuit court of the county in which the principal office of such company is located, and thereafter said circuit court shall have all the powers given to such judge in section twenty, and may rescind and modify any orders previously made in said proceedings, either by it or such judge, the same as if said proceedings had originally been commenced in said court under the provisions of section twenty.

Sec. 23. Whenever proceedings commenced by the insurance commissioner, under the provisions of section twenty, shall be pending in the circuit court if said court shall not be in actual session, a

judge of the supreme court, upon application and after due notice given may make such order in the premises as he shall deem proper and may rescind and modify the same to the same extent as said court might do if in session; and such judge shall cause all such proceedings had before him, with his orders therein, to be certified forthwith to the court in which said original proceedings are pending.

Sec. 24. The circuit court for the county in which the principal office of such company is located, upon the application of the insurance commissioner, may limit and extend the time for the presentation of claims against such company, and notice thereof shall be given in such manner as said court shall direct, and any creditor neglecting to present his claim within the time so limited shall be barred of all right to share in the assets of such company; said court shall appoint not more than three disinterested persons as commissioners to receive and decide upon the claims presented against such company, who shall give notice of the times and places of their meetings for that purpose, in such manner as said court shall prescribe; and within one month after the expiration of the time so limited shall file with the clerk of said court a list of the claims presented to them, specifying those allowed and those disallowed.

Sec. 25. The insurance commissioner shall ascertain the net present value of each policy in force in such company at the time of the repeal of its charter upon the same basis as the policies of such companies were theretofore valued, pursuant to section eight of this chapter, and he shall file with the clerk of said court a certificate showing the net present value of each said policies, and such net present value shall be the surrender value of each of said policies.

Sec. 26. No loan or investment shall be made by a life insurance company of this state without the approval of its finance or executive committee, or the approval of a majority of the directors of such company present at a meeting of such directors, and the name of every director approving or disapproving any loan or investment so made shall be entered by the secretary on the records of the company.

Sec. 27. No director or officer of a life insurance company shall receive any money or valuable thing for negotiating or recommending any loan from such company, or for selling or aiding in the sale of any stock or securities to or by such company.

Sec. 28. No loan shall be made of the capital assets, or income, or any portion thereof, of any life insurance company incorporated by or organized under the laws of this state, unless such loan shall be secured by mortgage on unincumbered real estate worth at least double the amount loaned thereon, or by pledge of bonds or stocks as collateral having a market value at least ten per centum in excess of the amount loaned thereon; or by pledge of United States government bonds, the market value of which shall be equal to the loan, and any such company may make loans on pledge of policies issued by it to an amount not exceeding the net reserve which it maintains upon the policy or policies pledged to secure each such loan.

Sec. 29. No portion of the capital, assets, or income, of any life insurance company of this state shall be used in the purchase of the stocks or bonds of any mining or manufacturing company in any event, nor in the purchase of the stocks or bonds of any other private corporation, upon which the last mentioned stocks a regular dividend shall have been passed, or upon which last mentioned bonds a regular interest payment shall have defaulted at any time within three years prior to such investment.

Sec. 30. This chapter shall not prevent any company from taking premium notes, or giving credit for part of its premiums, in accordance with its usual course of business.

Sec. 31. Every officer or director of a life insurance company knowingly consenting to a loan or investment in wilful violation of any provisions of sections twenty-six, twenty-seven, twenty-eight or twenty-nine shall be personally liable to the company for any loss which may be sustained by such investment or loan, to be recovered in an action to be brought by the insurance commissioner on the complaint of any policy holder or stockholder in the company suffering thereby, and shall be fined not more than one thousand dollars and imprisoned not more than five years.

Sec. 32. In all cases in which any life insurance company of this state shall have legally acquired, in payment of a debt previously contracted, any property, real or personal, situated in this state or elsewhere, said insurance company may upon the sale of said property, take in payment or part payment thereof the stocks or bonds of any company or corporation purchasing said property.

Sec. 33. Mutual life insurance companies may do business within this state with a capital stock of not less than one hundred thousand

dollars, which shall be invested in the same manner as is provided for the investment of its other funds; out of this net surplus of the company the holders of the capital stock may receive a dividend of not more than ten per cent per annum, which may be accumulative; such capital stock shall not be a liability of the company, except that it can be retired as soon as and upon such terms as in the opinion of the insurance commissioner the net surplus of the company will permit; whereupon said stock shall be surrendered and canceled and the right to vote thereon shall cease.

Sec. 34. No life insurance company doing business in this state and no officer, director, or agent thereof shall issue or circulate, or cause or permit to be issued or circulated any estimate illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall issue any name or table of any policy or class of policies misrepresenting the true nature thereof.

Fire and Marine Insurance Companies.

Sec. 35. Every fire and every fire and marine insurance company doing business in this state shall annually, in January, render to the insurance commissioner a report, signed and sworn to by its president and secretary, of its condition on the thirty-first of December next preceding, in the following form, namely: *first*, the amount of its capital stock; *second*, its assets, specifying, first, the value of its real estate; second, the amount of its cash on hand and in bank, specifying where it is deposited; third, the amount of cash in the hands of agents and in course of transmission; fourth, the amount of loans secured by mortgages on which there shall be less than one years' interest due; fifth, the amount of such loans with one years' interest or more due thereon; sixth, the amount due on judgments; seventh, the amount of its stocks and bonds, with the description of amount, number of shares and the par and market value of each; eighth, the amount of stocks and bonds held as collateral security for loans, with the amount loaned on each and the par and market value thereof; ninth, the amount of assessments on stock or premium notes paid or unpaid; tenth, the amount of interest accrued and unpaid; eleventh, the amount of premium notes on hand on which policies are issued; *third*, its liabilities, specifying, first, the amount of losses due and unpaid; second, the

amount of unpaid losses not paid; third, the amount of claims for losses resisted by the company; fourth, the amount of losses incurred during the year, including those claimed and not yet due, and those reported to the company upon which no action has been taken; fifth, the amount of dividends due and unpaid; sixth, the amount of dividends, either cash or script, not yet payable; seventh, the amount of money borrowed and security given for the payment thereof; eighth, the amount of premiums received on all risks not terminated; ninth, the amount required to reinsure all fire risks in force, computed at fifty per cent of the gross amount of fire premiums less return premiums, and re-insurance received on risks in force, and not perpetual; ninety-five per cent of premiums on perpetual risks in force, and one hundred per cent of the amount of ocean marine premiums received on risks in force, excepting on time hull risks which may be computed at fifty per cent of the amount of premiums received on risks in force; tenth, the amount of all other claims against it; *fourth*, its income during the preceding year, specifying: first, the amount of cash premiums received; second, the amount of notes received for premiums; third, the amount of interest money received; fourth, the amount of income received from other sources; fifth, its expenditures during the preceding year, specifying: first, the amount of losses paid, stating how much of the same accrued prior and how much subsequent to its preceding statement, and the amount at which such losses were estimated in such statement; second, the amount of dividends paid; third, the amount of expenses paid, including agents' commissions; fourth, the amount paid in taxes; fifth, the amount of all other expenditures.

Sec. 36. No fire or fire and marine insurance company or association incorporated or organized under the laws of this state or of any other state, territory or county of the United States or the District of Columbia or any foreign county, shall directly or indirectly, take risks or transact any business in this state unless possessed of at least one hundred thousand dollars cash capital paid up and securely invested, and every such company shall deposit with the insurance commissioner a certified copy of its charter, and a statement under oath of its president or vice president and secretary, or other proper officers, stating its name and location and other particulars required by section thirty-five; no such companies or associations shall make contracts of insurance on property in this

state except through lawfully constituted and licensed resident agents, nor shall any person act as agent for any such company, directly or indirectly taking risks or transacting the business of fire insurance in this state, without procuring from the insurance commissioner a certificate of authority stating that such company has complied with all the requirements of the law; such certificate shall continue in force as provided in section fifty-eight unless revoked for cause. The statement required by this section shall be made annually in January, and shall specify the amount of premiums received and losses paid in this state during the preceding year; and said commissioner, on being satisfied that the capital, securities, and investments, remain secure shall furnish a renewal of his certificate.

Sec. 37. The insurance commissioner may inquire into any fire or fire and marine insurance company doing business in this state, or of its secretary, in relation to its financial condition and management, and such inquiry shall be promptly answered.

Sec. 38. Any mutual fire or fire and marine insurance company located in any other state or territory of the United States, or the District of Columbia, and possessed of one hundred thousand dollars in cash, or securities invested in available cash assets, may be admitted to take risks and transact business in this state through lawfully constituted and licensed resident agents; it shall comply with all other requirements of the laws of this state relating to such companies of other states, and that similar companies of this state are admitted to transact business in such other state.

Sec. 39. The insurance commissioner, either personally or by a committee appointed by him consisting of one or more persons not directors, officers, or agents, of any fire or fire and marine insurance company doing business in this state, may at any time examine into the affairs of any fire or fire and marine insurance company incorporated by or doing business in this state; the officers or agents of such company shall exhibit its books to said commissioner or committee, and otherwise facilitate such examination; the commissioner or committee may examine under oath the officers and agents of any such company in relation to its affairs; said commissioner may publish the result of such investigation in one or more newspapers published in this state. In relation to the affairs of any company incorporated by or organized under the laws of any other state or country of the United States, he may in lieu of such investigation,

accept the certificate of the insurance commissioner or superintendent of such state or country as to its condition. Whenever the commissioner shall ascertain that the assets of any fire or fire and marine insurance company incorporated by this state, after deducting for reinsurance and its proper liabilities, excepting capital, amount to less than its capital stock if it have a stock capital, or in the case of a mutual company, if the assets, less the unsettled claims and other absolute liabilities, amount to less than the sum requisite for reinsurance, he shall call upon it to make up such deficiency within such reasonable time as he shall fix, and on failure to comply with such requirement shall bring his petition to a judge of the circuit court, praying for an injunction restraining said company from the further prosecution of the business of making or renewing insurance until said deficiency is made up; and if, upon a hearing before said judge, after such reasonable notice to such company as may be ordered, the allegations contained in such petition shall be found true, such judge shall issue such injunction.

Sec. 40. Insurance companies authorized under the laws of this state, having power to insure against loss by fire, may make insurance against loss by wind, storms, lightning, tornadoes, cyclones, leakage of sprinklers and sprinkler systems, installed or maintained for the purpose of protecting against fire, and by explosions whether fire ensues or not; *provided*, the same shall be clearly expressed in the policy.

Fire Insurance Companies of Foreign Countries.

Sec. 41. No insurance company of any foreign country shall take risks in this state unless it has a cash capital of two hundred thousand dollars and shall have made a deposit with the insurance commissioner of this state or with the proper officer of some other state of not less than two hundred thousand dollars in securities in trust for the benefit of its policy holders in the United States, and no policy issued by such company to any citizen of this state shall be invalidated by the concurrence of hostilities between the government of the United States and the government under the law of which it was organized.

Sec. 42. Every such insurance company shall, before admission to do business in this state, furnish to the insurance commissioner a copy of its charter or article of association, of its annual report made in the country where it was organized, and the certificates of

the officer holding in trust said deposit of two hundred thousand dollars, stating the manner in which the same is invested and the purpose for which the same is held; and it shall furnish annually to the insurance commissioner a statement of the condition of its affairs in the United States in such form as he shall require.

Sec. 43. The capital of every insurance company shall, for all the purposes of the insurance laws of this state, be the aggregate value of its money or securities deposited as aforesaid, and all sums loaned on real estate security in any state in the United States in conformity with the laws of such state providing for the investment of the assets of insurance companies therein, and all other assets in the United States in which fire insurance companies organized under the laws of this state may invest; *provided*, such real estate securities and assets shall be held in the United States by trustees who are citizens of the United States, approved by the insurance commissioner, for the benefit of all its policy holders and creditors in the United States, after making the same deduction from such aggregate value for losses and liabilities in the United States, and for premiums upon risks therein, not expired, as is authorized or required by the laws of this state, or by the regulation of its insurance department, with respect to fire insurance companies organized under the laws of this state.

Sec. 44. The trustees referred to in section forty-three shall be appointed by the directors of such company, and a certified copy of the vote by which they are appointed and of the deed of trust shall be filed in the office of the insurance commissioner; and he may examine such trustees or the agents of such company under oath, and its assets, books and accounts in the same manner as he may examine the officers, agents, assets, books, and accounts of any company authorized to do fire insurance business in this state.

Sec. 45. No fire insurance company, or agent or attorney thereof, shall transact the business of fire insurance in this state until such company shall have complied with the laws of this state relative to fire insurance companies, and received a license or certificate of authority from the insurance commissioner; nor shall such companies make contracts of insurance on property in this state except through lawfully constituted and licensed resident agent.

Sec. 46. No such insurance company shall insure against loss by fire or inland navigation, nor expose itself to any such loss by any

one risk, for any greater amount in proportion to its capital than companies which are organized under the laws of this state.

Sec. 47. When such insurance company shall have complied with the provisions of law relating to such companies, and the insurance commissioner is satisfied that it is solvent in the United States he may issue to it a license to transact business in this state.

Sec. 48. No insurance company shall limit the term within which any suit shall be brought against it to a period less than one year from the time when the loss insured against shall occur.

Sec. 49. When the insurance commissioner shall find that any insurance company not incorporated by this state is unsound, estimated in the manner prescribed in section thirty-nine, he shall revoke its license and cause notice thereof to be published at least once a week for four weeks in two daily newspapers, printed, one in Charleston and one in Wheeling; and he may re-issue such license when he shall be satisfied of the soundness of such company; no agent of such company shall, after the first publication of such notice, issue or renew any policy of insurance in its behalf.

Sec. 50. All accounts rendered to any court by the receiver of any insolvent insurance company of this state shall be presented by such receiver to the insurance commissioner of this state for his examination; and he shall report thereon to the court to which said accounts are rendered, before the same shall be accepted by said court.

Sec. 51. Receivers of insurance companies shall report to the insurance commissioner annually, and oftener in case he shall so direct; in such forms as the commissioner shall prescribe.

Sec. 52. No person shall act as agent of any insurance company or association, organized under the laws of any other state, until he shall have in all respects complied with the laws of this state.

Sec. 53. The agent of any insurance company of any other state or foreign government, which has not been admitted to transact business in this state, shall be personally liable upon all contracts made by or through him, directly or indirectly, for or in behalf of any such company.

Sec. 54. Every insurance company or association incorporated or organized in this state shall, before issuing a policy or making contract of insurance, file with the insurance commissioner a certified copy of its charter or articles of association and a statement

verified by the oath of the president and secretary, showing that said company is duly organized.

Sec. 55. Upon receiving such statement the insurance commissioner may examine such company or association, and if he finds that it has complied with the terms of its charter or articles of association and the laws of the state, shall issue a certificate authorizing such company or association to issue policies and make contracts of insurance.

Sec. 56. No person shall act as agent of any insurance company, corporation, association, partnership, or combination of persons, incorporated, organized, associated or combined under or by virtue of the laws of this or any other state of the United States or any foreign country, directly or indirectly taking risks or transacting any kind or form of insurance business in this state, without procuring from the insurance commissioner a certificate of authority, stating that such company, corporation, association, partnership, or combination of persons has complied with all the laws of this state relative to such companies, corporations, associations, partnerships or combinations of persons, which certificate shall continue in force until the first of March next after its issue unless revoked for cause.

Sec. 57. Every person who in this state, solicits or procures policies or risks from or in any insurance company, corporation, association, partnership or combination of persons, mentioned in section fifty-six or who in any manner, except as provided in section fifty-six, aids in the transaction of business in this state by any such company, corporation, association, partnership or combination of persons, that has neglected or refused to comply with all the laws of this state relative to such companies, corporations, associations, partnerships, or combination of persons, shall be fined not more than one thousand dollars.

Sec. 58. All certificates or license issued by the insurance commissioner to companies or associations of this state, or to companies or associations existing under the laws of any other state or foreign government to an agent of any such company or association, shall continue in force until the first of March next following their issue unless the same be sooner revoked.

Sec. 59. Every person or corporation violating any provision of the preceding sections of this act for which no penalty is provided shall be fined not more than five hundred dollars.

Sec. 60. Every person who shall violate any law of this state relating to insurance companies organized under the laws of other states or foreign governments shall be fined not more than five hundred dollars when no other penalty is provided.

Sec. 61. Every insurance company or association, other than fire or life, incorporated under the laws of this state, and having its principal office or place of business within this state, shall have a paid up capital stock of at least one hundred thousand dollars invested in securities as prescribed in section twenty-eight, whose market value shall be at par, and in addition thereto shall maintain a reserve equal to the unearned portion of the gross premium charged for covering all risks written, and shall state on the face of its policies or certificates the agreements with the assured; *provided, however,* that accident or accident and health insurance companies which under their policies agree to pay a weekly indemnity, not to exceed ten dollars per week, and a principal sum not to exceed five hundred dollars, may be licensed to transact business within this state by having a paid up capital in cash of (\$10,000), ten thousand dollars and, *provided,* their assets are in the opinion of the insurance commissioner, fully sufficient to protect their policy holders, and in other respects they comply with the provisions of this section; and, *provided, further,* that no insurance company shall advertise a greater amount of capital stock than the actual paid up capital stock of such company.

Sec. 62. Every insurance company or association other than fire or life, incorporated under the laws of any other state of the United States or any foreign country and having its principal office or place of business outside of this state, shall be governed by the laws of this state regulating the admission of foreign fire insurance companies doing business in this state; *provided, however,* that the form of policy prescribed for fire insurance companies does not apply to the companies or associations covered in this section; but such companies or associations shall state on the face of its policies or certificates the agreements with the assured.

Sec. 63. Every insurance company having its principal place of business in this state and incorporated by an act of the general assembly of Virginia, passed before the twentieth day of June, one thousand eight hundred and sixty-three, or heretofore or hereafter incorporated under and pursuant to any act of the legislature of

this state, shall be deemed a domestic company; and every other insurance company a foreign company.

Sec. 64. Every person who shall obtain, or attempt to obtain, from any life or accident insurance company of this state, any money on any policy of insurance issued by it, by falsely or fraudulently representing the insured person as dead, or the person injured against accident as injured or shall fraudulently obtain, or attempt to obtain, any money from such company on a policy of insurance issued in the name of a fictitious person, shall if the sum be obtained or attempted to be obtained be one hundred dollars or more, be imprisoned not more than ten years; and if such sum be less than one hundred dollars he shall be fined not more than five hundred dollars, or imprisoned not more than one year, or both.

Sec. 65. Every insurance company or association incorporated by or organized under the laws of any other state, and admitted to transact business in this state, shall return annually, on or before the thirty-first day of January, under the oath of its president or secretary, the gross amount of premiums collected and received by it for the previous calendar year of business done in this state; and upon receiving from said commissioner a certificate of the acceptance of said return and of the amount of tax due thereon, said company shall pay said tax to the insurance commissioner on or before the first day of March, and the insurance commissioner may, if he deems best, require from every such company a bond with surety for the payment of said tax.

Sec. 66. Every insurance company or association incorporated by or organized under the laws of any foreign government, which shall have received a license to transact business in this state, shall return annually on or before the thirty-first day of January, under oath to said commissioner, the gross amount of premiums collected and received by such company or association for the previous calendar year, of business done in this state; and the resident manager shall annually, on or before the first day of March, pay to the insurance commissioner of this state a license tax of two per centum upon the amount of premiums so collected or accrued, and the commissioner may, if he deem best, require from every such resident manager a bond with surety for the payment of said tax.

Sec. 67. No insurance company or associaiton shall cancel a

policy issued against loss by fire on property in this state without giving the party insured at least five days' notice in writing, of such intention and returning the ratable proportion of the premium of the unexpired term of the policy.

Sec. 68. No fire insurance company shall issue fire insurance policies on property in this state other than those of the form used by fire insurance companies incorporated under the laws of the state of New York, with such changes and additions as the insurance commissioner may deem proper.

Sec. 69. In all policies of insurance issued against loss by fire, made by companies chartered by or doing business in this state, no condition shall be valid unless stated in the body of the policy or attached thereto.

Sec. 70. Every mutual company shall cause to appear in the body of its policy the total amount for which the assured may be liable under the charter of said company.

Sec. 71. It shall be the duty of every assessor to transmit to the insurance commissioner within the week preceding the first day of February in every year, a list of all insurance companies or agents doing business within his assessment district.

Sec. 72. The written or printed copies of all papers required by this chapter to be deposited with the insurance commissioner, certified under the hand of such commissioner to be true and correct copies of such papers shall be received as evidence in all courts and places in the same manner and have the same force and effect as the original would have produced.

Sec. 73. Every foreign insurance company doing business in this state shall pay the said commissioner an annual license tax on the amount of the business done in this state, which license tax shall be paid into the state treasury for the benefit of the state fund. The annual license tax of every such company shall be a sum equal to two per cent of the gross premiums received by it on the business written or renewed in this state, less premiums returnable for cancellation.

Sec. 74. The secretary of state of this state, shall not issue a certificate of incorporation to any insurance company or association whose principal place of business is located outside of this state, and shall not issue a certificate of incorporation to any insurance company or association whose principal place of business is located within this state until the insurance commissioner shall

have examined the same and become satisfied in his opinion that such company or association is in a position to comply with the laws of this state governing insurance companies, and until such insurance commissioner shall have approved the same in writing.

Sec. 75. Every fire or fire and marine insurance company authorized to transact business in this state shall, at the time of making its annual report to the insurance commissioner, furnish a statement of the business written in this state and re-insured in other companies, showing the names of such companies, the amount at risk and the amount of premiums thereon, to the end that the state may receive the taxes due on such business.

Sec. 76. All acts and parts of acts, coming within the purview of this act and inconsistent therewith are hereby repealed.

Whenever the word "company" is used in this act it shall be held to include corporations, associations, partnerships or individuals.

CHAPTER 78.

(Senate Bill No. 171.)

AN ACT to create the department of mines, to provide a more efficient system of mine inspection, to re-district the state for the purpose of mine inspection, and to regulate mining operations.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor, February 27, 1907.]

SEC.

1. Department of mines created; its purpose; chief of department of mines; his compensation and duties; penalties for violations; qualifications; chief of department of mines now in office; successor; when to begin; term of office; how salary and traveling expenses paid.
2. District mine inspectors; term of office; by whom appointed; salary; how paid; qualifications of; removals; duties; vacancies.
3. District mine inspectors to make report; when; what to contain; report of chief of department of mines; where filed; to be printed and distributed.
4. Mining districts.
5. Operators to make surveys and maps of mines; what to show; true copy to be delivered to district mine inspector; to be surveyed twice a year if mine in operation; what maps to show; changes to be extended on map held by inspector.

SEC.

6. If operator neglect or fail to furnish map; what then; expense of making maps; by whom paid.
7. Plan of proposed developments to be submitted to district mine inspector before made.
8. Duty of mine foreman or assistant before beginning work; inexperienced persons to work under direction of mine foreman or assistant; when not lawful to allow persons to work in mines; two openings required; condition of openings; provisions not applicable under certain conditions; penalty for violations.
9. To maintain metal speaking tube, etc., machinery to be inspected; how often; penalty for violations.
10. Machinery to be in charge of competent and sober engineers; no more than ten persons to ride on cage or cars; safety holes; penalty for violation.

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11. Provisions for proper ventilation of mines; penalty for violations; amount of powder to be taken into mine and how carried; penalty for violation.</p> <p>12. Precautions to be used in case of fire damp and other gases; penalty for violation.</p> <p>13. Fan power to be used for ventilation; ventilation to be maintained day and night in gaseous mines; not required to keep fan going when mine shut down for repairs; required to employ fire boss or bosses; qualifications; duties of; penalty for violations.</p> <p>14. Locked safety lamps to be used in certain mines; lamps the property of operator; to be in charge of some person designated by fire boss; at least two lamps to be kept at every mine; penalty for violation.</p> <p>15. Mine foreman to be employed; his qualifications and duties; mine foreman to notify operator of requirements; duty of operator as to matters complained of; penalty for violation.</p> <p>16. Operator to furnish facilities to inspector for entering mine; duty of inspector when mine is in unsafe condition; owner or operator may apply to circuit court for order directing mine to be re-opened; notice of hearing, to whom given; duty of attorney general.</p> <p>17. Boys under fourteen years of age and female persons not to be employed in mine; penalty for violations.</p> | <p>Sec.
18. Employees not to do any act that endangers life or property; penalty for violation; if operator refuse to furnish necessary supplies and loss of life result from such refusal a right of action for damages may ensue.</p> <p>19. Intimidation of employees prohibited; provision not construed as to prevent association of persons for lawful purposes; penalty for violation.</p> <p>20. Operators to make report on accidents; notify coroner; power and duties of mine inspector in case of explosion or accident; penalty for violation.</p> <p>21. Operator to make annual reports to the chief of the department of mines; what reports to contain; penalty for violation.</p> <p>22. Penalty for permitting work to be done in the mine in violation of instructions issued by mine inspector.</p> <p>23. Mine inspector to prescribe conditions under which solid shooting to be done.</p> <p>24. Steam locomotives not to be used in mines, except, etc.; penalty for violation.</p> <p>25. Operators to adopt rules for government and operation of mines; to be posted; penalty for violation.</p> <p>26. Courts having concurrent jurisdiction in all prosecutions; right of appeal.</p> <p>27. To what mine laws apply; inconsistent acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

Sec. 1. There is hereby created an executive department to be known as the "Department of Mines" which shall have for its purpose the supervision of the execution and enforcement of all state laws pertaining to the inspection of mines, heretofore and hereafter enacted for the safety of persons employed within or at the mines within this state, and the protection of mine property and other property used in and in connection therewith; and the said department of mines shall be in charge of an official to be known as the chief of the department of mines, who shall have full charge of said department, and who shall superintend and direct the inspection of mines as herein provided and as provided by any other state law not in conflict with this act.

The chief of the department of mines shall keep a record of all inspections made by himself and the district mine inspectors, which shall be a permanent record properly indexed; the record of the de-

partment of mines shall at all times be open to inspection by any citizen of this state, and upon the request of the governor of the state the chief of the department of mines shall lay said records before said officer, also maps of mines furnished the chief of the department of mines by the district mine inspectors; any chief of the department of mines who shall violate any of the provisions of this act shall, upon conviction, be fined not less than twenty-five nor more than two hundred dollars, and may in the discretion of the court be imprisoned in the county jail not exceeding one year.

The chief of the department of mines shall be a male citizen of West Virginia, and shall be a competent person, having had at least eight years' experience in the working, ventilation and drainage of coal mines in this state, and having a practical and scientific knowledge of all noxious and dangerous gases found in such mines, and to enable the said chief of the department of mines to perform his duties he shall have the same authority to visit, enter and examine, the mines as is conferred upon the district mine inspector, and he shall have the authority to call the assistance of any one of the district mine inspectors to any district in the state.

The present chief mine inspector of this state, who according to this act, is designated as chief of the department of mines, shall continue in office under the title of chief of the department of mines until July one, one thousand nine hundred and nine, the expiration of the term for which he was appointed as chief mine inspector, or until his successor shall be duly appointed and qualified, unless sooner removed as provided by law; and the governor of this state, shall with the consent of the senate, appoint a chief of the department of mines whose term of office shall begin July one, one thousand nine hundred and nine, and shall be for four years, or until his successor shall be duly appointed and qualified; and the governor, with the consent of the senate, shall each four years thereafter, appoint a chief of the department of mines for the term of four years or until his successor be appointed and qualified.

The salary of the chief of the department of mines shall be twenty-four hundred dollars, and traveling expenses, which shall be paid monthly out of the state treasury upon a requisition upon the state auditor, properly certified by the chief of the department of mines.

Sec. 2. Within thirty days after this act becomes a law the chief of the department of mines shall appoint such an additional

number of district mine inspectors, which with those now in office, shall give one inspector for each mining district within the state, as hereinafter provided, whose term of office shall expire the first day of July, one thousand nine hundred and nine, or when their successors be appointed and qualified, unless sooner removed as provided by law, and he shall direct or prescribe in which of said districts each of said inspectors shall serve; and he shall each four years thereafter appoint one inspector for each of said districts.

The salary of each district mine inspector shall be eighteen hundred dollars per annum, and actual expenses; such salary and expenses shall be paid monthly out of the state treasury upon the approval of the chief of the department of mines; *provided* that before payment of such expenses shall be made to the inspector he shall file an account of such expenses, verified by his affidavit, showing that they accrued in the discharge of his official duties; every person so appointed district mine inspector must be a citizen of West Virginia, having a practical knowledge of mining and the proper ventilation and drainage of mines and a knowledge of the gases met with in coal mines, and must be a miner of at least six years' experience in coal mines, or having otherwise been engaged as an employee for six years within coal mines, and he shall not while in office, be interested as owner, operator, agent, stockholder, superintendent or engineer of any coal mine, and he shall be of good moral character and temperate habits. An inspector of mines shall be removed from office by the chief of the department of mines of this state for incompetency, neglect of duty, drunkenness, malfeasance and for other good causes.

Each of the district mine inspectors shall report in writing monthly to the chief of the department of mines the number and condition of all mines inspected by him during each month and shall deliver to the operator or operators of each mine inspected a certificate of inspection, and shall post a duplicate certificate at a prominent place of the operating company where it may be conveniently read by any of the mine employees; said duplicate certificate shall remain posted until a subsequent certificate is issued by the district mine inspector, and he shall visit each mine in his district at least once in every three months, or oftener if called upon in writing by ten men engaged in any one mine, or the owner, operator or superintendent of such mine and make a personal examination of the interior of all mines, and outside of the mine

where any danger may exist to the workmen, in their respective districts, and shall particularly examine into the condition of the mines as to ventilation, drainage and general safety and shall make a report of such examinations, and he shall see that all the provisions of the mining statutes are strictly carried out; and it shall be unlawful for any district mine inspector to appoint any deputy or other person to do and perform any work required of such inspector; any mine inspector failing to comply with the requirements of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars and be dismissed from office; the chief of the department of mines and the district mine inspectors shall each before entering upon the discharge of his duties take oath of office prescribed by the constitution and shall furnish bond in the sum of two thousand dollars, with security to be approved by the governor, conditioned upon the faithful discharge of his duty, a certificate of which oath and bond shall be filed in the office of the secretary of state. Vacancies in the office of the department of mines or district mine inspector shall be filled by appointment for the unexpired term.

Sec. 3. Each district mine inspector shall, for each year ending the thirtieth day of June, make a written report to the chief of the department of mines of his proceedings, stating therein the number of mines in his district, the improvements made in and at the mines, the extent to which this act is obeyed or violated, and such other information in relation to mines and mining as he may deem of public interest, or as may be required of him by the chief of the department of mines; he shall also suggest or recommend such legislation on the subject of mining as he may think necessary; such report shall be filed with the chief of the department of mines on or before the thirtieth day of September next succeeding the year for which it was made; the chief of the department of mines shall annually make a full and complete written report of his proceedings to the governor of the state for the year ending the thirtieth of June; such report shall include the reports of the district mine inspectors, the number of visits and inspections made in the state by the district inspectors, the quantity of coal and coke produced in the state, the number of men employed, number of mines operated, ovens in and out of blast, improvements made, prosecutions, etc., and such other information in relation to the subject

of mines, mining inspection and needed legislation as he may deem of public interest and beneficial to the mining interests of the state; such report shall be filed with the governor on or before the thirtieth day of December next succeeding the year for which it was made, and such report shall be printed upon the requisition of the governor and in order that the report shall be annually printed and distributed among the operators, miners and citizens of the state, the sum of fifteen hundred dollars annually is hereby appropriated out of the state treasury for this special purpose.

Sec. 4. The chief of the department of mines, by and with the approval of the governor, shall within thirty days after this act becomes a law, divide the state into twelve mining districts in such a manner as to equalize as far as practicable the work of each district inspector.

Sec. 5. The operator or agent of every coal mine shall, within six months after the passage of this act, make or cause to be made, unless already made and filed, an accurate map or plan of such mine, on a scale to be stated thereon, of one hundred or two hundred feet to the inch; such map or plan shall show the openings or excavations, the shafts, slopes, entries, airways with darts or arrows showing direction of air currents, headings, rooms, pillars, etc., and such portions of such mine or mines as may have been abandoned, the general inclination of the coal strata, and so much of the property lines and the outcrop of the coal seam of the tract of land on which said mine is located, as may be within one thousand feet of any part of the workings of such mine; a true copy of such map or plan, shall within the six months aforesaid be delivered by such operator to the inspector of his district, to be preserved among the records of his office and turned over to his successor in office; but it is provided that in no case shall any copy of the same be made without the consent of the operator or his agent; and the original map, or a true copy thereof, shall be kept by such operator at the office of the mine, and open at all reasonable times for the examination and use of the inspector, and such operator shall, twice within every twelve months, and not more than seven months apart, while the mine is in operation, cause such mine to be surveyed and the map thereof extended so as to accurately show the progress of the workings, the property lines and outcrop as above provided; and he shall immediately thereafter notify the inspector of his district who shall forward to the

said operator, or his engineer the maps held by such inspector to be extended as above required.

Sec. 6. If the operator or agent of any coal mine shall neglect or fail to furnish to the mine inspector of his district any copy of map or extension thereof as provided in preceding section of this act, the mine inspector is hereby authorized to cause a correct survey and map or plan of said coal mine or the extension thereof to be made at the expense of the operator of such mine, the cost of which shall be recoverable from said operator as other debts are recoverable by law; and if at any time the chief of the department of mines have reason to believe that such map or plan or extension thereof furnished in pursuance of the preceding section, be materially incorrect such as will not serve the purpose for which it was intended, he may have survey and map or plan or the extension thereof made or corrected and the expense of making such survey and map or plan or extension thereof under the direction of said chief of the department of mines, shall be paid by the operator and the same may be collected as other debts are recoverable by law; and if found correct the expense thereof to be paid by the state.

Sec. 7. After the passage of this act each operator of a coal mine, before making any additional mine openings, shall furnish the district mine inspector of the district in which the mine is located, a plan of the proposed openings and mine development.

Sec. 8. After six months from and after the passage of this act, it shall be the duty of the mine foreman or the assistant mine foreman of every coal mine in this state to see that every person employed to work in such mine shall, before beginning to work therein, be instructed as to the particular danger, incident to his work in such mine, and furnished a copy of the mining law and rules of such mine.

Every inexperienced person so employed shall work under the direction of the mine foreman, his assistant or such other experienced worker as may be designated by the mine foreman or assistant until he is familiar with the danger, incident to his work, and it shall be unlawful for the operator, agent or mine foreman of any coal mine, to employ any person to work in said mine, or permit any persons to be in said mine for the purpose of working therein, unless they are in communication with at least two openings or outlets, separated by natural strata, of not less than one hundred feet in breadth, if the mine be worked by shaft, and of not less than fifty

feet in breadth at the outlets, if worked by slope or drift; to each of said outlets there shall be provided from the interior of the mine, a safe and available roadway properly drained, which shall at all times, while the mine is in operation, be kept free from all obstructions that might prevent travel thereon in case of an emergency, and if either of said outlets be by shaft, it shall be fitted with safe and available appliances, such as stairs or hoisting machinery, which shall at all times, when the mine is in operation, be kept in order and ready for immediate use, whereby persons employed in the mine may readily escape in case of an accident.

This section shall not apply to any mine while work is being prosecuted with reasonable diligence in making communication between said outlets, necessary repairs and removing obstructions, so long as not more than twenty persons are employed at any one time in said mine; neither shall it apply to any mine, or part of a mine, in which a second outlet has been rendered unavailable by reason of the final robbing of pillars, preparatory to abandonment, so long as not more than twenty persons are employed therein at any one time.

For violation of this section the operator, agent or mine foreman, shall, upon conviction, be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten or more than ninety days, in the discretion of the court.

Sec. 9. The operator or agent of every coal mine worked by shaft shall forthwith provide, and hereafter maintain, a metal tube from the top to the bottom of such shaft suitably adapted to the free passage of sound through which conversation may be held between persons at the top and at the bottom of the shaft, also the ordinary means of signaling, and an approved safety catch and a sufficient cover overhead on every carriage used for lowering or hoisting persons, and at the top of the shaft an approved safety gate, and an adequate brake on the drum of every machine used to lower or hoist persons in such shaft; and the said operator or agent shall have the machinery used for lowering or hoisting persons into or out of the mine kept in safe condition and inspected once in each twenty-four hours, by some competent person; and there shall be cut out or around the side of hoisting shaft or driven through the solid strata at the bottom thereof a traveling way of not less than five feet high and three feet wide to enable a person to pass the

shaft in going from one side of it to the other without passing over or under the cage or other hoisting apparatus.

Any operator or agent who shall fail or refuse to comply with the requirements of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, in the discretion of the court.

Sec. 10. No operator or agent of any coal mine, worked by shaft or slope, shall place in charge of any engine, used for lowering into or hoisting out of said mine persons employed therein, any but competent and sober engineers; and no engineer in charge of such machinery shall allow any person except such as may be deputed for that purpose by the operator or agent, to interfere with any part of the machinery; and no person shall interfere with or intimidate the engineer in the discharge of his duties; and in no case shall more than ten persons ride on any cage or car at one time, and no person shall ride on a loaded cage or car in any shaft or slope.

All slopes, engine-planes or motor roads used by persons in any mine, shall be made of sufficient width to permit persons to pass moving cars with safety, or refuge holes of ample dimensions, and not more than sixty feet apart, shall be made on one side of said slope, engine-plane or motor-roads; such refuge holes shall be kept free from obstructions, and the roof and side thereof shall be made secure and be kept white washed at all times; no person shall travel on foot to or from his work upon any slope, engine-plane or motor-roads when other good roads are provided for that purpose.

For violation of the foregoing provisions of this section the operator or agent or miner shall, upon conviction, be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court.

Sec. 11. The operator, agent or mine foreman of every coal mine, whether worked by shaft, slope or drift, shall provide and hereafter maintain for every such mine ample means of ventilation, affording no less than one hundred cubic feet of air per minute for each and every person employed in such mine, and as much more as the district mine inspector may require, which shall be circulated around the main headings and cross headings and working

places, to an extent that will dilute, render harmless and carry off the noxious and dangerous gases generated therein; and as the working places shall advance break-throughs for air shall be made not to exceed eighty feet apart in pillars, or brattice shall be used, so as to properly ventilate the face, and all the break-throughs between the intake and return airways not required for the passage of air shall be closed with stoppings substantially built with suitable material, which shall be approved by the district mine inspector, so as to keep the working places well ventilated.

After six months from the passage of this act, not more than sixty persons shall be permitted to work in the same air current; *provided*, that a larger number, not exceeding eighty persons may be allowed by the district mine inspector where, in his judgment, it is impracticable to comply with the foregoing requirement.

No operator, agent or mine foreman shall permit any person to work where they are unable to maintain at least one hundred cubic feet of air per minute, but this shall not be construed to prohibit the operator from employing men to make the place of employment safe and to comply with this requirement; *provided, further*, that while the repair work necessary to get the mine in condition to comply with the law, no person or persons shall be permitted to enter that part of the mine affected except those actually employed in doing the necessary repair work.

In all mines, accumulation of fine dry coal dust, shall as far as practicable, be prevented and such dust shall be kept properly watered down.

For violation of the foregoing provisions of this section the operator, agent or mine foreman, shall upon conviction, be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court.

No miner or other employee shall take into any mine in this state any larger quantity of powder or other explosive than he may reasonably expect to use in any one shift, and all powder shall be carried into the mine in metallic cannisters of a capacity not to exceed five pounds; any person violating this provision shall upon conviction, be fined five dollars for each offense or imprisoned in the county jail not exceeding ten days.

Sec. 12. In all mines generating fire damp and where there is every reason to believe that gas will be encountered in the future

workings and developments of the mine, the minimum ventilation shall be one hundred and fifty cubic feet per minute for each and every person employed therein and as much more as one or more of the district mine inspectors may deem requisite and all stoppings on the main entries shall be substantially built with suitable material, which shall be approved by the district mine inspector, so as to keep the working places well ventilated; doors on main haul ways shall be avoided in gaseous mines where practicable, and over casts built of masonry or other incombustible material and of ample strength shall be adopted, and where doors are used they must be built in a substantial manner and hung so as to close automatically when unobstructed.

For violation of the foregoing provisions of this section the operator, agent or mine foreman, shall upon conviction, be fined not less than fifty nor more than five hundred dollars or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court.

All old unused workings and abandoned parts of the mines must be protected by such safe-guards as will prevent the dangerous overflow of any standing gas therein, and all avenues leading thereto shall be so arranged and conducted so as to give cautionary notice to all such workmen in such mines of the danger in entering therein; and in order to secure the safety of the workmen in general against the danger in said abandoned or worked out parts of the mines, notices shall be put up and kept standing, as far as practicable, which shall afford warning to all such workmen not to enter such parts of said mine; and in addition thereto, all persons, other than those specially charged with that duty, are hereby forbidden to enter such abandoned parts of such mines where gas may be found.

It shall be unlawful for any miner, after having exploded in any working place sixty cubical inches or more of powder, in one or more blasts, in any mine known to generate gas in large quantities, to enter such working place and attempt to resume work in any manner whatever with a naked light in less than twenty minutes after the blast has been exploded.

And for violation of these provisions of this act, such person or persons so offending shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than one hundred dollars and be confined in the county jail not less than ten days nor more than one year. In all mines where explo-

ive gas, or other gas of a dangerous or poisonous nature, is known to generate in dangerous quantities, the workmen shall be immediately instructed to withdraw from the mine in case of the stoppage of the fan, or heavy falls of the roof which may obstruct the main intake or return airway until such obstruction is removed.

Sec. 13. And it shall be unlawful in all mines where gas is being generated in dangerous quantities to use any other mechanical power for ventilation purposes except fan power, and the fan shall be kept in operation night and day unless written permission be granted by the chief of the department of mines or the district mine inspector in whose district the mine is situated; but no mine operator shall be required to keep such fan going where it is necessary to shut down for the purpose of repairing machinery or doing other work in the mines, which may make it necessary.

It shall be the duty of every mine owner or operator in this state whose mine or mines are known to generate fire damp or other dangerous gas or gases, in dangerous quantities to employ a "fire boss" or "bosses" where necessary, who shall be a citizen or citizens of this state, and have such knowledge of fire damp and other dangerous gases as to be able to detect the same with the use of safety lamps, and shall have a practical knowledge of the subject of the ventilation of mines and the machinery and appliances used for that purpose, and be a person with at least three years' experience in mines generating gases; it shall be the duty of said fire boss or bosses where employed in said gaseous mines to prepare a danger signal with suitable color at the mine entrance, and no person except the mine owner, operator or agent, and only then in case of necessity, shall pass beyond this danger signal until the mine has been examined by the fire boss, and the same or certain parts thereof reported by him to be safe; it shall further be the duty of said fire boss or bosses to go into all the working places of such mine or mines where gas is known to exist, or liable to exist in dangerous quantities, and carefully examine the same with a safety lamp, and do, or cause to be done, whatever may be necessary to remove from such working place or places, all dangerous gases and make the same safe for persons to enter therein as workmen in such mine or mines; such examination and removal of said gases shall begin within three hours before the time each shift commences work and it shall be the duty of the said fire boss at each examination to leave evidence of his presence at the face of every working place exam-

ined, and if the mine is safe he shall remove the danger signal, or change the color thereof to safety, in order that the employees may enter said mine and begin work; in the performance of the duties on the part of the fire boss or bosses they shall have no superior officer, but all the employees working inside of said mine or mines shall be subordinate to said fire boss or bosses in this particular work; the fire boss shall upon having completed the examination of the mine before each shift, make a written record of the condition of the mine within a book having a form prescribed by the chief of the department of mines, which record shall at all times be kept at the mine subject to the inspection of the district mine inspector or chief of the department of mines; it shall be unlawful for any person to enter said mine or mines for any purpose at the beginning of work upon each shift therein until such signal or warning has been given by said fire boss or bosses on the outside of said mine or mines as to the safety thereof, as herein provided, except under the direction of said fire boss or bosses, and then for the purpose of assisting in making said mine safe; and each person who shall enter such mine except as aforesaid, before such notice or signal has been given, or any operator, agent or fire boss who shall violate the provisions of this section, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned in the county jail not less than sixty days nor more than one year.

Sec. 14. Mines in which explosive gas is generated in dangerous quantities from the coal or adjacent strata shall be worked exclusively by the use of locked safety lamps, and no open lamp nor torch shall be used except as may be permitted in writing by the district mine inspector; the safety lamps used for examining any mine or which may be used for working therein, shall be furnished by, and be the property of the operator of the mine, and shall be in the charge of some person to be designated by the "fire boss" and at least two safety lamps shall be kept at every coal mine whether such mine generates fire damp or not.

Any operator, agent or other person who shall fail or refuse to comply with the requirements of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, in the discretion of the court.

Sec. 15. In order to better secure the proper ventilation of every coal mine and promote the health and safety of persons employed therein, the operator or agent shall employ a competent and practical inside overseer, to be called mine foreman, who shall be a citizen of this state, and an experienced coal miner, or any person having five years' experience in a coal mine, who shall keep a careful watch over the ventilating apparatus and the airways, traveling ways, pumps and drainage; and shall see that as the miners advance their excavations, proper break-throughs are made, to properly ventilate the mine, and that all loose coal, slate and rock over head in the working places and along the haul ways be removed or carefully secured so as to prevent danger to persons employed in such mines; and that sufficient props, caps and timbers, as nearly as possible of suitable dimensions, are furnished for the places where they are to be used, and such props, caps and timbers shall be delivered and placed at such points as the rules for the government of each respective mine provide for them to be delivered; and every workman in want of props, cap pieces and timbers shall notify the mine foreman, or such other person who may be designated for that purpose, at least one day in advance giving the length and number of props or timbers and cap pieces he requires; but in case of an emergency the timbers may be ordered immediately upon the discovery of any danger; and it shall be the duty of each miner to properly prop and secure his place in order to make the same secure for him to work therein. The said mine foreman shall have all water drained and hauled out of the working places where the same is practicable, before the miners enter and said working places kept dry as far as practicable while the miners are at work; it shall be the duty of the mine foreman to see that the cross-cuts are made as required by law and that the ventilation shall be conducted through said cross-cuts into the rooms by means of check doors placed on the entries or other suitable places, and he shall not permit any room to be opened in advance of the ventilation current. Should the mine inspector discover any room, entry, airway or other working places being driven in advance of the air current contrary to the requirements of this act he shall order the workmen working such places to cease work at once until the law is complied with.

And the mine foreman shall measure the air current at least twice each month at the inlet and outlet and at or near the faces of

the advanced headings and shall keep a record of such measurements in a book having a form prescribed by the chief of the department of mines. An anemometer shall be provided for this purpose by the operator of the mine.

And in mines in which the operations are so extensive that all the duties devolving upon the mine foreman can not be discharged by one man, competent persons having had three years' experience in a coal mine may be designated and appointed as assistants, who shall act under the mine foreman's instruction, and shall be responsible for their conduct in the discharge of their duties under such designation or employment.

On all haulways space not less than ten feet long and two feet six inches wide, between the wagon and the rib, shall be kept open at distances not exceeding one hundred feet apart, in which shelter from passing wagons may be had; it shall further be the duty of the mine foreman to have bore holes kept not less than twelve feet in advance of the face, and, where necessary, on sides of the working places that are being driven toward and in dangerous proximity to an abandoned mine or part of mine suspected of containing inflammable gases or which is filled with water; on all haulways where hauling is done by machinery of any kind, the mine foreman shall provide a proper system of signals and a conspicuous light, and also for the carrying of a conspicuous light on the front and rear of every trip or train of cars when in motion in a mine, and when hoisting or lowering of men occurs before daylight in the morning or at evening after darkness, at any mine operated by shaft, the said mine foreman shall provide and maintain at the shaft mouth a light of a stationary character sufficient to show the landing and all surrounding objects distinctly, and sufficient light of a stationary character shall be located at the bottom of the shaft so that persons coming to the bottom may clearly discern the cages and other objects closely contiguous thereto; no cages on which men are riding shall be lifted or lowered at a rate of speed greater than six hundred feet per minute; no mine cars either empty or loaded, shall be hoisted while men are being lowered or hoisted, and no cage having an unstable self-dumping platform shall be used for the carrying of workmen unless the same is provided with some device by which the same may be securely locked when men are being hoisted or lowered into the mine.

At every mine where ten men are employed under ground it shall

be the duty of the operator thereof to keep always on hand at the mine a properly constructed stretcher, a woolen and a water-proof blanket, and all necessary requisites which may be advised by medical practitioner employed by the company, and if as many as one hundred and fifty men be employed, two stretchers with the necessary equipments as above advised; the mine foreman, or his assistant, shall visit and examine every working place in the mine, every alternate day while the miners of such places are at work and shall direct that each and every working place shall be secured by props or timbers whenever necessary, which shall be placed and used by the miners working therein as in this act provided, to the end that such working places shall be made safe, and the said mine foreman shall not permit nor shall any one work in a place known to be unsafe unless it be for the purpose of making it safe. The mine foreman shall notify the operator or agent of the mine of his inability to comply with any of the requirements of this section, and it shall then become the duty of any operator or agent to at once attend to the matter complained of by the mine foreman, so as to enable him to comply with the provisions hereof if the same can be practically done. Any operator or agent of any coal mine, or other person who shall neglect to comply with the requirements of this section shall, upon conviction, be guilty of a misdemeanor and shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten days nor more than ninety days at the discretion of the court. Any mine foreman or employee failing to comply with this section shall, upon conviction, be fined not less than five dollars, nor more than fifty dollars, or imprisoned in the county jail not less than ten days nor more than ninety days, in the discretion of the court.

Sec. 16. The operator or agent of every coal mine shall furnish the inspector proper facilities for entering such mine and making examinations or obtaining information; and if any inspector shall discover that any mine does not, in appliances for the safety of the persons employed therein, conform to the provisions of this act, or that by reason of any defect or practice in or at such mine the lives or health of persons employed thereon, are endangered, he shall immediately, in writing, notify such operator or agent thereof, stating in such notice the particulars in which he considers such mine to be defective or dangerous and if he deem it necessary for the protection of the lives or health of the persons employed in

such mine, he shall, after giving notice of one day to the said operator or agent, in writing notify immediately the chief of the department of mines, who shall immediately examine the mine reported to be unsafe, and if upon such examination the mine reported to be unsafe is in fact found to be in an unsafe condition, the chief of the department of mines shall forthwith order the mine to be closed until it is placed in a safe and proper condition for mining operations; the owner or operator of any mine so closed may apply to the circuit court wherein such mine is located, or the judge thereof in vacation, by petition for an order directing said mine to be re-opened, and such court or the judge thereof in vacation shall immediately hear and determine the matters arising upon such petition, and if upon full hearing thereof the court or the judge thereof in vacation shall find that said mine is in a reasonably safe condition, the prayer of said petition shall be granted; but notice of said hearing shall be given to the district mine inspector or the chief of the department of mines three days at the least before said hearing; and in all such hearings the attorney general shall appear for the state and defend the same.

Sec. 17. No boy under fourteen years of age, nor female persons of any age shall be permitted to work in any coal mine, and in all cases of doubt, the parents or guardians of such boys shall furnish affidavits of their ages; any operator, agent or mine foreman who shall knowingly violate the provisions of this section or any person knowingly making a false statement as to the age of any boy under fourteen years of age, applying for work in any coal mine shall, upon conviction, be fined not less than ten nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court.

Sec. 18. No miner, workman or other persons, shall knowingly injure any shaft, lamp, instrument, air course, or brattice, or obstruct or throw open airways or carry matches or open lights in the places worked by safety lamps or disturb any part of the machinery or appliances, open a door used for directing ventilation and not close it again, or enter any part of a mine against caution, or disobey any order given in carrying out any of the provisions of this act, or do any other act whereby the life or health of any person employed in the mine or the security of the mine is endangered; any person who shall violate the provisions of this section

shall, upon conviction, be fined not less than ten nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court; when any operator of a mine shall in any manner refuse to furnish all supplies necessary for the mine foreman to comply with the requirements of this act after being so requested so to do and by reason of such refusal, loss of life or injury may result to any employee, a right of action for damages may ensue against the operator of the mine wherein such employee has not contributed to his own injury or loss.

Sec. 19. Nor shall any person or persons, or combination of persons, by force, threats, menaces, or intimidation of any kind, prevent or attempt to prevent from working in or about any mine, any person or persons who have the lawful right to work in or about the same, and who desires so to work; but this provision shall not be so construed as to prevent any two or more persons from associating together under the name of knights of labor, or any other name they may desire, for any lawful purpose, or for using moral suasion or lawful argument to induce any one not to work in and about any mine; any person or persons who shall violate the provisions of this section shall, upon conviction, be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than ten days nor more than ninety days, in the discretion of the court.

Sec. 20. Whenever by reason of any explosion or other accident in any coal mine, or the machinery connected therewith, loss of life or serious personal injury shall occur, it shall be the duty of the superintendent of the colliery, and in his absence, the mine foreman in charge of the mine, to give notice forthwith, by mail or otherwise, to the inspector of the district, stating the particulars of such accident; and if any one is killed thereby, to the coroner of the county also, or in his absence or inability to act, to any justice of the peace; and the said inspector shall, if he deem it necessary from the facts reported, immediately go to the scene of such accident and make such suggestion and render such assistance as he may deem necessary for the future safety of the men and investigate the cause of such explosion or accident, and make a record thereof, which he shall preserve with the other records of his office; and to enable him to make such investigation, he shall have the power to compel the attendance of witnesses, and to administer

oaths or affirmations; and the costs of such investigation shall be paid by the county in which such accident occurred, in the same manner as the costs of the coroner's inquests are now paid; if the coroner or justice shall determine to hold an inquest upon the body of any person killed, as aforesaid, he shall impanel a jury, no one of whom shall be directly or indirectly interested, and the inspector of mines, or the chief of the department of mines, if present at such inquest, shall have the right to appear and testify and to offer any testimony that may be relevant and to question and cross-question any witness; and the coroner or justice shall deliver to the inspector a copy of the testimony and verdict of the jury; any operator, agent, superintendent or mine foreman who shall fail to perform the duty provided in this section shall, upon conviction, be guilty of a misdemeanor, and shall be fined not less than ten nor more than five hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court.

Sec. 21. The operator or agent of every coal mine shall annually, during the month of July, mail or deliver to the chief of the department of mines, a report for the preceding twelve months, ending with the thirtieth day of June; such report shall state the names of the operators and officers of the mine, the quantity of coal mined and such other information, not of a private nature, as may from time to time be required by the chief of the department of mines; blank forms of such reports shall be furnished by the chief of the department of mines. At any time any person, company or corporation operating a coal mine shall transfer the ownership of any mine to another person, company or corporation, the person, company or corporation transferring such ownership shall within thirty days make a report to the chief of the department of mines of such change, and a statement of the tons of coal produced since the first of July, last, previous to the date of such sale or transfer of such mine or mines; any operator or agent failing to furnish the reports as required in this section shall be guilty of a misdemeanor and upon conviction, shall be fined not less than fifty nor more than five hundred dollars, or imprisoned in the county jail not less than thirty nor more than ninety days, in the discretion of the court.

Sec. 22. Any operator, agent, superintendent or mine foreman having in charge any mine, who shall knowingly permit any per-

son to work in any part of a mine in violation of instructions issued by the mine inspector, made in compliance with the requirements of this act, shall upon conviction be fined not less than fifty nor more than one hundred dollars for each person permitted to work in violation of such instructions, and any employees who shall work in violation of such instructions shall, upon conviction, be fined not less than ten nor more than fifty dollars.

Sec. 23. In any mine in which solid shooting is done the district mine inspector is authorized to prescribe the conditions under which such solid shooting may be done.

Sec. 24. No steam locomotive shall be used in mines where men are actually employed in the extraction of coal, except by the consent of the district mine inspector, but this shall not be construed to prohibit any mine owner from operating a steam locomotive through any tunnel, haulway or part of a mine that is not in actual operation and furnishing coal; any operator or agent who violates this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty nor more than ninety days, in the discretion of the court.

Sec. 25. There shall be adopted by the operator of every mine in this state special rules for the government and operation of his mine or mines, covering all the work pertaining thereto in and outside of the same, which however, shall not be in conflict with the provisions of the mining laws of this state; such rules when established shall be printed on card board, in the languages spoken by ten or more employees, and shall be posted up in the drum house, tibble or some other conspicuous place about the mines where the same may be seen and observed by all the employees at such mines, and when said rules are so posted the same shall operate as a notice to all employees at such mine of their acceptance of the contents thereof; and it shall be the duty of each mine operator to furnish a printed copy of said rules to each of his employees when requested by either or any of them; any operator or agent who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty nor more than ninety days, in the discretion of the court.

Sec. 26. In all prosecutions under this act the circuit court,

criminal court and justices of peace have concurrent jurisdiction with right of appeal to circuit court.

Sec. 27. The provisions of this act shall apply only to coal mines in which five or more persons are employed in a period of twenty-four hours; but no mine employing less than ten men shall be required to employ a mine foreman.

All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAPTER 79.

(House Bill No. 159.)

AN ACT to amend and re-enact sections seventy-eight, seventy-nine, eighty and eighty-one of chapter fifty-four of the code of West Virginia, as amended and re-enacted by chapter eighty-three of the acts of nineteen hundred and one and chapter forty-five of the acts of nineteen hundred and five, relating to banks, trust companies and building associations.

[Passed February 19, 1907. In effect ninety days from passage. Approved by the Governor, February 24, 1907.]

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| <p>Sec.
78. Powers of banks; unlawful to use term "bank," etc., unless, etc.; penalties for violation.</p> <p>I. Increase or reduction of stock; notice to be given; duty of bank president; duty of secretary of state.</p> <p>II. Payment of capital stock; certificate of authority from commissioner of banking.</p> <p>III. Liability of stockholders to creditors.</p> <p>IV. Board of directors; their powers; qualifications; oath of office.</p> <p>V. Savings banks; cooperative banking associations and trust companies subject to what provisions; building and loan associations and mutual investment associations; subject to state supervision.</p> <p>Va. What required of associations named in sub-section V before doing business; duty of commissioner; certificate of authority; penalty for violating provisions of this section; statement to be filed; what to contain.</p> <p>Vb. Duty of commissioner or assistant as to examination into affairs of certain institutions; if found in an insolvent condition; what then; fee to be paid.</p> <p>Vc. Foreign associations; what re-</p> | <p>Sec.
quired before doing business in this state.</p> <p>VI. Penalty for violations of provisions of this act.</p> <p>79. Stock not to be used as security for loans, except under certain conditions.</p> <p>I. Loans shall not exceed twenty per centum of capital stock, plus, etc.</p> <p>II. Dividends may be declared; at what time and under what conditions.</p> <p>III. Capital stock not to be impaired; reduction of capital stock can be made as provided by section seventy-eight.</p> <p>IV. Restoration of capital.</p> <p>V. Enforcement of assessment; in what manner.</p> <p>VI. List of stockholders subject to inspection; by whom; list to be transmitted to commissioner of banking; the word "bank" or "banking" company defined.</p> <p>80. Banks must at all times maintain a reserve.</p> <p>81. The commissioner of banking shall have jurisdiction and control over banks, etc.</p> <p>I. Commissioner of banking; by whom appointed; qualifications; commissioner to appoint an assistant, his duties; qualifications; oath of office.</p> |
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- II. Term of office of commissioner; duty; oath of office; oath to be filed in office of secretary of state.
- III. Office of commissioner; where maintained, complete record to be kept.
- IV. Examination of banks to be made.
- V. Duty of officials of banks and other institutions; commissioner to administer oath; officers failing or refusing to give information; penalties.
- VI. Banks and institutions improperly conducted; authority to call for special reports and make special examinations.
- VII. Refusal or neglect to make special reports; what then; commissioner to take charge and report to governor; his power to appoint receiver; duty of receiver; shall give bond in such penalty as governor may prescribe.
- VIII. Banks shall make reports to the commissioner; when; to be verified by oath of whom; what reports to contain; shall be

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- published in a newspaper, where; cost to be paid by the bank.
- IX. Certificate of authority; banks beginning business must notify the commissioner; commissioner to make personal examination; his duty after making examination; banks shall not receive deposits before certificate has been issued; penalty for violation.
- X. Collection of capital stock; how paid; statement of facts to be transmitted to the commissioner.
- XI. Compensation of commissioner and his assistant; compensation to be paid the state for examination.
- XII. Commissioner to make report to the governor; at what time; what to contain.
- XIII. Report to be verified by the affidavit of said commissioner; what to contain.
- XIV. Other institutions subject to these provisions.

Be it enacted by the Legislature of West Virginia:

That sections seventy-eight, seventy-nine, eighty and eighty-one of chapter fifty-four of the code of West Virginia as amended and re-enacted by chapter eighty-three of the acts of nineteen hundred and one and chapter forty-five of the acts of nineteen hundred and five, be amended and re-enacted so that the said sections shall read as follows:

Powers.

Sec. 78. Every such bank may exercise under the laws of this state, all such incidental powers as may be necessary to carry on the business of banking, by discounting promissory notes, negotiating drafts, bills of exchange and other evidences of indebtedness, receiving deposits, buying and selling exchange, bank notes, bullion or coin, and by loaning money on personal or other security. It shall be unlawful for any individual doing business in this state, to use in connection with such business the term "bank," "banking company" or "trust company," until they shall have taken out a charter and complied with the statutes governing banks and trust companies; any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars, or be confined in the county jail for a

period not exceeding six months, or both, at the discretion of the court, for each and every offense.

Increase or Reduction of Stock.

I. Any banking company hertofore formed or which may be hereafter formed under the provisions of this chapter, at any general, adjourned or special meeting of the stockholders thereof, may by resolution make such increase or reduction of the capital stock thereof as may be decided upon by said stockholders, a majority of the stock of such company being represented at such meeting by the holders thereof, and such holders being present in person or by proxy and voting for such increase or reduction; *provided*, that no increase or reduction shall conflict with the limitations prescribed in section seventy-seven of this chapter, and that a notice over the signature of the president of said banking company, of the intention to offer such resolution, shall be sent through the United States mail to each stockholder ten days previous to such meeting; or that notice of such intention be given by advertisement published once a week for two successive weeks in some newspaper of general circulation in this state, or for ten days in some daily paper of like circulation printed in this state; when such increase or reduction shall have been made by any such banking company, the president thereof shall, under his signature and the seal of such bank, certify the resolution increasing or reducing the capital stock to the secretary of state; and the secretary of state, under his hand and the great seal of state, shall issue to such bank a certificate reciting such resolution and declaring such increase or reduction to be authorized by law and such certificates shall be *prima facie* evidence of such increase or reduction and of the authority to make the same in all courts of law.

Payment of Capital Stock.

II. At least fifty per centum of the capital stock of every banking institution organized under the provisions of this chapter, shall be paid in before it shall be authorized to transact any business, except that which is incidental and necessarily preliminary to its organization, and the remainder of the capital stock shall be paid in installments of at least ten per centum each. Ten per cent on the residue of the capital stock each three succeeding

months from the time it shall be authorized to commence business; and in no case shall a bank or banking institution commence public business until it shall have received the certificate of authority from the commissioner of banking, as provided in sub-section nine, section eighty-one of this chapter. All banks organized under former laws and now doing business in this state, whose subscribed capital stock is not fully paid in, shall be required to collect the full amount of their subscribed capital within two years from the date this act takes effect.

III. The stockholders of every bank heretofore organized or that may hereafter be organized under the provisions of this chapter, shall be personally liable to the creditors thereof over and above the amount of stock held by them respectively, to an amount equal to their respective shares so held for all liabilities accruing while they are such stockholders.

IV. For every bank subject to the provisions of this chapter, there shall be a board of directors who shall have power to do or cause to be done, all things that are proper to be done by the bank; every director must own in his own right at least five shares of the capital stock of the bank of which he is the director, and before entering on his duties as such director he shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the bank, and that he will not knowingly and willingly permit to be violated any of the provisions of the laws of this state relative to banking, and that the stock standing in his name upon the books of the bank is not hypothecated in any way or pledged as security for loans obtained or debts owing; which oath, subscribed by himself and certified by the officer before whom it was taken, shall be filed and carefully preserved in the office of the commissioner of banking.

V. It is further expressly provided that all savings banks, cooperative banking associations and trust companies engaged in a general banking business shall be subject to the provisions of this chapter; but nothing herein contained shall be construed to authorize any trust company to do business in this state with a capital of less than one hundred thousand dollars, paid up and unimpaired as provided by section six of chapter seven of the acts of one thousand nine hundred and three; and that all building and loan associations and mutual investment associations doing business in this state shall be subject to state supervision as follows:

V-a. Every such association organized under the laws of this state, and desiring to operate within the state, shall file with the commissioner of banking a certified copy of its charter, constitution and by-laws; said commissioner shall carefully examine the same and if he find that they provide a just and equitable plan for the management of the association's business, he shall issue to such association a certificate of authority permitting it to begin business; but if he find the provisions of said charter, constitution and by-laws to be impracticable, unjust or inequitable, or oppressive to any class of shareholders, he shall withhold his certificate of authority. It shall not be lawful for any association hereafter organized under the laws of this state for the purposes above set forth, to transact any business except the execution of its articles of incorporation, the adoption of its constitution and by-laws, and the election of directors and officers, until it shall have procured the certificate of authority above provided for, nor shall any amendment of the charter, constitution or by-laws of any such association become operative until a copy of the same shall have been filed, and a certificate of authority obtained, as above provided in regard to original charter, constitution and by-laws. Any one violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars, and at the discretion of the court may be imprisoned in the county jail not more than six months. Every building and loan association or mutual investment association organized under the laws of this state, and operating within the state, shall at least twice a year, at such times as may be designated by the commissioner of banking, file in the office of said commissioner within ten days after the receipt of his request for same, a statement verified by its president or secretary and approved by three of its directors, in such form as may be prescribed by said commissioner, setting forth its actual financial condition and the amount of its assets and liabilities, and furnish such other information as to its affairs as the said commissioner may require, which reports, in the same form in which they are transmitted to the commissioner of banking shall be printed and circulated among all the stockholders of the association. Every person who shall wilfully or knowingly subscribe or make, or cause to be made, any false statements or any false entries in any book of any association above mentioned,

or exhibit false papers with the intent to deceive any person authorized to examine into the affairs of such association, or shall make, state or publish any false statement of the financial condition of such association, shall be deemed guilty of a felony, and upon conviction thereof shall be fined not exceeding ten thousand dollars, and be imprisoned in the state penitentiary not less than one nor more than five years.

V-b. At least once in every year the commissioner of banking, either in person or by competent assistant, shall make a thorough examination of the books and affairs of every association mentioned in the next preceding sub-section of this act; he shall carefully examine all notes and mortgages and all other assets of the concern, and shall ascertain the full amount of its liabilities; he shall see that the books are kept properly posted and balanced, and that complete trial balances are struck at regular intervals; if at any time he shall find one of these institutions in an insolvent condition, he shall deal with it according to the manner prescribed for dealing with insolvent banks; and for making such examination the association shall pay a fee of ten dollars and the said fee shall be collected by the examiner and covered into the state treasury.

V-c. It shall not be lawful for any foreign building and loan association, or mutual investment association or trust company to transact any business in this state directly or indirectly without first procuring a certificate of authority from the commissioner of banking; before obtaining such certificate such foreign association shall furnish the commissioner of banking an itemized statement of its financial condition and all such other information touching its affairs as the said commissioner may require, which statement and information shall be verified by the oath of the president or secretary of the association; such foreign association shall also file with the commissioner of banking a certified copy of the laws of the state, territory or government under which it is incorporated, and of its constitution and by-laws and all amendments thereto, and shall appoint an attorney in each county in which it transacts or solicits business, who shall be a resident of such county; and shall file with the commissioner of banking a written instrument, duly signed and sealed, authorizing such attorney of such association to acknowledge service of process in behalf of such association, consenting that the service of process, *mesne*

or final, upon such attorney shall be taken and held as if served upon the association, according to the laws of this state or any other state, and waiving all claim or right of error by reason of such acknowledgment of service; if, after examination of such statements and certified copies of instruments, and after such association shall have complied with the provisions of this act with reference to the appointment of an attorney or attorneys, the commissioner of banking shall be satisfied that said association is solvent and that the capital and investments are secure, and that the laws, charters, articles of incorporation, constitution and by-laws governing it, afford as ample protection to the interests of its members as is afforded by the laws of this state to members of associations chartered by and doing business in this state, he may grant such an association a certificate of authority permitting it to transact business in this state until the thirty-first day of the next succeeding December; but the same statements and the same certificates shall be renewed every year as long as such association shall continue to do business in this state; and for every certificate issued the commissioner of banking shall collect a sum of twenty-five dollars and cover the same into the treasury of the state. Any person, agent or company doing business or attempting to do business in this state for any foreign building association, mutual investment company or trust company, which shall not at the time be a holder of a valid certificate of authority as provided for in this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars for each and every offense.

VI. Any person, bank, association or mutual investment company violating any of the provisions of this act shall, in addition to the other penalties herein, be deemed guilty of a misdemeanor and be fined not less than twenty-five dollars nor more than two hundred dollars.

Stocks not to be Used as Security for Loans.

Sec. 79. No bank shall make any loan or discount on the security of the shares of its own capital stock, to an amount in excess of fifty per cent of such capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in

good faith; and all stock purchased or acquired in such manner shall within six months from the time of purchase, be sold or disposed of at public or private sale.

Limit on Loans.

I. The total liabilities to any bank or trust company of any person, or of any company, corporation or firm, for money borrowed, including in the liabilities of the company or firm the liabilities of the several members thereof, shall at no time exceed twenty per centum of the capital stock plus the surplus fund and undivided profits; but the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, shall not be considered as money borrowed. The corporations mentioned in this section shall not be construed to mean municipal corporations, districts or counties.

II. The directors of any bank may quarterly, semi-annually or annually declare a dividend of so much of the net profits of the bank as they shall judge expedient; but such bank shall, before the declaration of any dividend, carry one-tenth part of the net profits accrued to its surplus fund, until the same shall amount to twenty per centum of its capital stock.

Capital not to be Impaired.

III. No bank, or any of the officers or directors thereof, shall during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital stock. If losses have at any time been sustained by any such bank, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any bank while it continues its banking operations to an amount greater than its net profits on hand, deducting therefrom its expenses, losses and bad debts; but nothing in this section shall prevent the reduction of the capital stock of the bank, as provided in section seventy-eight I of this chapter.

Restoration of Capital.

IV. Whenever the capital stock of a bank has become impaired, by losses or otherwise, it shall be the duty of the board of directors

to restore the same within three months by an assessment pro rata on the stockholders, on the amount of capital stock held by each.

Enforcement of Assessment.

V. If any stockholder or stockholders of a bank shall neglect or refuse, after three months' notice to pay the assessment as provided in the next preceding sub-section, or in section seventy-eight II of this chapter, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such shareholder or shareholders to be sold at public auction, after thirty days' notice shall have been given by posting such notice of sale in the office of the bank, and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto, to make good the deficiency, and the balance if any, shall be returned to the delinquent stockholder or stockholders.

List of Stockholders to be Exhibited.

VI. The president and the cashier of every bank association shall cause to be kept at all times a full and correct list of the names and residences of all the stockholders in the association and the number of shares held by each, in the office where its business is transacted; such list shall be subject to the inspection of all the stockholders and creditors of the association, and the officers authorized to assess taxes under state authority during business hours of each day in which business may be legally transacted; a copy of such list on the first Monday of July of each year, verified by the oath of such president and cashier, shall be transmitted to the commissioner of banking.

The words "bank" or "banking company" in this act shall be taken and construed to include any bank, banker, banking company or trust company.

Sec. 80. All banks operating under the provisions of this chapter shall at all times maintain on hand as a reserve, in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate of all of its deposits which are subject to withdrawal on demand; and whenever said reserve of any such bank shall fall below said per centum of such deposits, it shall not increase its liabilities by making any new loans until the required proportions between the aggregate amount of such deposits

and its reserve fund shall be restored; *provided*, that in lieu of lawful money on hand three-fifths of said fifteen per centum may consist of balances payable on demand due from any national or state bank doing business in this state, or any solvent banking institutions outside of this state that may be approved by the supervisor in said state.

Bank Supervision.

Sec. 81. The commissioner of banking shall have jurisdiction and control, as hereinafter provided, over all banks chartered by and operated in this state, and all other institutions enumerated in sub-division fifteen of this section.

Appointment of Commissioner.

I. On or before the first day of April, one thousand nine hundred and seven, or as soon thereafter as possible, and every four years thereafter, the governor of this state shall designate and appoint some competent person commissioner of banking who is a citizen of this state, and who shall be experienced and skilled in the science of bookkeeping and banking, and who shall have had at least two years' experience as a cashier or an assistant cashier of a bank, or shall have served at least two years as assistant commissioner of banking, bank examiner, or as an accounting officer of the state, and who is neither directly nor indirectly interested in any bank or corporation subject to his supervision, who shall examine into and report as hereinafter provided, upon the affairs of all banks and other institutions, specified in sub-section fourteen of section eighty-one of this chapter, doing business in this state, except those that are organized and carrying on business under the banking acts of the national government; such commissioner of banking may designate and appoint an assistant commissioner of banking, who shall be a competent accountant and who shall assist the commissioner of banking, and under his directions and authority may perform any or all of the duties, and exercise any or all of the powers by this act required of, or vested in the commissioner of banking, and who may be removed by the commissioner of banking. The assistant commissioner of banking shall take the same oath as is hereinafter required by the commissioner of banking.

Duties of Commissioner.

II. The commissioner of banking shall hold his office for a term

of four years unless sooner removed by the governor, or until his successor is appointed and qualified; and before entering upon the discharge of his duty he shall take and subscribe before some person competent to administer the same, an oath to support the constitution of the United States and the constitution of the state of West Virginia, and to faithfully and honestly examine into the affairs of all the banks and other institutions subject to supervision under this chapter, incorporated by and doing business in this state, and to perform all of the duties prescribed for such services under this act; and said oath shall be filed and preserved in the office of the secretary of state.

Office and Records of Commissioner.

III. Said commissioner of banking shall maintain an office in the state capitol; in such office he shall prepare and keep a complete record of the financial condition of all the banks and other institutions subject to his supervision, as may appear in his reports.

Examinations.

IV. At least once in each twelve months the said commissioner, or assistant commissioner, shall personally make a thorough and complete examination of the condition and affairs of each of said banks and other institutions subject to his supervision; he shall ascertain whether the officers and directors thereof have properly taken the oath prescribed by law as such, and whether or not the said officers have executed proper and legal bonds in sufficient amounts and with ample security; he shall examine and ascertain whether the books of said institution are properly kept, and he shall ascertain carefully and fully the assets and liabilities of each and all of said banks and other institutions, and whether such assets are solvent and good or otherwise, and whether all the laws of this state pertaining to banks and banking are being carefully observed.

Duty of Officials of Banks and Other Institutions.

V. For the purpose of making said examinations as above required, the officers of said banks and other institutions, shall upon his demand, furnish and give full access to said commissioner, or such examination, all the books, papers, notes, bills and other evidences of debts due said bank or other institutions, and shall disclose fully and truly all the institution's indebtedness and liabili-

ty, and shall furnish him with all necessary clerical aid and assistance; and said commissioner shall have a right to administer to and examine under oath any and all of said bank officers touching any matter or thing pertaining to said examination, and the affairs and conditions of said institution. Any officer failing or refusing to furnish said commissioner with any such papers or information, or who shall fail to do or perform any of the other duties or requirements of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and may at the discretion of the court, be imprisoned in the county jail not less than three months nor more than one year; and it shall be the duty of said commissioner to report at once to the prosecuting attorney, of the county in which the bank is situated, any such violation on the part of any such bank officer.

Banks and Institutions Improperly Conducted.

VI. If upon making his examination of any bank or other institution, the commissioner should discover that the banking laws of the state are not being fully observed, or that any irregularities are being practiced, he shall at once call attention of the officers and directors of the bank or other institution to the fact and demand that the same be promptly corrected; it shall also be his duty to demand a sworn statement from the officers of said bank or other institutions, covering all the points of controversy, to be mailed to him at his office once every thirty days (not for publication but for his own information and guidance), until he is satisfied that the irregularities have been corrected; said examination to be paid for by the bank or other institutions, the same as regular examinations. The said commissioner shall also have authority to call for special reports and make special examinations of any bank or other institution which he may have good reason for believing is not properly conducted.

Insolvent Banks or Other Institutions.

VII. If any such institutions shall neglect or refuse for a period of ninety days to make such special reports to the commissioner as he may demand or if any time the commissioner shall find a bank or other institution subject to his supervision in an insolvent condition or if such institution shall neglect or refuse to correct

any irregularities or violations of this act which he may call to the attention of the president, cashier or board of directors, he shall have authority to take charge of such institution and shall report at once such insolvency, irregularity or violation to the governor, and shall have the power, with the consent of the governor, to appoint a competent person as receiver of such institution, who shall take charge of the books, moneys, records and assets of every description of such institution, and collect all debts, dues and claims belonging to it, and upon the order of a court of competent jurisdiction may sell or compound all bad or doubtful debts, and on like order may sell all its real and personal property on such terms as the court may direct, and, if necessary to pay its debts, may enforce the individual liabilities of its stockholders. A suit for such purpose may be instituted against such institution and its stockholders either in the name of such receiver or the commissioner of banking, in the circuit court of the county in which its banking house or office is located; *provided, however,* that before any such receiver shall take charge of any moneys or assets of any such institutions he shall give bond in such penalty as the governor shall prescribe, with sureties to be approved by the governor, conditioned for the faithful discharge of his duties as such receiver and the paying over as required by law or directed by order of court of all moneys and assets which shall come into his hands as such receiver; such bond shall be made payable to the state of West Virginia, and shall be filed in the office of the commissioner of banking, and suits or actions thereon may be brought by any person injured by reason of any breach of its conditions in any court of competent jurisdiction.

Call Statements.

VIII. Every bank operating under the provisions of this chapter shall make to the commissioner of banking not less than four reports each year, corresponding as to time as nearly as possible to the calls made by the comptroller of the currency on the national banks, according to the form that may be prescribed by him, verified by the oath or affirmation of the president or cashier of said bank and attested by the signatures of at least three of the directors. Each report shall exhibit in detail, and under appropriate heads, the resources and liabilities of the bank at the close of business on any past day by him specified, and shall be transmitted

to the aforesaid commissioner within five days after the receipt of a request or requisition therefor from him; and in the same form in which it is made to the commissioner shall be published in a newspaper published in the place where the bank is situated, or if there is no newspaper in the place, then in one published nearest thereto in the same county, at the expense of the bank, and such proof of publication shall be furnished as may be required by said commissioner.

Certificate of Authority.

IX. When any bank authorized by this chapter desires to begin business, it must notify the commissioner of banking, who shall at his earliest convenience make a personal examination of its affairs, and shall ascertain whether fifty per centum of its capital stock has, in good faith been actually paid in, and whether all the other provisions required to be complied with, before commencing the business of banking have been carefully observed; having satisfied himself that all the conditions precedent have in good faith been complied with, the said commissioner shall then issue to such bank, under his hand and official seal, a certificate of authority reciting that such examination has been made and that the bank is authorized to commence business; which certificate shall be conspicuously displayed in the principal business room of the bank; but the commissioner may withhold from any association his certificate authorizing the commencement of business whenever he has reason to suppose that the stockholders have formed the same for any other than the legitimate objects contemplated in this act. The president, cashier and directors, of any bank that shall receive deposits before the certificate of authority contemplated in this section has been issued, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred dollars and, at the discretion of the court, imprisoned in the county jail not less than three nor more than six months.

Collection of Capital Stock.

X. All banks which have not collected the full amount of their capital stock shall collect the same as provided in section seventy-eight of this chapter; and on receipt of each installment the president or cashier of such bank shall transmit to the commissioner of banking a statement of the fact, verified by his oath and attested by the signatures of at least three of the directors.

Compensation of Commissioner.

XI. For making such examination and for preparing and preserving all records and reports contemplated in this act, the said commissioner shall be paid the sum of two thousand five hundred dollars per annum salary and necessary expenses out of the state treasury, by proper warrant drawn by the auditor upon the treasurer, and the assistant commissioner of banking shall receive eighteen hundred dollars per annum salary and necessary expenses, payable upon like warrants. There shall be paid by each of said banks or other institutions examined, to the state, as follows:—if the total assets are less than one hundred and fifty thousand dollars, fifteen dollars; if one hundred and fifty thousand dollars and less than two hundred and fifty thousand dollars, twenty dollars; if two hundred and fifty thousand dollars, and less than five hundred thousand dollars, twenty-five dollars; if five hundred thousand dollars and less than one million dollars, thirty dollars; if one million dollars or over, thirty-five dollars: and said commissioner of banking shall collect all such fees and cover the same into the state treasury; *provided*, that building and loan associations, when the total assets are less than one hundred thousand dollars, are to pay ten dollars, if one hundred thousand dollars or over, twenty dollars.

Commissioner's Report.

XII. On or before the first day of December, the said commissioner shall make out, and submit to the governor, a careful and complete report, of all work done by his department, showing the total resources and liabilities of all the banks, subject to his supervision, the increase or decrease for the year in such resources and liabilities, carefully noting any failures that may have occurred, stating the causes thereof, and making such remarks, suggestions and recommendations as he may deem pertinent; which report the governor shall bind with his message and documents and lay before the legislature.

Verification of Report.

XIII. The report provided for in the next preceding sub-section of this chapter, shall be verified by the affidavit of said commissioner, who shall swear that in making the examination and in-

spection of each of the banks and other institutions provided for in this act, he has personally and carefully inspected the books, papers and affairs of said banks, and other institutions, and that in no case has he received or agreed to receive directly or indirectly any reward, gift, or promise thereof, from any bank officer or individual other than that specified in this act.

Other Institutions Subject to this Provision.

XIV. It is further expressly provided that all savings banks, co-operative banking associations, and all trust, title insurance, guaranty, surety and indemnity companies doing a banking business, and all other companies of similar character, whether heretofore or hereafter organized under the laws of this state, shall be subject to the provisions of this law, so far as it is applicable to them, and to the extent that the said commissioner, annually, or oftener if necessary, make a thorough examination of their books, papers, and affairs, and see that the laws under which they are operating are being carefully observed; and in case he finds that such institutions are being improperly conducted he shall proceed against them after the manner specified in subdivision seven of section eighty-one of this chapter.

CHAPTER 80.

(House Bill No. 188.)

AN ACT to amend and re-enact sections five, six, seven, ten, twelve, thirteen, fourteen, fifteen, seventeen, eighteen, nineteen, twenty, twenty-eight, twenty-nine, thirty, thirty-one, thirty-six, thirty-eight, forty-eight, forty-nine, fifty-two, fifty-three, fifty-seven, fifty-nine, sixty-four, sixty-five, sixty-seven, sixty-eight, seventy-one, seventy-two, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-six, one hundred and twenty-nine, one hundred and thirty and one hundred and thirty-two of chapter twenty-nine of the code of West Virginia as last amended and re-enacted by chapter four of the acts of one thousand nine hundred and four, and chapter thirty-five of the acts of one thousand nine hundred and five, relating to the assessment of taxes.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor February 22, 1907.]

- SEC.
5. Reports of state tax commissioner.
 6. Assessment district; one assessor elected in each; when elected; his term of office; qualification of assessor; his place of office.
 7. Assistant assessors; number to be appointed; qualification.
 10. Compensation to be paid assessor and assistants; how fixed and paid.
 12. Assessments to have reference to the first day of January; to be assessed at its true and actual value; time annual assessments are to be made.
 13. Repealed.
 14. Assessors to call upon all persons liable to assessment; when; taxpayers to furnish full and correct list of all property held by them to assessor and when; duty of assessor as to such list.
 15. The assessor and assistants empowered to administer oaths; form of oath to be made by property owners.
 17. Assessors and assistants to hold meetings; at what time; for what purpose; notice to be given; clerk of county court to sit as advisory member.
 18. Board of review and equalization; by whom appointed; qualification of board; compensation; term of office; removals; how made and filled; oath of office; time and place of meetings to be held; duty of board; assessors and assistants to attend sessions of board; clerk of county court shall be ex officio clerk of the board; his duty as clerk; notice of meetings to be published; expenses of publication to be paid out of county treasury; taxpayers given right to apply for relief.
 19. Tax commissioner to report misconduct or neglect of duty of certain officers; to whom; duty of court; penalty.
 20. State tax commissioner to furnish forms, etc., to assessors; also to give instructions; penalty if assessor fail to obey instructions.
 28. } Duty of every circuit court and municipal court as to judgments and decrees respecting lands; duty of clerk of county courts as to wills recorded in his office devising lands lying in another county; duty of auditor as to land grants issued by the state.
 30. }
 31. County court clerks to furnish assessor certified list of all transfers of title to land in his county; when and for what period; what such lists to contain.
 36. Real estate purchased for the state to be kept on the land books; duties of the auditor and officer whose duty it is to make out the land books.
 38. Certified statements to be fur-

- SEC.
- nished clerks of city or town councils; also to secretary of boards of education; by whom; when and what to show; such statements to be taken as the proper valuation of property liable for taxation for municipal purposes; duty of clerks.
 48. } Form of land books; town lots;
 49. } tracts of land.
 52. Assessors to ascertain all persons and personal property subject to taxation; when.
 53. Duty of assessor and his assistants to see every person in his county who is liable to taxation; assessor to collect capitation tax; his power to collect delinquent capitation tax; time for making settlements with the auditor and sheriff; assessor to make report to county court; what to contain; duties of county court as to delinquent capitation tax; assessor's bond to be fixed by the county court; state tax commissioner to furnish all tickets, forms and blanks; penalty if assessor fail to turn over moneys.
 57. Property exempt from taxation.
 59. Capitation tax; who shall be listed to pay.
 64. In what district personal property to be listed.
 65. Valuation of credits and investments; how estimated or rated for taxation.
 67. What may be deducted; duty of assessor and his authority to administer oaths; penalty for making false statements.
 68. Duty of assessor to list all personal property; when to list real and personal property.
 71. } Forms of oath to be subscribed and sworn to; penalty for refusing to verify list.
 72. }
 76. Toll bridges and ferries; how assessed.
 77. } Certain incorporated companies; how assessed; form of oath to be attached to statement; proviso as to real estate and value of personal property; duty of assessor after receiving verified report.
 78. }
 79. Banks and trust companies; how assessed.
 80. Capital of merchants and other individuals or firms used in trade or business; how assessed; form of oath to be subscribed to; proviso as to value of real estate.
 81. Persons or firms commencing business after the beginning of the assessment year; their duties.
 86. In the case of any bridge upon which a separate toll or fare is charged, such return shall show, etc.
 129. } Relief against taxes erroneously
 130. } assessed, etc.
 132. }
 - II. Time of assessment.
 - III. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

1. That sections five, six, seven, ten, twelve, thirteen, fourteen, fifteen, seventeen, eighteen, nineteen, twenty, twenty-eight, twenty-nine, thirty, thirty-one, thirty-six, thirty-eight, forty-eight, forty-nine, fifty-two, fifty-three, fifty-seven, fifty-nine, sixty-four, sixty-five, sixty-seven, sixty-eight, seventy-one, seventy-two, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-six, one hundred and twenty nine, one hundred and thirty, and one hundred and thirty-two, of chapter twenty-nine of the code of West Virginia as last amended and re-enacted by chapter four of the acts of one thousand nine hundred and four and chapter thirty-five of the acts of one thousand nine hundred and five, relating to the assessment of taxes, be and the same are hereby amended and re-enacted so as to read as follows:

Sec. 5. The state tax commissioner shall make a report in writing to the governor biennially, on or before the first day of October next preceding the regular session of the legislature, and at such other times as the governor may require, in which he shall show his official transactions during the period not covered by any preceding report; shall give information respecting the operation of the tax laws throughout the state; shall recommend such changes in the laws concerning the assessment and collection of taxes, and kindred subjects, as he may think ought to be made, and shall report upon any special matter which may be referred to him by the governor, auditor or board of public works; his report shall be printed and communicated to the legislature, and be distributed as other like reports are distributed. To the end that the state tax commissioner may have complete and statistical information as to the practical operation of the tax laws, he may require from any county, district, municipal or other officer in this state, on forms prescribed by the state tax commissioner, such annual or other reports as shall enable said state tax commissioner to ascertain the assessed valuations and equalized valuations of all property listed for taxation throughout the state, the amount of taxes assessed, collected and returned delinquent and such other matter as the state tax commissioner may from time to time require; any officer or person failing to furnish such information or reports when requested to do so by the state tax commissioner shall be guilty of a misdemeanor, and upon conviction thereof, fined not less than fifty

dollars nor more than one hundred dollars, and may be confined in jail not less than ten nor more than thirty days.

Sec. 6. On and after January first, nineteen hundred and nine, each county in the state shall constitute one assessment district, and shall elect one assessor whose term of office shall be four years; he shall be elected at the general election in the year nineteen hundred and eight and every four years thereafter, and shall be ineligible to re-election until the expiration of four years next after the term for which he was elected; no person shall be eligible to the office of assessor who is not a resident of the county and freeholder therein at the time of his election; the assessors now in office and their successors shall serve until said first day of January, nineteen hundred and nine, unless removed in the manner provided by law, and shall perform also, in their several assessment districts, all the duties of the assistant assessors; the county court shall provide the assessor with an office in the court house which shall be kept open during the time the assessor is required to list property.

Sec. 7. In every county whose population, as shown by the next census last preceding the election of an assessor, does not exceed twenty thousand, there shall be appointed two assistant assessors; in every county whose population is thus shown to exceed twenty thousand and not to exceed thirty thousand, there shall be appointed three assistant assessors; and in every county whose population is thus shown to exceed thirty thousand, there shall be appointed four assistant assessors; each of said assistant assessors shall be a voter and a resident of the county in which he is appointed.

Sec. 10. The assessor and his assistants in each county shall receive annually the following compensation to be paid out of the county fund: Each assessor shall receive annually thirty dollars for each full one hundred voters voting at the preceding presidential election for president of the United States in his county, for the first three thousand voters thereof; twenty-five dollars for each full one hundred additional voters as aforesaid up to three thousand additional voters as aforesaid; twenty dollars for each full one hundred additional voters as aforesaid up to three thousand additional voters as aforesaid; and *provided, however*, that the compensation of any assessor in any county shall in no case be more than twenty-one hundred dollars or less than one thousand dollars; the

salary of the assistant assessors shall be uniform throughout the county, which shall be fixed by the county court, and which shall not be less than three hundred dollars nor more than six hundred dollars; this section shall apply to the assessors now in office, except in counties where there are two assessors the compensation shall be apportioned between the two in such manner as the county court deems fair and equitable; *provided*, that the compensation of no assessor shall be less than the amount fixed by law before this act goes into effect.

Sec. 12. All property both real and personal, in any county, whether it be assessed by the assessor, assistant assessor, by the board of public works or any other person or officer or tribunal, shall be assessed as of the first day of January, at its true and actual value; (that is to say: at the price for which such property would sell if voluntarily offered for sale by the owner thereof, upon such terms as such property, the value of which is sought to be ascertained, is usually sold, and not the price which might be realized if such property was sold at a forced sale). Nothing in this chapter contained shall be construed so as to require the annual assessment of the value of all the real estate in the state before the year nineteen hundred and nine; but, beginning with said year, it shall be the duty of the assessor and his assistants in each county to assess the value of all real estate annually in said county, as well as the value of all personal property therein, at the true and actual value.

Sec. 13. That section thirteen be, and the same is hereby repealed.

Sec. 14. All property, unless herein otherwise provided, shall be assessed as of the first day of January, of each year. Between the first day of January and the twentieth day of June each assessor and assistant shall call upon every person, in the territory appointed to such assessor and assistant, who is liable to assessment, and thereupon such person shall furnish to said assessors, or his assistant, a full and correct description of all the real estate and personal property of which he was the owner on the first day of January of the current year, fixing what he deems to be the true and actual value of each item of property, both real and personal, for the guidance of the assessor, who shall finally settle and determine the actual value of each item of such property by the rule prescribed in section twelve of this chapter; such person shall

also, at the same time, make separate, full and true statements, in like manner, and upon similar blanks to be furnished him, distinctly setting forth in each a correct description of all the property, real and personal, held, possessed or controlled by him, as executor, administrator, guardian, trustee, receiver, agent, partner, attorney, president or accounting officer of a corporation, consignee, broker, or in any representative or fiduciary character, and he shall fix what he deems the true and actual value thereof to each item of such property, which valuation shall be subject to revision and change by the assessor in like manner as property owned by such person in his own right; *provided, however*, that no person shall be compelled to furnish the list mentioned in this section sooner than the tenth day of January of the current year; *provided, further*, that no person shall be required to furnish the list and value of his real estate, as above provided, before the year nineteen hundred and nine.

Sec. 15. The assessor and his assistants are empowered to administer oaths in all matters pertaining to his official business, and every such list provided to be made out by the next preceding section shall be sworn to or affirmed, by the person making the same, before it shall be received by the assessor or any of his assistants; the form of such oath or affirmation, when made by the person owning the property (and the oath or affirmation of the owner of the property shall be required in all cases where it is practicable, instead of the oath or affirmation of his agent or manager), shall be substantially as follows; to-wit:

“State of West Virginia, county of ss;

“I,, do solemnly swear (or affirm) that to the best of my knowledge, information and belief, the foregoing statement contains a true, full and correct list of all property, real and personal, owned by me on the first day of the assessment year; that where I have been unable to exhibit any class of property to the assessor or to his assistant, such property has been fully and fairly described to him and its true condition represented; that I have in no case sought to mislead the assessor or his assistant, as to the entire quantity, quality or value of the property; that I have reported all moneys and the value of all credits and investments owned by me on the said day and liable to taxation, except bonds of the United States, and except stock in bank, trust companies, and other incorporated companies whose property is

assessed in the name of such corporation, either within or without this state; that since the first day of the assessment year, I have not directly or indirectly converted or exchanged any of my property temporarily for the purpose of evading the assessment thereof for taxes, into non-taxable property or securities of any kind; that I have, to the best of my knowledge and judgment, valued the said property, both real and personal, at its true and actual value on the first day of the assessment year, by which I mean the price that could be obtained for said property at private or voluntary sale, and on such terms as are usually employed in the selling of such property, and not the price which might be realized at a forced or auction sale; so help me, God.

“.....”

“Subscribed and sworn (or affirmed) to before me, this day of 19...

“..... Assessor.

“By”

Sec. 17. After the year one thousand nine hundred and eight, there shall be held at least two meetings of the assessor and his assistants, between the first day of the assessment year and the twentieth day of June of the current year, at such time and place as the assessor shall appoint, of which all of said assistants shall have had due notice, for the purpose of procuring a uniform valuation of property, both real and personal, throughout the entire county, according to its true and actual value.

The last meeting shall be held after the work of listing property has been completed, at which meeting all the lists shall be thoroughly gone over and revised and corrected, and if found to be erroneous either in the amount of property, real or personal, assessed to any person, firm or corporation, or in the value given to any item of property by the taxpayer, by placing on such list the omitted property and giving to it, as well as any property that has been listed, but which has been incorrectly valued, the true and actual value thereof according to the rule prescribed in section twelve of this chapter, and by omitting property improperly listed. The clerk of the county court shall sit as an advisory member at such last meeting.

Sec. 18. After April first, one thousand nine hundred and nine, the board of public works shall appoint three citizens of each county who are freeholders and entitled to vote, not more

than two of whom shall belong to the same political party, who shall constitute for such county, a board of review and equalization; but no two of said board shall be appointed from the same magisterial district; said board shall annually elect one of their members as president, and two of the members of said board shall constitute a quorum for the transaction of business; the salary of the members shall be four dollars per day for each day actually in session of not less than six hours, and shall be provided for and paid out of the county levy for the current year.

The term of office of such members shall begin at the date of appointment and shall continue for the term of six years, except that at the first meeting of said commissioners they shall designate by lot, or otherwise, in such manner as they may determine, one of their board, who shall hold his office for the term of two years, one for four years, and one for six years, so that one shall be appointed every two years; any member may be removed by the board of public works and the vacancy filled by it.

Every member so appointed shall, within twenty days after his appointment, execute a bond with good security to be approved by the county court of his county, or the clerk thereof in vacation, in the penalty of five thousand dollars, conditioned for the faithful performance of the duties of his office, and shall take the oath or affirmation prescribed by section five of article four of the constitution, and such oath shall be certified by the person who administers the same and filed in the office of the state tax commissioner.

After the year one thousand nine hundred and eight, the board of review and equalization shall annually, not later than the fifth day of July, meet at the county seat of each county for the purpose of reviewing and equalizing the assessment of the county as returned by the assessor, and shall not adjourn said session for longer than three days at a time until the work of review and equalization as provided by this section, is completed, and shall not remain in session for a longer period than twenty-five days; at which time the assessor shall submit to said board the land books and personal property books for the current year as prepared by him; the land books and personal property books shall be completed in every particular at the time they are submitted to the board, except that the levies shall not be extended; the assessor and his assistants shall attend the session of the said

board of review and equalization, and render every assistance possible relative to the value of property assessed by them; the said board shall proceed to examine and review the land and personal property books, and of its own motion or on sufficient cause being shown by any person, shall add to said land and personal property books the names of persons, the value of personal property and the description and value of real estate liable to assessment in said county, omitted from said assessment books by the assessor; they shall correct all errors in the names of persons, in the description of property upon such books and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said assessment as returned by the personal property assessor comply with the provisions of this chapter, and to the end that all property shall be assessed at its true and actual value; the board shall pass upon each valuation and each interest, and shall enter the valuation of each as fixed by it in a separate column in the land and personal property books prepared for the purpose; if it shall be determined by said board that any property or interest is assessed at more or less than its true and actual value, it shall increase or reduce the value of such property, fixing it at its true and actual value.

The clerk of the county court shall be *ex-officio* the clerk of the board of equalization and review; said clerk shall cause notice to be published once each week for three successive weeks before the meeting of said board of review in two newspapers of general circulation published in the county, of opposite politics, if there be such; if there be no newspaper published in the county, then such notice shall be published in some newspaper of general circulation; the notice so to be published shall state briefly the time and place of holding such meeting, and the general purpose thereof; the expense of said publication shall be provided for and paid out of the county treasury; if any person fail to apply for relief at said meeting he shall be deemed to have waived his right to ask for correction in his assessment list for the current year, and shall not thereafter be permitted to question the correctness of his list as finally fixed by said board. After said board shall complete the review and equalization of the land and personal property books, a majority of said board shall endorse and sign a statement to the effect that the same is the completed assessment of said county for the year for which it has been prepared and approved by the board of

equalization and review; then said land and personal property books shall be delivered to the assessor and the levies upon same extended as provided by law.

If any taxpayer of the state, county or district, is dissatisfied with the valuation of the property as fixed by said board, they shall have the right to apply for relief, as provided in section one hundred and twenty-nine of this chapter.

Sec. 19. The state tax commissioner shall communicate to the circuit court and to the prosecuting attorney of the county, any instance of misconduct or neglect of official duty on the part of any assessor, justice, prosecuting attorney, clerk of a court, sheriff or constable of such county, and any evidence thereof which he may be cognizant; and the court shall investigate the same, and if the charges are true, such assessor, justice, prosecuting attorney, clerk of a court, sheriff or constable shall forfeit not less than one hundred nor more than five hundred dollars, and shall be removed from office.

Sec. 20. In addition to the forms and blanks specifically provided by this chapter, the state tax commissioner shall prepare and forward to the assessors such other printed forms for the personal property books, and the land books, and such lists of taxable subjects to be furnished by the assessors to persons chargeable with taxes, as will procure a perfect assessment of all the persons and property, both real and personal, in this state subject to taxation, and shall have full power to alter or change any and all forms and books from time to time, as provided by this chapter, so as to procure a just and equal assessment of all taxable property. The state tax commissioner shall also, by letter or printed circular, give such instructions to the assessors respecting their duties as may seem to him judicious; and if any assessor fail to obey such instructions, so far as they are not contrary to law, he shall forfeit not less than one hundred nor more than five hundred dollars, and upon being convicted he shall forfeit his office.

Sec. 28. The clerk of every circuit court and municipal court shall annually, within one month after the beginning of the assessment year, make out a list of all judgments and decrees for the partition or recovery of lands which have been rendered by their respective courts and have not been heretofore reported to the proper officers, stating in such list the date of the judgment.

or decree in each case, the land recovered and by whom, the land which was divided and between whom and in what parcels; the clerk of the county court shall annually, within one month after the beginning of the assessment year, make out a list of all lands, if any, lying in another county devised by wills recorded in his office and not before reported to the proper officers, stating in such list the date of the will in each case, when admitted to record, the names of the devisor and devisee, and description of the land devised.

Sec. 29. After the year one thousand nine hundred and eight, every list mentioned in the preceding section shall be delivered or transmitted by mail, by the officer making it, to the assessor of the county or counties where the said lands are situated, within one month after the beginning of the assessment year; before the year one thousand nine hundred and nine such list shall be delivered to the county clerk.

Sec. 30. The auditor shall annually, in the first month of the assessment year, make out and forward to the assessor of each county an abstract of all grants issued by the state for land lying in such county not previously reported for assessment.

Sec. 31. After the year one thousand nine hundred and eight, the clerk of the county court shall annually, not later than fifteen days after the beginning of the assessment year, make out a certified list and deliver the same to the assessor, showing all the transfers of title to land made in his county prior to the first day of the assessment year; said list shall show whether the transfer was made by will or by deed of conveyance, or by judgment or decree, the names of the devisors and devisees, the names of the grantors and grantees and the names of the parties in favor of and against whom said judgment or decree was rendered, with the title of the cause, the nature of the estate transferred, the character of interest in the land conveyed, the quantity and location of the land or interest transferred, and if a part of a tract, of what tract it was a part when the whole tract was transferred, and reference to the book and page showing such transfer; from the list thus furnished the assessor shall make the necessary changes in the land books for the current year, and shall value each tract of land or interest therein, so transferred, at its true and actual value according to the rule established in section twelve of this chapter.

Sec. 36. Real estate purchased for the state, at a sale for taxes, shall not be omitted from the land books, but no taxes shall be assessed thereon while the same remains the property of the state; there shall be noted on the land book, and by the officer whose duty it is to make out the same, opposite the name of the former owner, the time when the same was purchased by the state, and such officer shall continue said memorandum in the land books for succeeding years, and until the said real estate is redeemed or until it is otherwise disposed of by the state; the auditor shall also keep a record of such purchase. When real estate so purchased appears to have been redeemed, the officer whose duty it is to make out the land books shall note the fact therein for the year in which the redemption was made, and shall value the same at its value according to the rule prescribed in section twelve of this chapter, and taxes shall thereafter be assessed against the same. The auditor shall in the first month of the assessment year, certify to the officer whose duty it is to make out the land books, a list of such lands in his county as have been so redeemed within the preceding year; when real estate is sold to an individual for taxes, the officer whose duty it is to make out the land books shall continue the same upon the land books in the name of the former owner until the purchaser obtains a deed therefor; such officer shall then enter the same so purchased in the name of the purchaser and shall value the same according to the rule prescribed for the valuing of other lands.

Sec. 38. The officer whose duty it is to make out the land books shall annually, not later than the twentieth day of July, furnish to the recorder or clerk of the city or town council of every incorporated city and town in his county, and also to the secretary of the various boards of education of his county, a certified statement, showing, in separate amounts the aggregate value of all the personal property, the aggregate value of all the real estate, and the aggregate value of all property assessed by the board of public works, or other board in lieu thereof, in said county or city, as ascertained from the land and personal property books, and from the statement furnished by the auditor to the county clerk of the value of property assessed in such county by the board of the current year.

The statement so furnished shall be taken, by the council of said city or town, as the proper valuation of all property situated

therein and liable for taxation for municipal purposes notwithstanding any provisions which may be contained in the charter of any city or town; upon receiving said statement the recorder, or clerk of the council, shall immediately present the same to the said council at a meeting to be held, not later than the first day of August, for the purpose of determining the rate of levy for municipal purposes for the current year; and as soon as the rate shall have been determined upon, the recorder, or secretary of the council, shall furnish the officer whose duty it is to make out the land and personal property books, a certified copy of the order of said city or town council fixing the rate of tax, and such officer shall thereupon extend the tax against the property situated in said city or town in the land book and the personal property book of his county, in separate columns in said books, which columns shall be headed with the words; "town, or city, tax for the town, or city, of _____."

Sec. 48. After the year one thousand nine hundred and eight the assessor shall make out the land books, including all extensions, in such form as the state tax commissioner may prescribe; such land books shall contain separate lists for the different magisterial districts and separate lists for the towns of the county, and if there are independent school districts which include towns, and also lands lying outside of such towns, there shall also be a separate list for so much of each of such independent school districts as lies outside of such towns; there shall, for the purpose of taxation, be entered on the land books, the town lots in the alphabetical order of the names of the owners thereof in the list arranged for them, and shall designate the said list as "town (or city) lots of the town (or city) of _____." There shall also be entered in like alphabetical order, in the separate lists for the independent school districts and magisterial districts, the tracts of land, the whole or greater part of which is situated therein, but no tract or lot of land shall be entered in more than one of said lists, and no part of any tract or lot of land which does not lie within the incorporated limits of a town shall be entered in the list or charged with municipal taxes for such town. This section is subject to the provisions contained in the following section.

Sec. 49. In the table of the tracts of land the officer whose duty it is to make out the land books shall enter each tract separately, and shall set forth in as many separate columns as may be

necessary, the name of the person who, by himself or his tenant, has the freehold in his possession; the nature of his estate, whether in fee or for life; the number of acres as near as may be in the tract; the name of the tract, if it has a name; a description of it as far as practicable, with reference to the water courses, mountains or other places on or near which it lies; the value of the land per acre, including buildings; the value of the whole tract and buildings; the sum included in the value on account of buildings; the total amount of taxes assessed on each tract for state, state school, county, free school, building and other district purposes, and, if the said real estate is located in an incorporated city or town, for municipal purposes, and from whom, when and how the owner derived the land, if known, with a note of explanation of any other alteration made, showing why and upon what authority it was made, and such other information as may be required by the form of land book prescribed by the state tax commisisoner.

Sec. 52. The assessor together with his assistants, shall begin annually on the first day of the assessment year, and proceed without delay to ascertain all the persons and personal property on that day subject to taxation in his county; and after the year one thousand nine hundred and eight, the assessor together with his assistants, shall likewise begin annually on the first day of the assessment year and proceed to ascertain all persons and property, real and personal, on that day subject to taxation in his county. The taxes for each year upon real and personal property shall be paid by those who are the owners thereof on that day, whether it be assessed to them or others.

Sec. 53. While making such assessments, it shall be the duty of the assessor and assistants to see every person in his county who is liable to taxation therein upon property or capitation, and obtain from him a sworn statement of his personal property; he shall at the same time collect from every person liable for the capitation tax mentioned in section two of article ten of the constitution, or for road capitation tax, the amount of such tax, and deliver to such person a receipt therefor; in case any person liable therefor shall fail or refuse to pay such capitation, the assessor shall levy upon and take into his possession property or effects of the delinquent sufficient to pay said capitation, and the cost of levy and sale; the assessor shall have as to said capitation taxes, the same powers of levy and sale and of collection by any

other method as is vested in the sheriff for the collection of taxes, and he shall be entitled to the same fees; the assessor shall, not later than the fifteenth day of each month, turn over to the auditor all capitations for state school purposes collected by him during the previous month and not paid over, less commission of ten per cent, to which the assessor shall be entitled for collection; he shall also at the end of each month turn over to the sheriff all capitations collected for district road purposes and not paid over, less commission of ten per cent, to which the assessor shall be entitled for collection. At the levy term of the county court the assessor shall make report to said court of all capitations collected for state school purposes, and all capitations collected for district road purposes, the names of those from whom collected, the names of all delinquents, and the cause of delinquency in each case; the said report shall be verified by the affidavit of the assessor; said assessor shall not thereafter for that year have authority to collect capitations, but a copy of said report shall be by the county court turned over to the sheriff, who shall forthwith proceed to collect all capitations remaining unpaid whether or not they appear upon said report; upon the capitations collected by the sheriff for state school and district road purposes, he shall be allowed a compensation of ten per cent, of which the assessor shall be required to pay one-half of all over five per cent; the assessor shall be charged by the county court with all delinquents appearing in his said report, and likewise with all delinquencies not reported by him but afterwards ascertained or reported by the sheriff, or ascertained in any other way, and credited with all collections on that account made and paid over by the sheriff, less two and one-half per cent, to cover the sheriff's extra compensation; he shall also be credited with such delinquencies as the county court shall be satisfied could not have been collected either by the assessor or sheriff, by the exercise of due diligence, and in case the sheriff shall fail to use due diligence in the ascertainment and collection of such delinquencies, he and his sureties, on his official bond, shall be liable to the assessor for all damages sustained by him on that account; the assessor shall, in addition to other bonds required of him, give a bond in a penalty to be fixed by the county court, of not less than four thousand dollars nor more than twenty thousand dollars, and conditioned for the faithful performance of his duties under this chapter.

It shall be the duty of the state tax commissioner to prepare and furnish to the assessors all tickets, blanks and forms necessary for the purposes of this section; the tickets so furnished for each county shall be numbered consecutively, and the assessor shall account for each ticket furnished him, as well as for the taxes collected.

Any assessor, assessors or assistant assessors failing to account for and to turn over any money or moneys collected by them under the provisions of this section shall be guilty of embezzlement.

Sec. 57. All property, real and personal, described in this section, and to the extent herein limited, shall be exempt from taxation; that is to say: property belonging to the United States is exempt from taxation by or under state authority; property belonging exclusively to the state; property belonging exclusively to any county, district, city, village, or town in this state and used for public purposes; property used exclusively for divine worship; parsonages, and the household goods and furniture pertaining thereto; cemeteries, property belonging to colleges, seminaries, academies, and free schools, if used for educational, literary or scientific purposes, including books, apparatus, annuities, money and furniture; public and family libraries; property used for charitable purposes and not held or leased out for profit; all real estate not exceeding one-half acre in extent and the buildings thereon and used exclusively by any college or university society as a literary hall, or as a dormitory or club room, if not leased or otherwise used with a view to profit; all property belonging to benevolent associations not conducted for private profit and used exclusively for the purpose of moral and physical education, all books, furniture, apparatus and instruments belonging to such society; property belonging to any public institution for the education of the deaf, dumb or blind, or to any hospital not held or leased out for profit, house of refuge, lunatic or orphan asylum; homes for children or for the aged, friendless or infirm, not conducted for private profit; fire engines and implements for extinguishing of fire, and property used exclusively for the safe keeping thereof, and for the meetings of fire companies; and all personal property on hand to be used in the subsistence of live stock on hand at the commencement of the assessment year, and dead victuals laid away for family use; but no property shall be exempt from taxation which shall have been pur-

chased or procured for the purpose of evading taxation, whether temporarily holding the same over the first day of the assessment year or otherwise, whether the same be in this state or elsewhere; *provided, however*, that the property, both real and personal, which is exempt from taxation by this section shall be entered upon the assessors' books, together with the true and actual value thereof, but no taxes shall be levied upon the same or extended upon the assessors' books.

Sec. 59. Every assessor shall ascertain and list for taxation the white male persons and colored male persons, over the age of twenty-one years, residing in the county on the first day of the assessment year, and not exempted by the county court from taxation on account of bodily infirmity, and shall include in the said list all persons who remove into said county between the first day of the assessment year and the time the assessors' books are made out; but persons who pay the capitation tax in one county shall be exonerated from paying the same in any other for that year, but as evidence of payment must produce the capitation tax receipt when required by the assessor to do so.

Sec. 64. Every person required by law to list personal property shall list for taxation the tangible personal property in the magisterial district wherein it is on the first day of the assessment year, and he shall list for taxation, in the magisterial district in which he resides, the money, credits and investments subject to taxation belonging to himself or under his charge or control, whether the same, or the evidence thereof, be in or out of the state; but capital, money and intangible property (except real estate) employed in any trade or business (other than agriculture) belonging to a company, whether it be incorporated or not, or to an individual, shall be assessed for taxation in the magisterial district where the principal office for the transaction of the financial concerns pertaining to such trade or business is located; or, if there be no such office, then in the district where the operations are carried on; goods and chattels and other tangible personal property not exempt from taxation, which may not be assessed for taxation in the magisterial district where the same were on the first day of the assessment year, but which have been removed therefrom, shall be assessed in the magisterial district where the same were on the said first day of the assessment year; but the assessment and payment of taxes in any county or district in any year shall exonerate the

owner of such property in any other county or district for such year.

Sec. 65. The value of any credit, if the solvency of the party liable therefor be doubtful or if the claim be disputed, shall be estimated at its probable worth; if it be payable in anything but money, its probable value in money, to be fixed by the assessor, is to be listed; if a solvent credit bear interest which has not been paid, the amount of principal and interest, calculated up to the first day of the assessment year of the year for which the assessment is made, shall be listed; but if it do not bear interest, and be not due, the interest for the time it has run from the first day of the assessment until it be due and payable, may be deducted. Investments shall be rated by the assessor at their market price, or if there be no known market price, then at their proper value, according to the rule prescribed in section twelve of this chapter.

Sec. 67. In listing money, credits or investments, the person owning the same may have deducted therefrom the amount of the indebtedness which he owes to others as principal debtor, but not what he may be liable for as surety or endorser, unless the principal debtor is insolvent and the surety or endorser is not indemnified; but before such deduction shall be allowed the person desiring the same shall be examined under oath as to each debt which he desires to have deducted, when payable, and the amount thereof, including the interest, to the first day of the assessment year; after such examination, if the assessor be satisfied that the debts so claimed are *bona fide* and correct in amount, he shall allow and deduct the amount of the same from the valuation of such debtor's money, credits and investments, but not from the valuation of any other kind of property, and shall extend the taxes upon the remainder of such money, credits and investments; if such indebtedness equals or exceeds in amount the money, credits and investments, no taxes shall be extended on account of the same; the total valuation of money, credits and investments, after deducting therefrom the amount of such indebtedness, shall be placed in a column opposite the name of the owner thereof in the personal property book; if debts to be deducted are owing by such persons as co-obligor or co-sureties, or joint indorser, with others who are solvent, he shall be allowed to deduct only so much of such debt as he may have to pay after his co-obligors or his co-sureties or joint indorsers shall have paid their portion thereof; to the end

that the assessor be enabled to make diligent and careful inquiry as to said debts, money, credits and investments, the justness and correctness thereof, he is hereby given the authority to administer oaths to any and all persons and examine them under oath as to any and all matters pertaining to a fair and full disclosure of the same; and any person who shall make a false statement, or shall state fictitious debts for the purpose of having the amount thereof deducted as herein provided for, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than fifty nor more than five hundred dollars.

Sec. 68. It shall be the duty of the assessor, as soon as possible after the first day of the assessment year in each year, to ascertain all personal property, and after the year nineteen hundred and eight all personal and real property, subject to taxation in the county, with the value thereof and the name of the person to whom the same ought to be assessed, and to make proper entry thereof in the land book, or personal property books, as the case may be.

Sec. 71. Every person so called upon shall deliver to the assessor or to one of his assistants, a full and correct statement in the form prescribed, and delivered as aforesaid, of all real and personal property and persons, on account of which he is chargeable with taxes, or which by law he is required to list on behalf of another, with the valuation of the property mentioned in said statement; he shall also take and subscribe an oath to the following effect, viz.:

“State of West Virginia, county of, ss.

“I,, do solemnly swear (or affirm) that to the best of my knowledge, information and belief, the foregoing statement contains a true, full and correct list of all property, real and personal, owned by on the first day of the assessment year; that where I have been unable to exhibit any class of property to the assessor, or to his assistant, such property has been fully and fairly described to him, and its true condition represented; that I have in no case sought to mislead the assessor or his assistant, as to the entire quantity, quality or value thereof; that I have reported all moneys and the value of all credits and investments owned by, on said day and liable to taxation, except bonds of the United States, and except stocks in banks, trust companies and other in-

corporated companies whose property is assessed in the name of such corporation, either within or without this state; that since the first day of the assessment year, no property belonging to, has been directly or indirectly converted temporarily, for the purpose of evading the assessment thereof for taxes, into non-taxable property or securities of any kind, and that I have, to the best of my knowledge and judgment, valued the said property, both real and personal, at its true and actual value on the said first day of the assessment year; by which I mean the price that could be obtained for said property at private and voluntary sale and on such terms as are usually employed in the selling of such property, and not the price which might be realized at a forced or auction sale; so help me, God.

“”

Subscribed and sworn (or affirmed) to before me this day of, 19..... “”

No such list shall be received by the assessor unless the same be so verified.

Sec. 72. Notwithstanding anything contained in this chapter to the contrary, any person may refuse to value any personal or real property listed by him if he exhibits the same to the assessor, who shall thereupon assess the value thereof; any person so refusing to value the property listed by him shall take and subscribe an oath to the following effect, viz.:

“State of West Virginia, county of ss:

I,, do solemnly swear (or affirm) that to the best of my knowledge, information and belief, the foregoing statement contains a true, full and correct list of all property, real and personal, owned by on the first day of the assessment year; that where I have been unable to exhibit any class of property to the assessor, or to his assistant, such property has been fully and fairly described to him, and its true condition represented; that I have in no respect sought to mislead him as to the entire quantity, quality and value of the property; that I have reported all moneys, credits and investments owned by on said day and liable to taxation, except bonds of the United States, and except stock in banks, trust companies and other incorporated companies whose property is assessed in the name of such corporation, either within or without this state; that since the first day of the assessment year no prop-

erty belonging to has to my knowledge, either directly or indirectly, been converted temporarily, for the purpose of evading the assessment thereof for taxes, into non-taxable property or securities of any kind; so help me, God.

“

“Subscribed and sworn (or affirmed) to before me this day of 19....

“

No list shall be received by the assessor unless the same shall be verified by the oath of of the person taking the same, and any assessor who shall receive any such list not so verified, as required by law, shall forfeit not less than fifty nor more than two hundred dollars. Any person whose duty it is by law to list property for taxation and who shall refuse to verify such list, being called upon to do so, shall, in addition to any other penalty provided for such refusal, be denied the right to apply to any court to have the assessment and valuation of his property, which the assessor may make, changed in any manner; *provided*, that no person shall be required to furnish the list and value of his real estate, as above provided, before the year nineteen hundred and nine.

Sec. 76. The assessor shall, after the year nineteen hundred and eight, upon the best information he can obtain, ascertain for the purpose of taxation, the annual value of all ferries upon which a toll or fare is charged, located in his county, except such as are by law exempt from taxation; he shall value such ferry each year at ten times its annual value, and enter the same in the land book in the name of the owner in the magisterial district wherein the same is located; if such ferry is on a line dividing two counties, or two districts of the same county, one-half of the value so-ascertained shall be assessed in each county or district, as the case may be.

Sec. 77. Each incorporated company having its principal office or chief place of business in this state. or owning property subject to taxation in this state, except a railroad, foreign insurance, telegraph and express companies, telephone companies, pipe line, car line companies and banks and trust companies, shall annually, between the first day of the assessment year and the first day of May, make a written report, verified by the oath of the president or chief accounting officer, to the assessor of the county in

which its principal office or chief place of business is situated, showing the following items, viz.:

- (a) The amount of capital authorized to be employed by it;
- (b) The amount of cash capital paid on each share of stock;
- (c) The amount of money on hand or on deposit anywhere subject to its check or draft, on the first day of the assessment year.
- (d) The amount of credits and investments other than its own capital stock held by it on said date, with their true and actual value;
- (e) The quantity, location and true and actual value of all of its real estate, and the magisterial district or districts in which it is located;
- (f) The kinds, quantity and true and actual value of all its tangible property in each magisterial district in which it is located; and in case such company desires to have its indebtedness deducted from its money, credits and investments, as hereinbefore provided, it shall also include in said report;
- (g) An itemized statement, such as is provided for in section sixty-seven of this chapter, and all of the provisions of said section sixty-seven shall apply to said statement, so far as they are applicable; which statement shall be verified by the oath of the president or chief accounting officer of such company, substantially in the form required for individuals in said section sixty-seven.

Any incorporated company failing to make the report required by this section within the time specified, or fails or refuses to make a proper list of its property, or to make such oath as is required by this section; or fails or refuses to answer or answers untruly any question or questions lawfully asked by the assessor, shall forfeit one hundred dollars, and shall in addition thereto, be liable for the tax assessed upon its property at a valuation thereof to be fixed by the assessor, according to the best information he can obtain from other sources.

The oath required for this section shall be substantially as follows, viz.:

“State of West Virginia, county of ss.:

“I,, president (treasurer or manager) of (here insert name of corporation), do solemnly swear (or affirm) that the foregoing is, to the best of my knowledge and judgment, true in all respects; that it contains a statement of all

the real estate and personal property, including moneys, credits and investments belonging to said corporation; that the value affixed to such property is in my opinion, its true and actual value, by which I mean the price at which it would sell if voluntarily offered for sale on such terms as are usually employed in selling such property, and not the price which might be realized at a forced or auction sale; and said corporation has not, to my knowledge, since the first day of the assessment year converted any of its assets into non-taxable securities for the purpose of evading the assessment of taxes thereon; so help me, God.

“

The officer administering said oath shall append thereto the following certificate, viz.:

“Subscribed and sworn to before me by
 this day of 19....

“

Provided, that no such company shall be required to furnish the list and value of its real estate, as above provided, before the year one thousand nine hundred and nine.

Sec. 78. Upon receiving the verified report required by the preceding section, the assessor, if satisfied with the correctness thereof, shall assess the value of all the property of such corporation liable to taxation, and enter the same as follows, viz: All the property in item (e) shall be entered with its valuation in the land books of the county, and in the magisterial district in which the real estate is situated; all property mentioned in items (c) and (d) shall, together with their valuation, be entered in the personal property book of the county, and in the magisterial district wherein is the principal office or chief place of business of such corporation, under the appropriate heads; and all property mentioned in item (f) shall, together with its valuation, be entered in the personal property book of the county, and in the magisterial district wherein said property is on the first day of the assessment year; the property mentioned in items (c), (d), (e) and (f) shall constitute all the property on which any such corporation shall be liable to pay taxes. If a company have branches, each branch shall be assessed separately in the county and magisterial district where its principal office for transacting its financial concerns is located; or, if there be no such office, then in the magisterial district where its operations are carried on. All locks and dams of navigation

companies shall be assessed and taxed as real estate in the county and magisterial district wherein they are situated; and in case such locks and dams are located on any creek or river which is the dividing line between counties, or the dividing line between magisterial districts of the same county, one-half of the value thereof shall be assessed in each of said counties or magisterial districts, as the case may be; when the property of an incorporated company is assessed as aforesaid, no individual shareholder therein shall be required to list or be assessed with his share, portion or interest in the capital stock of such corporation.

Sec. 79. The shares of stock in a bank, trust company or national banking association, shall be assessed at their true and actual value, according to the rule prescribed in section twelve of this chapter, to the several holders of such stock in the county, district and town where such bank, company or association, is located, and not elsewhere, whether such holders reside there or not, and no deductions shall be allowed from the valuation of such shares of stock on account of what is due another as principal debtor or otherwise, notwithstanding the provisions of any other section or sections of this chapter; the real and actual value of such shares shall be ascertained according to the best information which the assessor may be able to obtain, whether from any return made by such bank, company or association to any officer of the state or United States, from actual sales of the stock, from answers to questions by the assessor as hereinafter provided, or from other trustworthy sources; the cashier, secretary or principal accounting officer, of every such bank, company or association, shall cause to be kept a correct list of the names and residence of all the shareholders therein, and the number of shares held by each, which list shall be open to the inspection of the assessors of the county, and of the state tax commissioner or assistants; and such cashier, secretary or officer shall answer under oath such questions as the assessor may ask him concerning the matters shown by said list, and concerning the value of said shares, and shall be subject to the same penalties, for failure to do so, which are imposed by law upon individuals failing to answer questions which the assessor is authorized to ask; the taxes so assessed upon the shares of any such bank, company or association shall be paid by the cashier, secretary or proper accounting officer thereof, and in the same manner and at the same time as other taxes are required to be paid in such coun-

ty, district and town; in default of such payment such cashier, secretary or accounting officer as well as such bank, company or association shall be liable for such taxes, and, in addition, for a sum equal to ten per centum thereof. Any taxes so paid upon any such share may, with interest thereon, be recovered from the owners thereof by the bank, company, association or officer paying them, or may be deducted from the dividends accruing on such shares. The real estate of any such bank, company or association shall be assessed as in other cases, and a proportionate share of such assessed value shall be deducted in ascertaining the market value of the shares. The return shall be made as of the first day of the assessment year.

Sec. 80. The value of the capital used by any individual or firm not incorporated, in any trade or business taxable by law, shall be ascertained in the following manner: The owner, agent, or chief accountant of every such trade or business, except the business of agriculture, carried on in any county of the state, shall, annually, between the first day of the assessment year, and the first day of June of the current year, make a written report as of the first day of the assessment year, to the assessor, verified by his affidavit, showing the following matters and things, viz:

(a) The amount and the true and actual value of all tangible personal property used in connection with such trade or business, otherwise such as is regularly kept for sale therein, including chattels real;

(b) The true and actual value of all goods and property kept for sale and remaining unsold;

(c) The amount of all money derived from or belonging to such trade or business, on hand or remaining uninvested on that day, whether in or out of the state, payable to such individual or firm;

(d) The amount in value of all credits arising out of any such business and remaining unpaid on that date, whether due or not, and whether in or out of the state;

(e) The amount and true and actual value of all investments made by such person or firm whether in or out of the state, other than those hereinbefore specified;

(f) The location, quantity, and the true and actual value of all real estate owned by such individuals or firm and used in such trade or business.

And in case such individual or firm desires to have indebtedness deducted from money, credits and investments, it shall also include in said reports;

(g) An itemized statement such as is provided for in section sixty-seven of this chapter, and all the provisions of said section sixty-seven shall apply to said statement so far as they are applicable; which statement shall be verified by such owner, agent or chief accountant substantially in the form required for individuals in said section sixty-seven.

The assessor shall, upon the receipt of such report, properly verified, if he is satisfied with the correctness thereof, enter the real estate in the land book of the county in the district wherein the same is situated, and assess the same with taxes, if not otherwise assessed, to the owner thereof; the personal property mentioned in said report he shall enter in the personal property book of his county and assessed with taxes as follows, viz: item (a) and (b) shall be entered in the magisterial districts where they are for the greater part of the year kept or located; and items (c) and (d), (e) and (g) shall be entered under their appropriate heading, in the town or magisterial district wherein the principal place of business of said individual or firm; if the assessor is not satisfied with the correctness of said report he may proceed to ascertain a correct list of the property on which said individual or firm is liable to be assessed with taxes, and to value the same as in other cases; the person making such report shall take and subscribe an oath in substantially the following form:

"I, do solemnly swear (or affirm) that the foregoing list is true and correct to the best of my knowledge; that the value affixed to the property therein listed I believe to be the true and actual value thereof, by which I mean the price at which said property would sell if voluntarily sold on such terms as are usually employed in the sale of such property, and not the price which might be obtained if sold at a forced or auction sale; that none of the assets belonging to (here state the name of individual or firm) and used in the business of (here describe the business) have to my knowledge, since the first day of the assessment year, been converted into non-taxable securities for the purpose of evading the assessment of taxes thereon; so help me, God.

"....."

The officer administering said oath shall append thereto the following certificate, viz.:

“Subscribed and sworn to before me by (here insert affiant’s name) this day of 19....

“.....”

Provided, that no such individual or firm shall be required to furnish the list and value of its real estate, as above provided, before the year one thousand nine hundred and nine; but it shall state its true and actual value in each year thereafter.

Sec. 81. Any such person or firm, as is mentioned in the preceding section or as is mentioned in sections seventy-seven, seventy-eight and seventy-nine of this chapter, desiring to commence business after the beginning of the assessment year in any year, shall give notice thereof to the assessor of the proper county, accompanied with sworn statement of the amount of capital invested or intended to be invested by such person or firm in such trade or business during the remainder of the year; it shall be the duty of the assessor, upon receipt thereof, to enter the same in his personal property book under the appropriate heading, and extend the taxes to be paid thereon; but if at the time of receiving such sworn statement his personal property book shall have been completed and certified he shall enter the amount of such capital in a supplement to the copy of his personal property book, to be retained by him, and extend the taxes thereon. He shall also certify such entry to the auditor and clerk of the county court, whose duty it shall be to make a like entry thereof in a supplement to the copies of the personal property book filed in their respective offices. When any personal property employed in any trade or business is assessed under the provisions of this and the preceding section, the owner shall not be required to list the same otherwise, nor shall it be otherwise assessed to him. All personal as well as real property, not so assessed to such person or firm, shall be assessed as other like property is required by law to be assessed.

Sec. 86. In the case of any bridge upon which a separate toll or fare is charged, such return shall show:

- (a) The location of the same;
- (b) For what used; and if used by a railroad, what railroad uses it;
- (c) The length of such bridge; and, if used by a railroad, the number of tracks on it;

(d) All other property owned by such owner or operator and used in connection with said bridge;

(e) The capital actually invested; the amount of capital stock authorized and issued, the par value and the market value of the shares into which the capital stock is divided, and the amount of dividends declared on the capital stock within the twelve months preceding the first day of the current assessment year; the total amount of bonded indebtedness and of indebtedness not bonded; gross earnings for the year from all sources;

(f) Gross expenditures for the year, giving a detailed statement thereof under each class or head of expenditure;

(g) Any other information requested by the board of public works which the board deems may be of use to it in determining the actual value of such bridge or bridges.

Sec. 129. Any person claiming to be aggrieved by any assessment in any land or personal property book of any county who shall have appeared and contested the same as provided in section eighteen of this chapter, may, within thirty days from the adjournment of the board of equalization and review, apply for relief to the circuit court of the county in which such books are made out; but he shall, before any such application is heard, give ten days' notice to the prosecuting attorney of the county, whose duty it shall be to attend to the interests of the state, county and district in the matter, and the prosecuting attorney shall give at least five days' notice of such hearing to the state tax commissioner; the right of appeal from any assessment by the board of review as hereinbefore provided, may be taken either by the applicant or by the state, etc., and in case the applicant, by his agent or attorney, or the state, by its prosecuting attorney or state tax commissioner, desires to take an appeal from the decision of the board of review, the party desiring to take such an appeal shall have the evidence taken at the hearing of such application before the board of review, certified by said board, and such appeal when allowed by the court or judge in vacation, shall have precedence over all other cases pending in such court, and such appeal shall be determined from the evidence so certified; if, upon the hearing of such appeal, it is determined that any property has been assessed for more than its true and actual value, the court shall, by an order entered of record, correct every such assessment, fixing such property at its true and actual value; a copy of such order or orders en-

tered by the circuit court reducing the valuation of any assessment shall be certified to the auditor by the clerk within twenty days after the entering of same; every such order or judgment shall show that the prosecuting attorney or state tax commissioner was present and defended the interest of the state, county and district. In the event it shall be ascertained that any land or personal property has been assessed too high and that the owner has paid the excess tax, it shall be refunded to him, and if not paid he shall be relieved from the payment thereof; if, upon such application it is ascertained that any property is assessed too low, the court shall, by an order entered of record, correct every such assessment, fixing it at its true and actual value. A copy of any order or orders entered by any court increasing the valuation of any property shall be certified within twenty days after the entering of same to the auditor, the county clerk and the sheriff, and it shall be the duty of the auditor, the county clerk and the sheriff to charge any taxpayer affected by such order with the increase of taxes occasioned by the increase of such assessment by applying the rate of levies for every purpose in the district where such property is situated for the current year; such order shall also be filed in the office of the auditor and clerk of the county court.

Sec. 130. Whenever the circuit court, on appeal, shall grant relief to any such applicant against the taxes, or any part of them, assessed against him either on the land or the personal property books, and order shall be made by such court exonerating such applicant from the payment of so much of such taxes as are erroneously charged against him, if the same have not been paid; and if paid, that the sum so erroneously charged be refunded to him.

Sec. 132. If what was erroneously charged has been paid into the state treasury, the order of the circuit court, attested by its clerk, shall entitle the claimant to a warrant on the state treasury for the amount thereof, if application for the same be made to the auditor within one year after the date of said order; *provided*, that the provisions in this and the next three preceding sections, relative to relief against taxes erroneously assessed against real estate, shall not be in effect until after the year nineteen hundred and eight, and that all the provisions relative to erroneous assessments and relief against the same, mentioned in chapter fifteen of the acts of the extraordinary session of the legislature

of nineteen hundred and four, shall be and remain in operation until the year nineteen hundred and nine; *provided*, that in the years one thousand nine hundred and seven and one thousand nine hundred and eight, the state or county or any district therein shall have the right to make application to the county court for the correction of any erroneous assesment of any property, personal or real, made by the assessor, in the same manner as the taxpayer, upon petition by the prosecuting attorney or the state tax commissioner; but notice of the hearing upon such petition shall be given to the owner of such property claimed to be erroneously assessed or his agent at least ten days before the hearing, unless the notice is waived; and *provided, further*, that in the years one thousand nine hundred and seven and one thousand nine hundred and eight, in any and all cases of application to the county court for correction of erroneous assessments of either personal or real estate, the state or county, as well as the taxpayer, shall have the right to appeal to the circuit court from any order or judgment of the county court on such application; and it shall be the duty of the circuit court to hear such appeals *de novo* and to affirm, raise or lower such assessment as the law and facts may warrant.

II. For the year nineteen hundred and seven, all property assessed by the assessor or assistant assessor shall be assessed as of the first day of April; after the year nineteen hundred and seven, all property assessed by the assessor or assistant assessor shall be assessed as of the first day of January, as herein provided.

III. All acts and parts of acts coming within the purview of this act, and inconsistent therewith, are hereby repealed.

CHAPTER 81.

(Senate Bill No. 40.)

AN ACT to amend, enlarge and re-enact sections one, two, three, four, five, six, seven and eight of chapter ninety-nine of the code of West Virginia, and to arrange and consolidate into one act the laws relating to negotiable instruments, (being an act to establish a law uniform with the laws of other states on that subject) and to repeal section nine of chapter ninety-nine of the code of West Virginia and all acts and parts of acts inconsistent with this act.

[Passed February 22, 1907. In effect January 1, 1908. Approved by the Governor February 27, 1907.]

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| <p>SEC.</p> <p>1. Requirements of negotiable instruments.</p> <p>2. The sum payable is a sum certain, although, etc.</p> <p>3. An unqualified order or promise to pay is unconditional, etc., though complied with, etc.</p> <p>4. An instrument is payable at a determinable future time, etc.</p> <p>5. Certain instruments not negotiable; character of an instrument otherwise negotiable is not affected by certain provisions, which, etc.</p> <p>6. The validity and negotiable character of an instrument are not affected by certain facts.</p> <p>7. Instrument payable on demand; when.</p> <p>8. When instrument payable to order.</p> <p>9. When payable to bearer.</p> <p>10. Terms sufficient which clearly indicate an intention to conform to requirements set forth.</p> <p>11. When instrument, etc., is dated, same to be <i>prima facie</i> evidence to be true date of making, etc.</p> <p>12. Instrument not invalid for reason it is ante-dated, etc.</p> <p>13. Holder of instrument may insert true date of issue or acceptance; insertion of wrong date.</p> <p>14. Person in possession of instrument, wanting in any material particular, granted authority to complete filling up of blanks thereon.</p> <p>15. When considered a valid contract.</p> <p>16. When contracts on negotiable instrument incomplete; how made effectual.</p> <p>17. Rules applying to construction where instrument is ambiguous or omissions made.</p> <p>18. No person liable whose signature does not appear, except, etc.</p> <p>19. Agent duly authorized to make signature of party.</p> <p>20. When agent personally liable.</p> <p>21. When agent has limited authority.</p> <p>22. When corporation or infant to incur no liability.</p> <p>23. Where signatures are forged or made without authority.</p> <p>24. Negotiable instruments to be deemed <i>prima facie</i> to have been issued for valuable consideration.</p> <p>25. What constitutes value.</p> <p>26. When holder deemed holder for value.</p> <p>27. Holder for value to extent of lien.</p> <p>28. Failure of consideration is matter of defense against person not a holder in due course.</p> <p>29. What considered accommodation party.</p> <p>30. When instrument negotiated.</p> <p>31. Indorsements.</p> <p>32. The indorsement must be an indorsement of the entire instrument.</p> | <p>SEC.</p> <p>33. An indorsement may be either in blank or special.</p> <p>34. Special and blank indorsements defined.</p> <p>35. How to convert a blank indorsement into special indorsement.</p> <p>36. When indorsement restrictive.</p> <p>37. Rights conferred upon indorsee by restrictive indorsement.</p> <p>38. A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument.</p> <p>39. Conditional indorsement.</p> <p>40. Where instrument indorsed specially may be further negotiated by delivery.</p> <p>41. Where instrument payable to two or more indorsers, not partners.</p> <p>42. Payable to bank, etc., where instrument drawn and payable to "cashier."</p> <p>43. May add proper signature; when.</p> <p>44. No personal liability to person indorsing in representative capacity, when under obligation.</p> <p>45. Every negotiation deemed <i>prima facie</i> to have been effected before instrument was overdue, except, etc.</p> <p>46. Every indorsement presumed to have been made at place where dated; except.</p> <p>47. Instrument negotiable in its origin continues so until, etc.</p> <p>48. Holder may strike out indorsement not necessary; relieved from liability.</p> <p>49. Where transfers of instrument made without indorsement of transferee.</p> <p>50. Where instrument is negotiated back to prior party.</p> <p>51. Holder of negotiable instrument may sue in own name, etc.</p> <p>52. Who holder in due course.</p> <p>53. When not deemed holder in due course.</p> <p>54. Holder in due course to certain extent; when.</p> <p>55. When title of person who negotiates an instrument is defective.</p> <p>56. What constitutes notice of an infirmity in an instrument.</p> <p>57. Holder in due course holds instrument free from any defect, etc.</p> <p>58. Holder of instrument other than holder in due course.</p> <p>59. Every holder is deemed <i>prima facie</i> holder in due course.</p> <p>60. Liabilities of a maker of a negotiable instrument.</p> <p>61. Drawer, by drawing the instrument admits existence, etc.</p> <p>62. Acceptance of instrument, admits, etc.</p> <p>63. Person placing his signature upon instrument deemed to be indorser, unless, etc.</p> <p>64. Where otherwise liable as indorser.</p> |
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Sec. 65.	Person negotiating instrument by delivery, etc., warrants, etc.	Sec. 85.	Negotiable instruments payable at time fixed therein without grace; when day of maturity falls on Sunday, etc.	
66.	Indorser who indorses without qualification warrants, etc.	86.	Where instrument is payable at a fixed period after date, etc.	
67.	When incur all liabilities of an indorser.	87.	Where payable at bank.	
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				Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six, seven and eight of chapter ninety-nine of the code of West Virginia of one thousand eight hundred and ninety-nine be amended, re-enacted and enlarged so as to read as follows:

TITLE I.

Negotiable Instruments in General.

ARTICLE I.

Form and Interpretation.

Sec. 1. An instrument to be negotiable must conform to the following requirements:

First. It must be in writing and signed by the maker or drawer;

Second. Must contain an unconditional promise or order to pay a sum certain in money;

Third. Must be payable on demand or a fixed or determinable future time;

Fourth. Must be payable to order of a specified person or to bearer; and,

Fifth. Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

Sec. 2. The sum payable is a sum certain within the meaning of this act, although it is to be paid:

First, with interest; or

Second, by stated installments; or

Third, by stated installments, with a provision that upon default in payment of any installment or of interest the whole shall become due; or

Fourth, with exchange, whether at a fixed rate or at the current rate; or

Fifth, with cost of collection or an attorney's fee in case payment shall not be made at maturity.

Sec. 3. An unqualified order or promise to pay is unconditional within the meaning of this act though coupled with,

First, an indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or

Second, a statement of the transaction which gives rise to the instrument.

But an order or promise to pay out of particular fund is not unconditional.

Sec. 4. An instrument is payable at a determinable future time within the meaning of this act which is expressed to be payable,

First, at a fixed period after date or sight; or

Second, on or before a fixed or determinable future time specified therein; or

Third, on or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

Sec. 5. An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable; but the negotiable character of an instrument otherwise negotiable is not affected by a provision which,

First, authorizes the sale of collateral securities in case the instrument be not paid at maturity; or

Second, authorizes a confession of judgment if the instrument be not paid at maturity; or

Third, waives the benefit of any law intended for the advantage or protection of the obligor; or

Fourth, gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

Sec. 6. The validity and negotiable character of an instrument are not affected by the fact that,

First, it is not dated; or

Second, does not specify the value given, or that any value has been given therefor; or

Third, does not specify the place where it is drawn or the place where it is payable; or

Fourth, bears a seal; or

Fifth, designates a particular kind of current money in which payment is to be made.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

Sec. 7. An instrument is payable on demand,

First, where it is expressed to be payable on demand, or at sight, or on presentation; or

Second, in which no time for payment is expressed.

Where an instrument is issued, accepted or indorsed when over due, it is as regards the person so issuing, accepting or indorsing it, payable on demand.

Sec. 8. The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order.

It may be drawn payable to the order of,

First, a payee who is not maker, drawer or drawee; or

Second, the drawer or maker; or

Third, the drawee; or

Fourth, two or more payees jointly; or

Fifth, one or more of several payees; or

Sixth, the holder of an office for the time being.

Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty.

Sec. 9. The instrument is payable to bearer,

First, when it is expressed to be so payable; or

Second, when it is payable to a person named therein or bearer;

or

Third, when it is payable to the order of a fictitious or non-existing person and such fact was known to the person making it so payable; or

Fourth, when the name of the payee does not purport to be the name of any person; or

Fifth, when the only or last indorsement is an indorsement in blank.

Sec. 10. The negotiable instrument need not follow the language of this act, but any terms are sufficient which clearly indicate an intention to conform to the requirements hereof.

Sec. 11. When the instrument or an acceptance or any indorsement therein is dated, such date is deemed *prima facie* to be the true date of the making, drawing, acceptance or endorsement as the case may be.

Sec. 12. The instrument is not invalid for the reason only that it is ante-dated or post-dated, *provided* this is not done for an illegal or fraudulent purpose; the person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

Sec. 13. Where an instrument expressed to be payable at a fixed period after date is issued undated or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance and the instrument shall be payable accordingly; the insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course, but as to him, the date so inserted is to be regarded as the true date.

Sec. 14. Where the instrument is wanting in any material particular, the person in possession thereof has a *prima facie* authority to complete it by filling up the blanks therein; and a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a *prima facie* authority to fill it up as such for any amount; in order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion it must be filled up strictly in accordance with the authority given and within a reasonable time;

but if any such instrument after completion, is negotiated to a holder in due course it is valid and effectual for all purposes in his hands and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

Sec. 15. Where an incomplete instrument has not been delivered it will not, if completed and negotiated without authority, be a valid contract in the hands of any holder as against any person whose signature was placed thereon before delivery.

Sec. 16. Every contract on a negotiable instrument is incomplete and revokable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties and as regards a remote party other than a holder in due course, the delivery, in order to be effectual must be made either by or under the authority of the party making, drawing, accepting or indorsing as the case may be; and in such case the delivery may be shown to have been conditional or for a special purpose only and not for the purpose of transferring the property in the instrument; but where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him, is conclusively presumed; and where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

Sec. 17. Where the language of the instrument is ambiguous or there are omissions therein the following rules of construction apply :-

First, where the sum payable is expressed in words and also in figures and there is a discrepancy between the two the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount.

Second, where the instrument provides for the payment of interest without specifying the date from which interest is to run, the interest runs from the date of the instrument and if the instrument is undated, from the issue thereof.

Third, where the instrument is not dated it will be considered to be dated as of the time it was issued.

Fourth, where there is a conflict between the written and

printed provisions of the instrument, the written provisions prevail.

Fifth. where the instrument is so ambiguous that there is doubt whether it is a bill or a note, the holder may treat it as either at his election.

Sixth. where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an endorser.

Seventh. where an instrument containing the words "I promise to pay" is signed by two or more persons they are deemed to be jointly and severally liable thereon.

Sec. 18. No person is liable on the instrument whose signature does not appear thereon except as herein otherwise expressly provided; but one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

Sec. 19. The signature of any party may be made by a duly authorized agent; no particular form of appointment is necessary for this purpose, and the authority of the agent may be established as in other cases of agency.

Sec. 20. Where the instrument contains, or a person adds to his signature words indicating that he signs for or on behalf of the principal or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent or as filling a representative character without disclosing his principal, does not exempt him from personal liability.

Sec. 21. A signature by procuration operates as notice that the agent has but limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

Sec. 22. The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

Sec. 23. Where a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative and no right to retain the instrument or to give a discharge therefor or to enforce payment thereof against any party thereto, can be acquired through or under such signature

unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority.

ARTICLE II.

Consideration.

Sec. 24. Every negotiable instrument is deemed *prima facie*, to have been issued for a valuable consideration, and every person whose signature appears thereon to have become a party thereto for value.

Sec. 25. Value is any consideration sufficient to support a simple contract; an antecedent or pre-existing debt constitutes value, and is deemed such, whether the instrument is payable on demand or at a future time.

Sec. 26. Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who became such prior to that time.

Sec. 27. Whether the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien.

Sec. 28. Absence or failure of consideration is a matter of defense as against any person not a holder in due course, and partial failure of consideration is a defense *pro tanto*, whether the failure is an ascertained and a liquidated amount or otherwise.

Sec. 29. An accommodation party is one who has signed the instrument as maker, drawer, acceptor or indorser, without receiving value therefor, and for the purpose of lending his name to some other person; such a person is liable on the instrument to a holder for value, notwithstanding such holder, at the time of taking the instrument, knew him to be only an accommodation party.

ARTICLE III.

Negotiation.

Sec. 30. An instrument is negotiated when it is transferred from one person to an other in such manner as to constitute the transferee the holder thereof; if payable to bearer it is negotiable by delivery; if payable to order it is negotiated by the indorsement of the holder, completed by delivery.

Sec. 31. The indorsement must be written on the instrument itself or upon a paper attached thereto; the signature of the indorser, without additional words, is a sufficient endorsement.

Sec. 32. The indorsement must be an indorsement of the entire instrument; an indorsement which purports to transfer to the endorsee a part only of the amount payable, or which purports to transfer the instrument to two or more endorsees severally, does not operate as a negotiation of the instrument; but where the instrument has been paid in part, it may be indorsed as to the residue.

Sec. 33. An indorsement may be either in blank or special; and it may also be either restrictive or qualified, or conditional.

Sec. 34. A special indorsement specifies the person to whom or to whose order the instrument is to be payable; and the indorsement of such endorsee is necessary to the further negotiation of the instrument; an indorsement in blank specifies no indorsee, and an instrument so indorsed is payable to bearer, and may be negotiated by delivery.

Sec. 35. The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser, in blank, any contract consistent with the character of the indorsement.

Sec. 36. An indorsement is restrictive which either,

First, prohibits the further negotiation of the instrument; or

Second, constitutes the indorsee the agent of the indorser; or

Third, vests the title in the indorsee in trust for or to the use of some other person; but the mere absence of words implying power to negotiate does not make an indorsement restrictive.

Sec. 37. A restrictive indorsement confers upon the indorsee the right,

First, to receive payment of the instruments;

Second, to bring any action thereon that the indorser could bring;

Third, to transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.

But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.

Sec. 38. A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument; it may be made adding to the indorser's signature the words "without recourse" or any

words of similar import; such an indorsement does not impair the negotiable character of the instrument.

Sec. 39. Where an indorsement is conditional, a party required to pay the instrument may disregard the condition, and make a payment to the indorsee or his transferee, whether the condition has been fulfilled or not; but any person to whom an instrument so indorsed is negotiated, will hold the same, or the proceeds, thereof subject to the rights of the persons indorsing conditionally.

Sec. 40. Where an instrument, payable to bearer, is indorsed specially, it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as make title through his indorsement.

Sec. 41. Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse unless the one indorsing has authority to indorse for the others.

Sec. 42. Where an instrument is drawn or indorsed to a person, as "cashier" or other fiscal officer of a bank or corporation, it is deemed *prima facie* to be payable to the bank or corporation of which he is such officer; and may be negotiated by either the indorsement of the bank or corporation, or the indorsement of the officer.

Sec. 43. Where the name of the payee or indorsee is wrongly designated or misspelled, he may indorse the instrument as therein described adding, if he think fit, his proper signature.

Sec. 44. Where any person is under obligation to indorse in a representative capacity, he may indorse in such terms as to negative personal liability.

Sec. 45. Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed *prima facie* to have been affected before the instrument was over due.

Sec. 46. Except where the contrary appears, every indorsement in presumed *prima facie* to have been made at the place where the instrument is dated.

Sec. 47. An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

Sec. 48. The holder may at any time strike out any indorsement which is not necessary to his title; the indorser whose indorsement is struck out, and all indorsers subsequent to him are thereby relieved from liability on the instrument.

Sec. 49. Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferer had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferer; but for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

Sec. 50. Where an instrument is negotiated back to a prior party, such party may, subject to the provisions of this act, re-issue and further negotiate the same, but he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

ARTICLE IV.

Rights of the Holder.

Sec. 51. The holder of a negotiable instrument may sue thereon in his own name and payment to him in due course discharges the instrument.

Sec. 52. A holder in due course is a holder who has taken the instrument under the following conditions:

First, that the instrument is complete and regular upon its face.

Second, that he became the holder of it before it was overdue and without notice that it had been previously dishonored, if such was the fact;

Third, that he took it in good faith and for value;

Fourth, that at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

Sec. 53. Where an instrument payable on demand it negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course.

Sec. 54. Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

Sec. 55. The title of a person who negotiates an instrument is defective within the meaning of this act when he obtained the in-

strument or any signature thereto, by fraud, duress, or force and fear, or other unlawful means, or for any illegal consideration or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

Sec. 56. To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith.

Sec. 57. A holder in due course holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

Sec. 58. In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were non-negotiable; but a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

Sec. 59. Every holder is deemed *prima facie* to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as a holder in due course; but the last mentioned rule does not apply in favor of the party who became bound on the instrument prior to the acquisition of such defective title.

ARTICLE V.

Liabilities of Parties.

Sec. 60. The maker of a negotiable instrument by making it engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to endorse.

Sec. 61. The drawer by drawing the instrument admits the existence of the payee and his then capacity to endorse, and engages that on due presentment of the instrument it will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser

who may be compelled to pay it; but the drawer may insert in the instrument an express stipulation negating or limiting his own liability to the holder.

Sec. 62. The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance, and admits:

First, the existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

Second, the existence of the payee and his then capacity to endorse.

Sec. 63. A person placing his signature upon an instrument otherwise than as maker, drawer or acceptor, is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

Sec. 64. Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery, he is liable as indorser in accordance with the following rules:

First, if the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties.

Second, if the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.

Third, if he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.

Sec. 65. Every person negotiating an instrument by delivery or by a qualified indorsement, warrants:

First, that the instrument is genuine and in all respects what it purports to be;

Second, that he has a good title to it;

Third, that all prior parties had capacity to contract;

Fourth, that he has no knowledge of any fact which would impair the validity of the instrument or render it valueless; but when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee. The provisions of subdivision three of this section do not apply to persons negotiating public or corporate securities, other than bills and notes.

Sec. 66. Every indorser who indorses without qualification, warrants to all subsequent holders in due course;

First, the matters and things mentioned in subdivision one, two and three of the next preceding section; and

Second, that the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser, who may be compelled to pay it.

Sec. 67. Where a person places his endorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

Sec. 68. As respects one another, indorsers are liable *prima facie* in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsers who indorse are deemed to indorse jointly and severally.

Sec. 69. Where a broker or other agent negotiates an instrument without indorsement, he incurs all the liabilities prescribed by section sixty-five of this act, unless he discloses the name of his principal, and the fact that he is acting only as agent.

ARTICLE VI.

Presentment for Payment.

Sec. 70. Presentment for payment is not necessary in order to charge the person primarily liable on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part; but except as herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers.

Sec. 71. Where the instrument is not payable on demand, presentment must be made on the day it falls due; where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

Sec. 72. Presentment for payment to be sufficient, must be made:

First, by the holder or by some person authorized to receive payment on his behalf;

Second, at a reasonable hour on a business day;

Third, at a proper place as herein defined;

Fourth, to the person primarily liable on the instrument, or if he is absent or inaccessible, to any person found at the place where the presentment is made.

Sec. 73. Presentment for payment is made at the proper place:

First, where a place of payment is specified in the instrument and it is there presented;

Second, where no place of payment is specified but the address of the person to make payment is given in the instrument and it is there presented;

Third, where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment;

Fourth, in any other case, if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.

Sec. 74. The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it.

Sec. 75. Where the instrument is payable at a bank, presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

Sec. 76. Where the person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative if such there be, and if with the exercise of reasonable diligence he can be found.

Sec. 77. Where the person primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

Sec. 78. Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all.

Sec. 79. Presentment for payment is not required in order to

charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

Sec. 80. Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation, and he has no reason to expect that the instrument will be paid if presented.

Sec. 81. Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence; when the cause of delay ceases to operate, presentment must be made with reasonable diligence.

Sec. 82. Presentment for payment is dispensed with:

First, where after the exercise of reasonable diligence presentment as required by this act can not be made;

Second, where the drawee is a fictitious person;

Third, by waiver of presentment, express or implied;

Sec. 83. The instrument is dishonored by non-payment when:

First, it is duly presented for payment and payment is refused or can not be obtained; or

Second, presentment is excused and the instrument is overdue and unpaid.

Sec. 84. Subject to the provisions of this act, when the instrument is dishonored by non-payment, an immediate right of recourse to all parties secondarily liable thereon, accrues to the holder.

Sec. 85. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day; instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday.

Sec. 86. Where the instrument payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment.

Sec. 87. Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

Sec. 88. Payment is made in due course when it is made at or

after maturity of the instrument to the holder thereof in good faith and without notice that his title is defective.

ARTICLE VII.

Notice of Dishonor.

Sec. 89. Except as herein otherwise provided, when a negotiable instrument has been dishonored by non-acceptance or non-payment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged.

Sec. 90. The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who upon taking it up, would have a right to reimbursement from the party to whom the notice is given.

Sec. 91. Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

Sec. 92. Where notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given.

Sec. 93. Where notice is given by or on behalf of a party entitled to give notice, it enures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

Sec. 94. Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon, or he may give notice to his principal; if he gives notice to his principal, he must do so within the same time as if he were the holder, and the principal, upon the receipt of such notice, has himself the same time for giving notice as if the agent had been an independent holder.

Sec. 95. A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication; a mis-description of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.

Sec. 96. The notice may be in writing or merely oral and may be given in any terms which sufficiently identify the instrument and indicate that it has been dishonored by non-acceptance or non-payment; it may in all cases be given by delivering it personally or through the mails.

Sec. 97. Notice of dishonor may be given either to the party himself or to his agent in that behalf.

Sec. 98. When any party is dead, and his death is known to the party giving the notice, the notice must be given to a personal representative, if there be one, and if with reasonable diligence, he can be found; if there be no personal representative, notice may be sent to the last residence or last place of business of the deceased.

Sec. 99. Where the parties to be notified are partners, notice to any one partner is notice to the firm, even though there has been a dissolution.

Sec. 100. Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others.

Sec. 101. Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee.

Sec. 102. Notice may be given as soon as the instrument is dishonored, and unless delay is excused as hereinafter provided, must be given within the time fixed by this act.

Sec. 103. Where the person giving and the person to receive notice reside in same place, notice must be given within the following times:

First, if given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following;

Second, if given at his residence, it must be given before the usual hours of rest on the following day;

Third, if sent by mail, it must be deposited in the postoffice in time to reach him in the usual course of the day following.

Sec. 104. Where the person giving and the person to receive reside in different places, the notice must be given within the following times:

First, if sent by mail, it must be deposited in the postoffice in time to go by mail the day following the day of dishonor or if there be no mail at a convenient hour on that day, by the next mail thereafter.

Second, if given otherwise than through the postoffice, then within the time that notice would have been received in due course

of mail, if it had been deposited in the postoffice within the time specified in the last subdivision.

Sec. 105. Where notice of dishonor is duly addressed and deposited in the postoffice, the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.

Sec. 106. Notice is deemed to have been deposited in the postoffice when deposited in any branch postoffice or in any letter box under the control of the postoffice department.

Sec. 107. Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

Sec. 108. Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

First, either to the postoffice nearest to his place of residence or to the postoffice where he is accustomed to receive his letters; or

Second, if he lives in one place, and have his place of business in another, notice may be sent to either place; or

Third, if he is sojourning in another place, notice may be sent to the place where he is sojourning; but where the notice is actually received by the party within the time specified in this act, it will be sufficient, though not sent in accordance with the requirements of this section.

Sec. 109. Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied.

Sec. 110. Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser it binds him only.

Sec. 111. A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be waiver not only of the formal protest, but also of a presentment and notice of dishonor.

Sec. 112. Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it can not be given to or does not reach the parties sought to be charged.

Sec. 113. Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When

the cause of delay ceases to operate, notice must be given with reasonable diligence.

Sec. 114. Notice of dishonor is not required to be given to the drawer in either of the following cases :

First, where the drawer and the drawee are the same person ;

Second, where the drawee is a fictitious person or a person not having capacity to contract ;

Third, where the drawer is the person to whom the instrument is presented for payment ;

Fourth, where the drawer has no right to expect or require that the drawer or acceptor will honor the instrument

Fifth, where the drawer has countermanded payment.

Sec. 115. Notice of dishonor is not required to be given to an indorser in either of the following cases :

First, where the drawee is a fictitious person or a person not having capacity to contract and the indorser was aware of the fact at the time he indorsed the instrument ;

Second, where the indorser is the person to whom the instrument is presented for payment ;

Third, where the instrument was made or accepted for his accommodation.

Sec. 116. Where due notice of dishonor by non-acceptance has been given, notice of a subsequent dishonor by non-payment is not necessary, unless in the meantime the instrument has been accepted.

Sec. 117. An omission to give notice of dishonor by non-acceptance does not prejudice the rights of a holder in due course subsequent to the omission.

Sec. 118. Where any negotiable instrument has been dishonored it may be protested for non-acceptance, or non-payment as the case may be ; but protest is not required except in the case of foreign bills of exchange ; and where protest of any negotiable instrument is made, the certificate of protest shall be *prima facie* evidence of what is stated therein or on the foot or on the back thereof in relation to the presentment, dishonor and notice thereof.

ARTICLE VIII.

Discharge of Negotiable Instruments.

Sec. 119. A negotiable instrument is discharged :

First, by payment in due course by or on behalf of the principal debtor;

Second, by payment in due course by the party accommodated, where the instrument is made or accepted for accommodation;

Third, by the intentional cancellation thereof by the holder;

Fourth, by any other act which will discharge a simple contract for the payment of money;

Fifth, when the principal debtor becomes the holder of the instrument at or after maturity in his own right.

Sec. 120. A person secondarily liable on the instrument is discharged:

First, by any act which discharges the instrument;

Second, by the intentional cancellation of his signature by the holder;

Third, by the discharge of a prior party;

Fourth, by a valid tender of payment made by a prior party;

Fifth, by a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved;

Sixth, by any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable or unless the right of recourse against such party is expressly reserved.

Sec. 121. When the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument; except,

First, where it is payable to the order of a third person, and has been paid by the drawer; and

Second, where it was made or accepted for accommodation, and has been paid by the party accommodated.

Sec. 122. The holder may expressly renounce his rights against any party to the instrument before, at, or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument, discharges the instrument; but a renunciation does not affect the rights of a holder in due course without notice. A renunciation

must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

Sec. 123. A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative but where an instrument or any signature thereon appears to have been cancelled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally or under a mistake or without authority.

Sec. 124. Where a negotiable instrument is materially altered without the assent of all parties liable thereon, it is avoided except as against the party who has himself made, authorized or assented to the alteration and subsequent indorsers; but when an instrument has been materially altered and is in the hands of the holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

Sec. 125. Any alteration which changes:

First, the date;

Second, the sum payable, either for principal or interest;

Third, the time or place of payment;

Fourth, the number or the relations of the parties;

Fifth, the medium or currency in which payment is to be made; or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

TITLE II—BILLS OF EXCHANGE.

ARTICLE I.

Form and Interpretation.

Sec. 126. A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to order or to bearer.

Sec. 127. A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same.

Sec. 128. A bill may be addressed to two or more drawees

jointly, whether they are partners or not; but not to two or more drawees in the alternative or in succession.

Sec. 129. An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within this state; any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

Sec. 130. Wherein a bill drawer and drawee are the same person, or where the drawee is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument at his option, either as a bill of exchange or a promissory note.

Sec. 131. The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonored by non-acceptance or non-payment; such person is called the referee in case of need; it is in the option of the holder to resort to the referee in case of need or not, as he may see fit.

ARTICLE II.

Acceptance.

Sec. 132. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer; the acceptance must be in writing and signed by the drawee; it must not express that the drawee will perform his promise by any other means than the payment of money.

Sec. 133. The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill, and if such request is refused, may treat the bill as dishonored.

Sec. 134. Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

Sec. 135. An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value.

Sec. 136. The drawee is allowed twenty-four hours after presentment in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation.

Sec. 137. Where a drawee to whom a bill is delivered for acceptance destroys the same, or refuses within twenty-four hours after such delivery, or within such other period as the holder may

allow, to return the bill accepted or non-accepted to the holder, he will be deemed to have accepted the same.

Sec. 138. A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by previous refusal to accept, or by non-payment; but when a bill payable after sight, is dishonored by non-acceptance and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

Sec. 139. An acceptance is either general or qualified; a general acceptance assents without qualification to the order of the drawer; a qualified acceptance in express terms varies the effect of the bill as drawn.

Sec. 140. An acceptance to pay at a particular place is a general acceptance unless it expressly states that the bill is to be paid there only and not elsewhere.

Sec. 141. An acceptance is qualified; which is,

First, conditional, that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated;

Second, partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

Third, local, that is to say, an acceptance to pay only at a particular place;

Fourth, qualified as to time;

Fifth, the acceptance of some one or more of the drawees, but not of all.

Sec. 142. The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, he may treat the bill as dishonored by non-acceptance; where a qualified acceptance is taken, the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto; when the drawer or an indorser receives notices of a qualified acceptance, he must within a reasonable time express his dissent to the holder, or he will be deemed to have assented thereto.

ARTICLE III.

Presentment for Acceptance.

Sec. 143. Presentment for acceptance must be made:

First, where the bill is payable after sight, or in any other case where presentment for acceptance is necessary in order to fix the maturity of the instrument or

Second, where the bill expressly stipulates that it shall be presented for acceptance; or

Third, where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

Sec. 144. Except as herein otherwise provided, the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time; if he fail to do so, the drawer and all indorsers are discharged.

Sec. 145. Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day, and before the bill is overdue, to the drawee or some person authorized to accept or refuse acceptance on his behalf; and,

First, where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only;

Second, where the drawee is dead, presentment may be made to his personal representative;

Third, where the drawee has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

Sec. 146. A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections seventy-two and eighty-five of this act; when Saturday is not otherwise a holiday, presentment for acceptance may be made before twelve o'clock noon on that day.

Sec. 147. Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.

Sec. 148. Presentment for acceptance is excused and a bill may

be treated as dishonored by non-acceptance, in either of the following cases:

First, where the drawee is dead, or has absconded, or is a fictitious person or a person not having capacity to contract by bill;

Second, where after the exercise of reasonable diligence, presentment can not be made;

Third, where although presentment has been irregular, acceptance has been refused on some other ground.

Sec. 149. A bill is dishonored by non-acceptance:

First, when it is duly presented for acceptance and such an acceptance as is prescribed by this act is refused or can not be obtained; or

Second, when a presentment for acceptance is excused and the bill is not accepted.

Sec. 150. Where a bill is duly presented for acceptance and is not accepted within the prescribed time, the person presenting it must treat the bill as dishonored by non-acceptance, or he loses the right of recourse against the drawer and indorsers.

Sec. 151. When a bill is dishonored by non-acceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder, and no presentment for payment is necessary.

ARTICLE IV.

Protest.

Sec. 152. Where a foreign bill appearing on its face to be such is dishonored by non-acceptance, it must be duly protested for non-acceptance, and where such a bill which has not previously been dishonored by non-acceptance is dishonored by non-payment, it must be duly protested for non-payment.

If it is not so protested, the drawer and indorsers are discharged; where a bill does not appear on its face to be a foreign bill, protest thereof, in case of dishonor, is unnecessary.

Sec. 153. The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it and must specify:

First, the time and place of presentment;

Second, the fact that presentment was made and the manner thereof;

Third, the cause or reason for protesting the bill:

Fourth, the demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

Sec. 154. Protest may be made by:

First, a notary public; or

Second, by any respectable resident of the place where the bill is dishonored in the presence of two or more credible witnesses.

Sec. 155. When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein provided; when a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

Sec. 156. A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business or residence of some person other than the drawee, has been dishonored by non-acceptance, it must be protested for non-payment at the place where it is expressed to be payable; and no further presentment for payment to, or demand on, the drawee is necessary.

Sec. 157. A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

Sec. 158. Where the acceptor has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

Sec. 159. Protest is dispensed with by any circumstances which would dispense with notice of dishonor; delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence; when the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

Sec. 160. Where a bill is lost or destroyed, or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

ARTICLE V.

Acceptance for Honor.

Sec. 161. Where a bill of exchange has been protested for dishonor by non-acceptance, or protested for better security, and is not overdue, any person not being a party already liable thereon,

may, with the consent of the holder, intervene and accept the bill *supra* protest for the honor of any party liable thereon or for the honor of the person for whose account the bill is drawn; the acceptance for honor may be for part only of the sum for which the bill is drawn, and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party.

Sec. 162. An acceptance for honor *supra* protest must be in writing and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

Sec. 163. Where an acceptance for honor does not expressly state for whose honor it is made, it is deemed to be an acceptance for the honor of the drawer.

Sec. 164. The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

Sec. 165. The acceptor for honor by such acceptance engages that he will, on due presentment, pay the bill according to the terms of his acceptance; *provided*, it shall not have been paid by the drawee, and *provided also*, that it shall have been duly presented for payment and protested for non-payment and notice of dishonor given to him.

Sec. 166. When a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for non-acceptance and not from the date of the acceptance for honor.

Sec. 167. Where a dishonored bill has been accepted for honor *supra* protest or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honor or reference in case of need.

Sec. 168. Presentment for payment to the acceptor for honor must be made as follows:

First, if it is to be presented in the place where the protest for non-payment was made, it must be presented not later than the day following its maturity;

Second, if it is to be presented in some other place than the place where it was protested, then, it must be forwarded within the time specified in section one hundred and four.

Sec. 169. The provisions of section eighty-one apply where there is delay in making presentment to the acceptor for honor or referee in case of need.

Sec. 170. When the bill is dishonored by the acceptor for honor it must be protested for non-payment by him.

ARTICLE VI.

Payment for Honor.

Sec. 171. Where a bill has been protested for non-payment, any person may intervene and pay it *supra* protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn.

Sec. 172. The payment for honor *supra* protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form an extension to it.

Sec. 173. The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays.

Sec. 174. Where two or more persons offer to pay a bill for the honor of different parties, the person whose payment will discharge most parties to the bill is to be given the preference.

Sec. 175. Where a bill has been paid for honor, all parties subsequent to the party for whose honor it is paid or discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter.

Sec. 176. Where the holder of a bill refuses to receive payment *supra* protest, he loses his right of recourse against any party who would have been discharged by such payment.

Sec. 177. The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

ARTICLE VII.

Bills in a Set.

Sec. 178. Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill.

Sec. 179. Where two or more parts of a set are negotiated to

different holders in due course, the holder whose title first accrues is, as between such holders, the true owner of the bill; but nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

Sec. 180. Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

Sec. 181. The acceptance may be written on any part and it must be written on one part only; if the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

Sec. 182. When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

Sec. 183. Except as herein otherwise provided, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

TITLE III.—PROMISSORY NOTES AND CHECKS.

ARTICLE I.

Sec. 184. A negotiable promissory note within the meaning of this act is an unconditional promise in writing made by one person to another, signed by the maker, engaging to pay on demand or at a fixed or determinable future time, a sum certain in money to order or to bearer; where a note is drawn to the maker's own order, it is not complete until indorsed by him.

Sec. 185. A check is a bill of exchange drawn on a bank payable on demand; except as herein otherwise provided, the provisions of this act, applicable to a bill of exchange payable on demand, apply to a check.

Sec. 186. A check must be presented for payment within a reasonable time after its issue, or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

Sec. 187. Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.

Sec. 188. Where the holder of a check procures it to be accept-

ed or certified, the drawer and all indorsers are discharged from liability thereon.

Sec. 189. A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

TITLE IV.—GENERAL PROVISIONS.

ARTICLE I.

Sec. 190. This act shall be known as the negotiable instrument law.

Sec. 191. In this act, unless the context otherwise requires:

“Acceptance” means an acceptance completed by delivery or notification.

“Action” includes counter-claim and set-off.

“Bank” includes any person or association of persons carrying on the business of banking, whether incorporated or not.

“Bearer” means the person in possession of a bill or note which is payable to bearer.

“Bill” means bill of exchange, and “note” means negotiable promissory note.

“Delivery” means transfer of possession, actual or constructive, from one person to another.

“Holder” means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

“Indorsement” means an indorsement completed by delivery.

“Instrument” means negotiable instrument.

“Issue” means the first delivery of the instrument, complete in form, to a person who takes it as a holder.

“Person” includes a body of persons, whether incorporated or not.

“Value” means valuable consideration.

“Written” includes printed, and “writing” includes print.

Sec. 192. The person “primarily” liable on an instrument is the person who, by the terms of the instrument, is absolutely required to pay the same; All other parties are “secondarily” liable.

Sec. 193. In determining what is a “reasonable time” or an “unreasonable time,” regard is to be had to the nature of the in-

strument, the usage of trade or business, if any, with respect to such instruments and the facts of the particular case.

Sec. 194. Where the day, or the last day, for doing an act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.

Sec. 195. The provisions of this act do not apply to negotiable instruments made and delivered prior to the taking effect of this act, and this act shall not take effect until January 1st, 1908.

Sec. 196. In any case not provided for in this act, the rules of the law merchant shall govern.

Sec. 197. Section nine of chapter ninety-nine of the code of West Virginia and all acts and parts of acts in conflict herewith are hereby, to that extent, repealed.

CHAPTER 82.

(Substitute House Bill No. 278.)

AN ACT to amend and re-enact sections one, two, ten, twelve, eighteen, forty, forty-four, sixty-two, sixty-six, seventy-four, seventy-seven, eighty-six, eighty-seven, eighty-eight, ninety-two, one hundred, one hundred and three, one hundred and seven, one hundred and nine, one hundred and thirteen, one hundred and fifteen, one hundred and seventeen, one hundred and twenty, and to add thereto sections eighty-eight-*a*, eighty-eight-*b*, one hundred and twenty-*a* and sections one hundred and forty, one hundred and forty one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-four, one hundred and forty-five and one hundred and forty-six of chapter thirty-two of the code of West Virginia as last amended and re-enacted by chapter thirty-six of the acts of the legislature of one thousand nine hundred and five, relating to the regulations respecting licenses, injury to persons arising from illegal sales of intoxicating liquors, remedy therefor, the amount of rate of tax on each subject of taxation, and to provide for the payment of all license privileges and franchise taxes collected by the state to the credit of the state fund.

[Passed February 22, 1907. In effect ninety days from passage. Approved by the Governor February 27, 1907.]

SEC.		SEC.	
1.	} For what a state license is necessary; payment of license not to exempt persons from penalty for violation of law.	103.	On slot machines and other automatic devices.
2.		107.	On money brokers and private banks.
10.	} How state license obtained.	109.	On roller skating rinks; provision relating to public parks where admission is charged; on fortune tellers; on labor agencies; provision as to persons transporting labor out of the state.
12.		113.	On barter patent rights; on collection agency.
18.	Powers of municipal authorities not to be impaired.	115.	On license to sell sewing machines, musical instruments, etc.
40.	Time for which license is to be granted.	117.	On theatres, opera houses, etc.
44.	License to maintain an automobile; how granted; duty of assessor to report all automobiles listed by him to the auditor; at what time.	120.	On circus, menagerie, etc.
62.	Amount and rate of tax on real and personal property; duties of the president and secretary of the board of public works.	120a.	On social clubs where liquors are sold; duties of person making application and duties of county clerk; rate of assessment; penalty for violation; chartered social clubs after paying tax shall be entitled to, etc., duties of president and secretary as to affidavit to be filed; if club operates only portion of year.
66.	} License tax on distillers and brewers.	140.	} Telegraph, telephone or express companies; domestic and foreign; to make returns to auditor; except, etc., what returns to show; when made; rate of license tax to be paid; failure to pay; certain provisions not applicable to foreign companies.
74.			
77.	Wholesale license for porter, ale, beer, etc., basis of taxation.	146.	} (2) To what fund taxes credited. (3) Inconsistent acts repealed.
86.	Penalty on such wholesaler for violations.		
87.	Retail license tax.		
88.	Wholesale license tax on spirituous liquors.		
88a.	Wholesale and retail license tax to sell spirituous liquors other than brewed liquors, provided the same be not drank upon the premises.		
88b.	License tax to sell spirituous drinks on dining cars, buffet cars and cafe cars; license, how granted.		
92.	License tax on wholesale and retail liquor dealers combined.		
100.	On junk dealers.		

Be it enacted by the Legislature of West Virginia:

I. That sections one, two, ten, twelve, eighteen, forty, forty-four, sixty-two, sixty-six, seventy-four, seventy-seven, eighty-six, eighty-seven, eighty-eight, ninety-two, one hundred, one hundred and three, one hundred and seven, one hundred and nine, one hundred and thirteen, one hundred and fifteen, one hundred and seventeen, one hundred and twenty of chapter thirty-two of the code of West Virginia, as last amended and re-enacted by chapter thirty-six of the acts of the legislature of one thousand nine hundred and five, be amended and re-enacted and that sections eighty-eight-a, eighty-eight-b, one hundred and twenty-a, one hundred and forty, one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-four, one hundred and forty-five and one hundred and forty-six be added thereto and enacted so as to read as follows:

Sec. 1. No person without a state license therefor shall

(a) keep a hotel or tavern, eating house or restaurant; or

(b) furnish intoxicating drinks or refreshments at a public theater; or

(c) sell or offer or expose for sale, solicit or receive orders for spirituous liquors, wine, porter, ale, or beer, or any drink of a like nature; or

(d) carry on the business of a distiller or brewer of whiskey, brandy, beer, porter, or ale; or

(f) carry on the business of a druggist; or

(g) keep for public use or resort a bowling alley, billiard table, pool table, bagatelle table or any table of like kind; or

(h) run or operate on any railroad in this state any dining car buffet car, cafe car or other car upon which spirituous, vinous or malt liquors are sold or exposed for sale.

All mixtures, preparations or liquids which will produce intoxication, whether they are patented or not, shall be deemed spirituous liquors within the meaning of this section except the manufacture or sale or offering or exposing for sale of absinthe or any drink compound with absinthe is forever prohibited in this state and a license to sell intoxicating or other drink in this state shall be construed and held not to include absinthe or any drink compound therewith; any violation of this provision shall be deemed and held to be a sale of intoxicating liquors without a state license therefor and shall be punishable as such.

Sec. 2. No person without a state license therefor shall

(a) exhibit any circus, menagerie, circus and menagerie combined, theatrical performances, street or other carnival or public show, to which admission is obtained for money or reward, except for the benefit or under the auspices of a volunteer fire department; or

(b) run or operate for profit a merry-go-round or roller coaster or scenic railway or like device; or keep for public use or resort a shooting gallery or skating rink; or

(c) act as a hawker or peddler; or

(d) act as an auctioneer; or

(e) practice the business of real estate agent, stock broker, merchandise broker or other broker, by buying or selling for others, stocks, securities, or any other property, for a commission or reward; or

(f) practice such business by carrying on what is commonly known as a bucket shop, or acting as agent for any person, firm or

corporation carrying on such business; or by engaging in transactions for the purchase or sale for others of grain, provisions, stocks, securities, merchandise or other property wherein the parties thereto or the broker intend that such transactions shall be settled according to the public market quotations on any board of trade or exchange, and without a *bona fide* transaction on such board of trade or exchange, or intend that such transaction may be deemed terminated when such public market quotations shall reach a certain figure, or intend that such property shall be resold before or at the time fixed in such transaction for the delivery of such property and that the difference between the contract price and the market price thereof shall be paid or received without the prior receipt or delivery of such property under the former sale; or

(g) practice the business of money broker, private banker, buying or selling uncurrent or depreciated money or funds; or exchanging one kind of money or funds for another, for benefit or reward; or

(h) practice the business of a pawn broker by lending money or other things for profit, for or on account of personal property deposited with the lender in pledge; or

(i) sell, or barter or offer or expose for sale or barter any patent right; or

(j) sell, offer or expose for sale to merchants trading stamps, premium stamps or certificates of like nature or character, or undertake with merchants to redeem such stamps or certificates in money or goods; or

(k) being a traveling agent, canvasser or salesman, sell or contract to sell any lightning rods, sewing machine, stove or range, organ or other musical instrument, or books, maps, prints, pamphlets or periodicals, except such books, pamphlets and periodicals that be of a religious or ethical nature, whether manufactured within or without the state; or

(l) sell, offer or expose for sale, solicit or receive orders for manufactured tobacco, snuff, cigars, cigarettes, or any other preparation of tobacco, or cigarette paper or wrappers, at retail; or

(m) carry on the business of a junk dealer, or act as agent, solicitor, canvasser or salesman for any junk dealer; or

(n) sell pistols, revolvers, dirks, slung-shots, billies, bowie-

knives, metallic or other false knuckles or weapons of like kind;
or

(o) maintain or occupy any house boat, or like structure or vessel, upon or along the bed, banks or shores of any navigable stream; or

(p) maintain any slot machine or other automatic device which, for the same profit or reward in each case and without any violation of law, furnishes music, or exhibits pictures, or provides facilities for weighing, or supplies any merchandise or other thing, or renders any service, except that no license in any case be required to maintain any machine actually delivering merchandise therefrom, automatically, where such machine is kept within the merchant's place of business; but no slot machine or automatic device with respect to which, or its operation, services or supplies, there is any element of chance (being a gaming table, within the meaning of section one of chapter one hundred and fifty-one of the code), shall be licensed or protected by any license; or

(q) maintain or operate an automobile or vehicle of like nature; or

(r) being a corporation, heretofore or hereafter chartered under the laws of this state, whether its principal place of business or chief works be within or without the state, do or attempt to do, any business by virtue of its charter of certificate of incorporation; or

(s) being a corporation chartered or organized under the laws of any other state or country, hold property or transact business in this state; or

(t) being a corporation, hold more than ten thousand acres of land in this state; or

(u) solicit, carry on or practice the business of a collection agency or association, whether it be a person, firm or corporation; or

(v) keep or maintain a public park, admission to which is obtained for money or other reward; or

(w) practice the business of telling or pretending to tell fortunes; or

(y) conduct a social club where spirituous liquors, wine, porter, ale, beer, or drinks of like nature are sold, exposed for sale, given away or otherwise disposed of; or

(z) carry on the business of a labor agency.

Provided, that nothing in this chapter contained, and no license or payment under the provisions hereof, shall be taken to legalize any act which otherwise may be in violation of law, or exempt any person from any penalty prescribed for such violation.

Sec. 10. The state license mentioned in the first section shall be issued only when authorized by the county court of the county, except as herein otherwise provided, and except, further, that where the act, occupation or business for which such state license is necessary is to be done or carried on in an incorporated city, village or town, lawfully incorporated and its records kept in due form, the license shall be issued only when authorized under the charter of said city, village or town, by the council or license court thereof, as well as by the county court; *provided*, that no license shall be issued for the sale of intoxicating liquors within two miles of the limits of any incorporated city, town or village in the county without the consent of the council thereof first be obtained unless the same be in another incorporated city, town or village in which there is no such license.

No license shall be granted to any corporation, either domestic or foreign, doing business in this state, for the privilege of selling or offering or exposing for sale, soliciting or receiving orders for spirituous liquors, wine, porter, ale, or beer, or any drink of like nature, at retail; or for the privilege of carrying on the business of a druggist.

Sec. 12. If the applicant desires such license for any of the purposes mentioned in paragraphs *b*, *c* or *e* of the first section he shall file a petition with the clerk of the county court of the proper county at least thirty days before the session of said court at which the same may be heard, and shall at the same time pay said clerk ten dollars for expenses connected therewith; said clerk shall cause to be published once in each week for four successive weeks in two newspapers of opposite politics (if there be such) of general circulation in the county wherein such license is desired, designated by said court, a list containing the names of all such applicants, their respective residences and the places for which application is made; the first publication shall not be less than twenty-two nor more than thirty days before the first day of the term of said court at which said petition may be heard; said petition shall show:

First, the name and residence of the applicant, and how long he has resided there.

Second, the particular place for which the license is desired, and the name of the owner of the premises.

Third, that the applicant is a citizen of the United States; the place of the birth of the said applicant, and if a naturalized citizen, the court and date of such naturalization.

Fourth, that the applicant has not, and does not intend to apply for license to do business at any other place in said county where any of said liquors are sold or kept for sale, except being a distiller or brewer, he has applied or intends to apply for a wholesale dealer's license under the provisions of this chapter.

Fifth, whether the license held by the applicant has ever been revoked, and if so when and where, and if the applicant has held a license during the previous year that he has not knowingly violated, or permitted to be violated, the law regulating the sale of intoxicating liquors.

Sixth, unless the surety offered be a trust company authorized to do business in this state, the names of not less than two reputable free-holders of the county who will become sureties on the bond hereafter required, and the statement that they are the *bona fide* owners in their own right of real estate in said county which at its assessed value is worth more than four thousand dollars above all liens and encumbrances thereon, and that they will not go upon the bond or be surety upon bonds aggregating more than the total worth of their property.

Seventh, said petition must be verified by the affidavit of the applicant, and if any false statement is willfully made in said petition the applicant shall be deemed guilty of the crime of perjury, and upon conviction shall be subject to its penalties. There shall be annexed to said petition a certificate signed by at least twelve reputable qualified voters of the magisterial district in which such liquors are to be sold, setting forth that they have been acquainted with the applicant, that they have good reason to believe that each and all of the statements contained in the petition are true, and stating their names in full, and their places of residence and the kind and places of business in which they are engaged.

If the business is to be carried on in an incorporated city, town or village, the municipal authorities whereof are not vested with the sole power to grant such licenses, the applicants shall procure

from the clerk of such city, town or village a certified copy of the order or resolution of the council of said city, town or village authorizing or assenting to such license, and shall file such certified copy with his petition.

Sec. 18. Where the council of a city, town or village is authorized by its charter or any law of the state to impose a penalty for doing any act, or engaging in any business or occupation within the limits of such municipality, without first having obtained a license therefor pursuant to the ordinances of said town, no state license shall exonerate the person holding the same from any such penalty, whether such penalty be greater or less than herein provided; but no incorporated city, village or town shall impose or require the payment of a greater annual license tax for doing any act or engaging in any business within the limits of such city, village or town, than the state tax imposed by this chapter for doing the same act or engaging in the same business or occupation, except in such city, town or village having a special charter which reserves to the council the right to fix the rate of such license.

Sec. 40. A state license to furnish intoxicating drinks or refreshments, or sell at retail spirituous liquors, wine, porter, ale or beer, or any drink of like nature, at a public theater or at any public watering place in this state, or sell patent rights, or act as hawker or peddler, or conduct a shooting gallery, or to keep for public use or resort at any public watering place in this state, a bowling alley or billiard table, or any table of like nature, shall be either for a year, four months or two months from the commencement thereof; but no license to sell intoxicating liquors as provided in this section shall be granted for a year or less except upon petition to the county court or municipal tribunal as provided in this chapter; if, for four months the state tax thereon shall be one-half, and if for two months one-third of the annual tax.

Sec. 44. A license to maintain an automobile shall be granted by the auditor to the owner thereof, and shall be co-extensive with the state; such licenses shall be numbered consecutively and a record shall be kept showing the name of the person to whom each license is granted; in addition to the certificate of license the auditor shall furnish to such licensee two metal tags or plates, bearing the same number as the license and the word "licensed," which shall be printed on such tag or plate in plain letters; one such tag or plate shall be securely attached in a conspicuous place on the

front and the other on the rear end of such automobile; any person other than the owner of the automobile licensed who shall deface or destroy such tag or plate shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars nor more than twenty-five dollars; duplicates of any such tag or plate may be issued by the auditor to the person to whom the original was issued upon payment of the fee of one dollar for each; any person who shall maintain or operate an automobile without such tag or plate or with one bearing any other number than that of the license issued therefor, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than twenty nor more than one hundred dollars. In any controversy respecting the identity or ownership or control of an automobile, the number borne by it shall be *prima facie* evidence that it was owned and operated by the person to whom the license therefor was issued; if a license for an automobile be issued to any person other than the owner, it shall be invalid and such automobile shall be deemed to be maintained and operated without a license; it shall be the duty of the assessor to report to the auditor during the month of July of each year on blanks prepared by the auditor, the names of the owners of all automobiles listed by him in his county for taxation.

Sec. 62. On real and personal property not exempt from taxation for the year one thousand nine hundred and seven, and thereafter, not to exceed five cents on the one hundred dollars valuation, for state and state school taxes shall be imposed upon real or personal property; *provided*, that the board of public works for the year one thousand nine hundred and seven, and thereafter, may reduce and fix the amount of the levy for state and state school purposes to any amount not less than two cents on each one hundred dollars, and *provided, further*, that said board, in its discretion, for the year one thousand nine hundred and seven, or any year thereafter, may levy the whole of five cents for state purposes, or may apportion the said five cent levy to the state and state school fund; *provided, further*, that the amount apportioned to the distributable school fund from all sources shall not be less than seven hundred and fifty thousand dollars annually. Any such act of the board of public works shall be certified by the president and secretary of said board to the clerk of the county court, the assessor and the sheriff of every county not later than the first

day of August of the year for which said levy is to apply; and it shall be the duty of said officers to extend the levy so fixed by the board of public works on the personal property books and the land books of their county.

Sec. 66. On every license to carry on a brewery for the manufacture of beer, porter, or ale, one hundred dollars, and in addition thereto, fifteen cents on each and every barrel manufactured or produced.

Sec. 74. The license for carrying on a distillery shall authorize the holder thereof to sell the product of such distillery at wholesale at the distillery, but shall not authorize any such holder to sell such product at retail at any place; and the shipment or delivery of any such product from any place of storage other than the distillery shall be deemed a sale without license at the place of such shipment or delivery, unless a license to sell at wholesale at that place has been obtained under this chapter and shall be in force; but a license to carry on a brewery shall authorize the holder thereof to solicit and receive orders for, sell, offer and expose for sale the product of such brewery at wholesale only, in any and all of the counties and cities, towns and villages of this state without additional tax; *provided*, the county court first authorize such a sale by a certificate duly entered of record which shall designate the places of said sales; except in those counties where the county court or other license tribunal does not grant license to sell intoxicating liquors, and except also in cities, towns and villages where the council or other license tribunal does not grant license to sell intoxicating liquors; no city, town or village shall impose on the holder of a state license to carry on a brewery any municipal license tax, unless he maintains a store house or place of business therein, and such municipal license tax shall not exceed two and one-half cents per barrel on the sales made at such store house or place of business; this, notwithstanding the provisions of chapter forty-seven of the code or of the charter of any city, town or village.

Sec. 77. On every license to sell porter, ale, beer or drinks of like nature, other than spirituous and other distilled or vinous liquors, at wholesale, seven hundred and fifty dollars to every person, firm, company or corporation selling annually not over five thousand barrels, and at the rate of fifteen cents per barrel for each additional barrel above five thousand barrels.

Sec. 86. Any person who shall violate any of the provisions of the eight preceding sections shall be guilty of a misdemeanor and shall be fined not less than five hundred dollars nor more than five thousand dollars. Any person swearing falsely to any report of actual productions or sale required by this chapter shall be guilty of a felony and upon conviction thereof shall be punished by confinement in the penitentiary for not less than one year nor more than five years.

Sec. 87. On every license to sell spirituous liquors, wine, porter, ale, beer and drinks of like nature at retail, six hundred dollars.

Sec. 88. On every license to sell spirituous liquors, wine and drinks of a like nature, other than porter, ale, beer and other brewed liquors, at wholesale, seven hundred and fifty dollars in addition to all other taxes.

Sec. 88-a. On every license to sell spirituous liquors, wine, and drinks of a like nature, other than porter, ale, beer and other brewed liquors, at wholesale and retail, *provided*, the same be not drunk upon the premises, one thousand dollars.

Sec. 88-b. On every license to sell, offer or expose for sale spirituous, vinous or malt liquors upon a dining car, buffet car, cafe car, or other car upon any railroad in this state, the sum of twenty-five dollars; such license shall be granted by the auditor.

Sec. 92. On every license to sell, as provided for in section seventy-seven and section eighty-eight of this chapter combined, when granted to the same person, firm or corporation, twelve hundred and fifty dollars, and fifteen cents for each barrel of beer sold in excess of four thousand barrels; *provided*, that no incorporated city, town or village shall impose upon the holder of the license herein provided for, a municipal tax in excess of seven hundred and fifty dollars.

Sec. 100. On every license to sell or carry on the business of a junk dealer, twenty-five dollars, and on every agent, solicitor, canvasser or salesman appointed by any junk dealer for the purpose of buying junk, ten dollars.

Sec. 103. On every license to maintain a penny slot machine or other automatic device which is not a gambling device under section one of chapter one hundred and fifty-one of the code, two dollars for each machine or device; on every license to maintain any other slot machine or automatic device which is not a gam-

bling device under section one of chapter one hundred and fifty-one of the code, five dollars for each machine or device.

Sec. 107. On every license to carry on the business of a money broker or private banker, seventy-five dollars.

Sec. 109. On every license to keep a roller skating rink for public use or resort in a city or town with a population of ten thousand or more, one hundred dollars; in a city or town with a population of more than five thousand, but less than ten thousand, fifty dollars; and in a city or town with a population not exceeding five thousand, twenty-five dollars.

On every license to keep or maintain a public park to which admission is obtained for money or reward, in counties of over thirty thousand inhabitants, twenty-five dollars; in counties of less than thirty thousand and more than twenty thousand inhabitants fifteen dollars; in counties of less than twenty thousand inhabitants, ten dollars; but such license for such public park shall not be construed to be in lieu of, or to include any other license now required by law on any subject of taxation located at or in said park or elsewhere, and every park to which admission is obtained for money or other reward shall be construed and held to be subject to the provisions of this chapter. Nothing herein contained shall be construed or held to authorize the sale of any intoxicating drinks in said public park without a state license therefor as required by law, and where such license therefor may have been obtained it shall not authorize the sale of any such intoxicating drinks on Sunday, but the furnishing of food and drinks (other than intoxicating liquors), if a state license has been obtained therefor, to visitors is allowed as well as any other licensed subject, the sale or use of which is now authorized by law.

On every license to act as a fortune teller, five dollars; on every license to conduct the business of a labor agency, one hundred dollars; any person or corporation who hires or contracts with laborers, male or female, to be employed by persons other than himself and to be transported out of the state for employment in another state, shall be deemed a labor agency within the meaning of this clause.

Sec. 113. On every license to sell or barter patent rights, ten dollars; on every license to carry on or practice the business of a collection agency; ten dollars.

Sec. 115. On every license to sell sewing machines, stoves or

ranges, if the salesman thereof travels with or without a vehicle, ten dollars; on every license to sell organs or other musical instruments if the salesman thereof travels and sells from a wagon or other vehicle, twenty dollars; on every license to sell lightning rods if the salesman thereof travels, ten dollars; on every license to travel and receive subscriptions for, or in any manner furnish books, maps, prints, pamphlets or periodicals, except such books, pamphlets, and periodicals that be of a religious or ethical nature, ten dollars; *provided*, that a license to travel and receive subscriptions for, or furnish books, maps, prints, pamphlets or periodicals shall be granted by the auditor and be co-extensive with the state.

Sec. 117. The state tax on every license for a theatrical performance shall be ten dollars for one week, and no such license shall be issued for less than one week; but if such performance be in a city or town of a population of twenty thousand or more the tax shall be twenty dollars; if the population be more than ten thousand and less than twenty thousand, fifteen dollars; if the population be ten thousand or less, ten dollars; *provided*, that a theater, opera house or other permanent place for public shows may have a license by paying a tax as follows:—if in a city of twenty thousand or more for three months, for seventy-five dollars; for six months, for one hundred dollars; or for one year, one hundred and twenty-five dollars; if in a city or town of more than ten thousand and less than twenty thousand, for three months, forty dollars; for six months, sixty dollars; and for one year, one hundred dollars; if the population be ten thousand or less, for three months, twenty dollars; for six months, thirty dollars or for one year, forty dollars; if such theater or other permanent place be outside of an incorporated city, town or village, the rate shall be the same as that for a city, town or village of a population of ten thousand or less.

Sec. 120. The state tax on every license to exhibit a circus shall be fifty dollars for each exhibition; on a license to exhibit a menagerie the tax shall be thirty dollars for each exhibition; on a license to exhibit a circus and menagerie combined, seventy-five dollars for each exhibition; on a license to exhibit each and every side show in the vicinity of a circus and menagerie, or circus and menagerie combined, ten dollars for each exhibition; on a license to exhibit a trained animal or dog and pony show, thirty dollars

for each exhibition; on a license to exhibit a wild west show, fifty dollars for each exhibition; upon a license to exhibit a magic lantern, vitascope or similar entertainment, two dollars and fifty cents for each exhibition; on a license to exhibit a street or other carnival, five dollars a week for each separate entertainment or exhibition for which a fee is charged, and on a license to exhibit any other show, ten dollars for each exhibition except that a license tax to exhibit a museum or public show where the admission is ten cents, shall be four dollars a day or twenty dollars a week.

Every show, exhibition or performance, such as is prescribed in the next preceding paragraph, whether under the same canopy or not shall be construed to require a separate license therefor, whether exhibited for compensation or not; and upon any such show, exhibition or performance being concluded, so that an additional fee for admission be charged in lieu of a check authorizing the holder to re-enter without charge, it shall be construed to require an additional license for any further or other show, exhibition or performance.

Sec. 120a. Any corporation or association chartered and organized as a social club in this state which shall desire to keep on hand at its club house or other place of meeting, wines, ardent spirits, malt liquors, or any mixture thereof, alcoholic bitters, or bitters containing alcohol, or fruit preserved in ardent spirits, to be sold directly or indirectly, or given away to the members of such corporation, shall on or before the thirtieth day of April in each year make application to the county clerk wherein the club house or other place of meeting of such corporation is located, for a certificate of license; the person making the application for such license shall file with the clerk of the county court an affidavit showing the number of persons who have been members of such corporation during the preceding year, and the clerk of the county court shall file such affidavit in his office which shall be open to the examination and inspection of the prosecuting attorney or the state tax commissioner, and assess the taxes against such corporation or association at two dollars for every person who has been a member thereof during the preceding year, and the applicant shall pay the license tax as other license taxes are paid; *provided*, the license tax to the state shall not in any case exceed five hundred dollars; unless and until the said tax has been paid any person concerned in keeping such wine, ardent spirits, malt liquors or

mixtures thereof, alcoholic bitters, bitters containing alcohol or fruit preserved in ardent spirits and sell, directly or indirectly, or giving away the same or any part of the same, to any member or members of such corporation, shall be subject to the penalties prescribed by section three of this chapter for persons selling spirituous liquors, wines, porter, ale, beer or drinks of like nature without a state license therefor.

Any corporation or association chartered and organized as a social club and paying the tax above prescribed shall be entitled to distribute and dispense wines, ardent spirits, malt liquors or any mixture thereof, alcoholic bitters or bitters containing alcohol, or fruit preserved in ardent spirits, to and among its members, without obtaining any license or paying any further tax, either state, municipal or county, for the said privilege, than is above prescribed; *provided*, that the said corporation is organized and conducted as a *bona fide* social club; and *provided, further*, that no person or corporation shall be entitled by the payment of the tax above prescribed to conduct the business of a wholesale or retail liquor dealer for which a license is required under the existing laws of the state.

Upon complaint of any person that any such corporation so chartered as a social club is being conducted, or has been conducted, for the purpose of violating or evading the laws of this state regulating the licensing and sale of liquors, and after service of such complaint on such corporation at least ten days before the hearing of said complaint, the circuit court of the county wherein is located its place of business or meeting, or the judge thereof in vacation, shall inquire into the truth of said complaint and if the court or judge in vacation shall adjudge that the said corporation is being conducted, or has been conducted, for the purpose of violating or evading the laws of the state regulating the licensing and sale of liquors, the chartered rights and franchises of said corporation shall cease and be void without any further proceedings, and the said corporation and all persons concerned in the violation or evasion of said law shall be subject to the penalties prescribed by section three of this chapter for the sale of intoxicating liquors without a state license therefor.

No corporation or organization chartered and organized as a social club shall be entitled to the privileges of this act unless annually, at a session of the county court held prior to the first day of May for each county wherein such club is, the president or secretary

of such club shall, upon oath or by affidavit, filed with the court that such membership exceeds thirty *bona fide* members, and that such organization is a *bona fide* social club and not an organization created or conducted for the purpose of violating or evading the laws of this state regulating the licensing and sale of liquors; and the word "members" wherever used in this act shall not apply to any person under the age of twenty-one years; *provided*, that any corporation or association chartered and organized as a social club which only operates a part or portion of a year may secure the license herein provided for the part or portion of such year it is in actual operation, and the license tax shall be in proportion to the annual tax for such time as such club is operated.

Sec. 140. Every telegraph, telephone or express company having its principal place of business in this state and incorporated by an act of the general assembly of Virginia passed before the twentieth day of June, one thousand eight hundred and sixty-three, or heretofore or hereafter incorporated under and pursuant to any act of the legislature of this state, shall be deemed a domestic company; and every other telegraph, telephone or express company, a foreign company.

Sec. 141. Every foreign telegraph, telephone and express company doing business in this state, or the agent or agents thereof, shall annually make returns to the auditor as follows: *provided*, that where there are several agents of any such company in this state the returns may be made by any one of them on behalf of all; and *provided, further*, that this act shall not apply to telegraph lines owned and operated by railroad companies for railroad purposes only.

Sec. 142. If such returns be made on behalf of a telegraph or telephone company they shall show the full number of miles of telegraph or telephone line used or operated by the said telegraph or telephone company within this state during the annual period ending December thirty-first next preceding, but in ascertaining said mileage no more than one line of wire shall be counted or measured.

Sec. 143. If the returns be made on behalf of any express company they shall show the full number of miles of road used or operated by said express company within this state during the period to which such returns relate.

Sec. 144. The said return shall be made within twenty-one days after the first day of February in every year, and shall include the full number of miles of road used or operated by said express com-

pany, or the full number of miles of telegraph or telephone line used or operated by said telegraph or telephone company, during the twelve months preceding the first day of January in that year; the return so made shall be verified by the affidavit of the officer or agent making the same.

Sec. 145. At the time of making such returns by any foreign telegraph, telephone or express company, the officer or agent making the same shall pay into the treasury of the state for each telegraph, telephone or express company, a license tax as follows:—for express companies one dollar and fifty cents per mile of road upon or over which it carries expressage; telegraph companies one dollar per mile of telegraph wire over which telegraph messages are sent or received, except as hereinbefore provided; telephone companies one dollar per mile of telephone wire over which messages are sent or received as common carriers between the cities, towns or villages, but not over local exchanges in such cities towns or villages; *provided, however*, that no such corporation shall pay an annual license tax of less than one hundred dollars; all of which license taxes shall be credited to the state fund, and the company paying such taxes, shall take duplicate receipts therefor, one of which shall be filed with the auditor. Failure to make such report or pay such license taxes shall have all the force and effect as the failure to pay the license taxes on the charters of resident and non-resident domestic corporations.

Sec. 146. Nothing in the provisions of section one hundred and forty to one hundred and forty-five, both inclusive, of this chapter, shall be construed to impose such license tax on foreign insurance, telegraph, telephone or express companies, as is mentioned in sections one hundred and thirty and one hundred and thirty-one, of this chapter; nor shall the provisions of section one hundred and forty to one hundred and forty-five, inclusive, be construed to exempt any foreign telegraph, telephone or express company, association or corporation from the assessment and payment of the tax on the property of any such company, association or corporation, as is provided for by chapter twenty-nine, of the code of one thousand eight hundred and ninety-nine, as heretofore amended or hereafter to be amended.

II. Notwithstanding the provisions of section sixty of chapter forty-five of the code, all the license privileges and franchise taxes

collected by the state shall, after April first, one thousand nine hundred and seven, be credited to the state fund.

III. That from and after the passage of this act, all acts and parts of acts which are inconsistent herewith, or which are hereby substantially re-enacted, be and the same are hereby repealed, saving, reserving and excepting under the state the right to collect any tax, taxes, interest, penalty or penalties, due or owing, or accruing under the said sections, or parts of sections, or any of them, prior to the time this act goes into effect.

HOUSE JOINT RESOLUTION NO. 4.

(Adopted January 14, 1907.)

Authorizing the auditor to draw his warrants on the treasurer for the per diem and mileage of the members of the legislature, and the per diem of the officers and attaches of the senate and the house of delegates.

Resolved by the Legislature of West Virginia:

That the auditor is hereby authorized to issue his warrants on the treasurer for such amounts as are, or may become due to the several members, officers and attaches of the senate and house of delegates, for their per diem upon the proper requisition of the clerk of the senate and the sergeant-at-arms of the house, respectively and the said auditor is further authorized to issue his warrants for the mileage of the members of the two houses as soon as said mileage is ascertained and fixed, upon the proper requisition being presented to him therefor.

HOUSE JOINT RESOLUTION NO. 9.

(Adopted January 23, 1907.)

Requesting our representatives, and instructing our senators to use their influence to obtain an appropriation for the improvement of the Guyandotte, Little Kanawha and Elk rivers.

Resolved by the Legislature of West Virginia:

That the representatives from this state in the house of representatives of the United States be and they are hereby requested, and our United States senators are instructed to use their influence and all honorable means in their power to cause an appropriation to be made by the congress to permanently improve the Guyandotte, Little Kanawha and Elk rivers, in West Virginia, by a system of locks and dams sufficient to afford transportation of the great natural resources of wealth in coal and timber upon said rivers and their tributaries.

HOUSE JOINT RESOLUTION NO. 10.

(Adopted January 21, 1907.)

Fixing the per diem to be paid assistant janitors of the capitol building during the session of the legislature.

Resolved by the Legislature of West Virginia:

That the sergeant-at-arms of the house, and the clerk of the senate are hereby directed and authorized to draw warrants upon the auditor for the following attaches: Sam Stephenson, Bascom Smith, Sam Mack, Elvin Whittington, Ben Sisson, P. S. Forth and Sam Buckner, special janitor force for the house and senate; salary three dollars per day. The sergeant-at-arms of the house to draw warrants for one half, or one dollars and fifty cents per day, and the clerk of the senate to draw warrants for the other half, or one dollar and fifty cents per day, on demand of attaches.

SUBSTITUTE FOR HOUSE CONCURRENT RESOLUTION
NO. 5 AND HOUSE JOINT RESOLUTION NO. 19.

(Adopted February 6, 1907.)

Appointing a committee of the legislature to investigate mine disaster and report to the legislature.

WHEREAS, on the evening of January twenty-ninth, one thousand nine hundred and seven, a most disastrous mine explosion oc-

curred at Stuart mine, Fayette county, West Virginia resulting in the death of over eighty mine workers, rendering over forty families, widows and children orphaned, and

WHEREAS, many explosions in mines have occurred in this state within the recent past resulting in great loss of life and property, and

WHEREAS, the governor of this state in obedience to the great public concern and apprehension occasioned by the loss of life in coal mines in this state prior to the convening of the present session of the legislature, appointed a commission to take up the entire subject of mining legislation and report a feasible and practical plan for amending the mining laws of this state, to the end that health of the mine workers might be preserved, loss of life prevented and property saved; and

WHEREAS, there has never been a legislative investigation of mine disaster in this state, and it is commonly charged that the local investigations of these calamities are not thorough, and it is the desire of the legislature to do what is best after hearing all the facts and after knowing all the conditions, and without charging negligence or fault to any one, it is hereby

Resolved by the Legislature of West Virginia:

First, that a committee of five be and the same is hereby appointed, consisting of three upon the part of the house of delegates to be appointed by the speaker thereof, and two on the part of the senate to be appointed by the president thereof, which committee at once shall fully and fairly investigate;

Second, whether said Stuart mine was being operated in violation of law, and if so in what particular it was being so operated;

Third, the cause of the disaster at said Stuart mine and other like disasters occurring in the state within the recent past;

Fourth, to investigate fully the bureau of mine inspection as to the conduct and workings of its office;

Fifth, to ascertain and report what further legislation is necessary in order to prevent a recurrence of similar disasters, and what further legislation may be necessary to enable the mine inspector effectively to promulgate rules and regulations for the conduct of mining operations and to secure the enforcement of the law and the compliance with such rules and regulations.

The committee is hereby directed to report upon its investigation on or before the eighteenth day of the present month.

Said committee is authorized to obtain the assistance of two persons expert in mines and mining in all its branches and to employ necessary stenographers.

The attorney general is hereby directed to give the committee all possible assistance; and the committee is empowered to employ such other counsel as it may deem necessary.

All expenses of this investigation shall be paid out of the treasury of the state upon warrants drawn by the auditor therefor; the auditor is hereby authorized and directed to draw his warrant for such amounts as shall be certified to him by the chairman of the joint committee hereby created.

The committee is hereby empowered to send for persons, papers and records; to administer oaths, and to examine witnesses under oath.

HOUSE JOINT RESOLUTION NO. 20.

(Adopted February 9, 1907.)

Authorizing the sergeant-at-arms of the house and the clerk of the senate to issue warrants to certain attaches.

Resolved, That the sergeant-at-arms of the house and the clerk of the senate are hereby directed and authorized to draw warrants upon the auditor for J. J. Carrington of the special janitor force for the house and the senate; salary three dollars per day; the sergeant-at-arms of the house to draw warrants for one-half, or one dollar and fifty cents per day, and the clerk of the senate to draw warrant for the other half, or one dollars and fifty cents per day on demand of attache, pay to commence January twenty-third, one thousand nine hundred and seven.

HOUSE SUBSTITUTE FOR SENATE JOINT RESOLUTION
NO. 21.

(Adopted February 22, 1907.)

House Substitute for Senate Joint Resolution No. 21 authorizing the appointment of a select committee to hold meetings and make reports on all state institutions.

Resolved, that a legislative committee of five be appointed and selected to report upon each of the various institutions; this committee shall be composed of five members, two (2) to be selected and appointed from the senate by the president thereof, and three (3) to be selected from the house of delegates by the speaker thereof, and not more than two of whom shall be selected from the same political party.

It shall be the duty of this committee during the recess of the legislature to hold hearings, receive reports, and formulate and make plans for the grouping of institutions of like kind and nature under one management or board of directors; make and report recommendations regarding the future management of each and all state institutions to the next session of the legislature, or to any special session called therefor, also to report on a uniform system of accounting, auditing and the purchasing and distribution of supplies; also to report on any needed legislation deemed advisable, to secure the greatest economy possible therein, and such other matters as it may deem pertinent to carry out the objects of this resolution; this committee shall have power and authority to employ stenographers, an actuary and such other clerical assistance as it may deem necessary, to administer oaths, summon witnesses and compel the production of documents and all kinds and manner of evidence; and it shall file in the office of the secretary of state its report as soon as practicable thereafter, and the same shall be published.

The members of the said committee shall be paid a per diem of four dollars (\$4.00) and their actual expenses, and the clerical and stenographic assistants such reasonable compensation as may be fixed by the committee, which amounts shall be paid by warrants drawn by the auditor on the state treasury from moneys not otherwise appropriated.

HOUSE JOINT RESOLUTION NO. 24.

(Adopted February 22, 1907.)

Providing for the printing and distribution of advance copies of the acts and journals of this session.

Resolved by the Legislature of West Virginia:

That the chief clerks of the two houses be directed to cause to be printed by the public printer, one thousand advance copies of the acts of this session, with full table of contents, and index, in pamphlet form, for distribution among the members of the legislature and public officials; said public printer shall print and deliver said advance copies to the assistant clerk appointed by the chief clerks of the two houses to look after the said work, within forty days after the adjournment of this session; upon receipt of the same, the said assistant clerk shall without delay, forward by mail to each member of the legislature at least four copies thereof; and the sum of seventy-five dollars out of the contingent fund of the house of delegates and the sum of fifty dollars out of the contingent fund of the senate is hereby appropriated, and is directed to be paid upon the warrant of the proper officials of the respective houses, to pay the postage or expressage thereon. Clerks are also directed to have the journal of this session, and also to include therein the legislative manual; said assistant clerk so appointed shall during the preparation of the acts assist the chief clerks in proof reading and codifying the acts and shall also have personal supervision of shipping the same.

For the work provided for in this resolution said assistant clerk shall be allowed an extension of forty-five days; twenty-five days of the per diem to be paid out of the contingent fund of the house and twenty days out of the contingent fund of the senate; the auditor shall pay said amount when warrants are drawn by the proper authorities, and said clerks shall be allowed fifteen days; the per diem to be paid out of the contingent fund of the house and senate, respectively.

SENATE JOINT RESOLUTION NO. 8.

(Adopted January 21, 1907.)

Approving the stand taken by the President of the United States against trusts.

Resolved by the Legislature of West Virginia:

That the legislature of West Virginia hereby sends greetings

to the President of the United States upon his determined stand against the criminal trusts which have aspired to own not only the commerce but the state governments of the country; especially do we approve of his courageous position against the gigantic Standard Oil Company. He has demonstrated to the American people that the practical thing to do is to enforce the law, and the patriotic thing to do is to make even the powerful trusts respect the rights of the people. We endorse his vigorous policy against trusts and combinations, and pledge to him our cordial support in his efforts to enforce respect for the law and to curb the exactions of these monster combinations.

Resolved, further, that we commend the course of the President on the question of taxing incomes.

Resolved, further, that a copy of these resolutions be transmitted to our senators in congress with instructions to present the same to the President.

SENATE JOINT RESOLUTION NO. 13.

(Adopted January 23, 1907.)

Proposing an amendment to the Constitution of the United States prohibiting polygamy and polygamous cohabitation within the United States.

WHEREAS, it appears from investigation recently made by the senate of the United States, and otherwise, that polygamy still exists in certain places in the United States notwithstanding prohibitory statutes enacted by the several states thereof; and

WHEREAS, the practice of polygamy is generally condemned by the people of the United States and there is a demand for more effectual prohibition thereof by placing the subject under federal jurisdiction and control, at the same time reserving to each state the right to make and enforce its own laws relating to marriage and divorce; now, therefore, be it

Resolved by the Legislature of West Virginia:

That application be and is hereby made to congress, under the provision of article five of the Constitution of the United States,

for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited, and congress shall be given power to enforce such prohibition by appropriate legislation.

Resolved, that the legislatures of all other states of the United States now in session, or when next convened, be and they hereby are respectfully requested to join in this application by the adoption of this or equivalent resolution.

Resolved, further, that the secretary of state be and hereby is directed to transmit copies of this application to the senate and house of representatives of the United States, and to the several members of said bodies representing this state thereon; also to transmit copies hereof to the legislatures of all the other states of the United States.

SENATE JOINT RESOLUTION NO. 22.

(Adopted February 16, 1907.)

Authorizing the special joint committee of the senate and house of delegates raised by authority of House Concurrent Resolution No. 5 and House Joint Resolution No. 19, to sit in vacation and perform the duties required of it in the resolution authorizing its appointment.

WHEREAS, the committee appointed in pursuance of House Concurrent Resolution No. 5, and House Joint Resolution No. 19, has this day reported to the legislature that it is impossible for them to make the investigation required in said resolution and make report thereon by the eighteenth day of February, and

WHEREAS, in said report said committee states that it will be impossible during the present session of the legislature to make such investigation as will be of material benefit in the way of legislation on the subject of mine disasters, therefore be it

Resolved by the Legislature of West Virginia:

That the said committee be and it is hereby authorized to sit in vacation and perform the duties required of it in the resolutions authorizing its appointment; the said committee shall have the

power to send for persons and papers, to administer oaths, to employ such clerical assistance as may be necessary in the discharge of its duties, and to do all other things that may be necessary in ascertaining the information required of it in the said resolution authorizing its appointment.

SENATE JOINT RESOLUTION NO. 24.

(Adopted February 21, 1907.)

Respecting the public services and death of Hon. William Dameron Talbot.

WHEREAS, the members of this legislature have learned with profound sorrow of the death of William Dameron Talbot, a member of the senate from the county of Upshur and the thirteenth senatorial district, which occurred in this city on this twenty-first day of February, one thousand nine hundred and seven, at seven o'clock A. M.; and

WHEREAS, he was one of the state's most respected and highly honored citizens, lawyers and statesmen and

WHEREAS, he began his distinguished public career as a member of the house of delegates, and has since served with marked ability and distinction as a member of the house and senate; therefore be it

Resolved by the Legislature of West Virginia:

That in his distinguished public career the state has had a wise, faithful servant, and in his death we lose one of our wisest counselors and safest leaders.

Resolved, that in recognition of this fact a committee of three from the senate and three from the house be appointed by the president of the senate and the speaker of the house, together with the sergeant-at-arms of the senate, to accompany the remains of the deceased to his home for interment; and that as a further mark of respect the two houses do now adjourn until to-morrow, and that the legislature, in a body attend the conveyance of his remains to the railroad station at two forty-five this P. M.

Resolved, further, that an engrossed copy of this resolution be

sent to the widow of the deceased, by the clerk of the senate and the clerk of the house.

SENATE JOINT RESOLUTION NO. 25.

(Adopted February 22, 1907.)

Authorizing the payment of per diem and mileage of special joint committee and clerks while sitting in vacation.

Resolved by the Legislature of West Virginia:

That the chairman of the special joint committee to investigate the Stuart mine disaster be, and he is hereby authorized to draw warrants on the auditor for the per diem of the members of that committee and clerks while sitting in vacation of the legislature, to be paid out of the funds already appropriated for that purpose.

PROCLAMATION.

STATE OF WEST VIRGINIA,
EXECUTIVE DEPARTMENT.

I, William M. O. Dawson, Governor of the State of West Virginia, by virtue of the authority conferred upon me by section seven of article seven of the Constitution, do hereby call the Legislature of said State to convene, at the Capitol, in the City of Charleston, on Saturday, the twenty-third day of February, A. D., 1907, at two o'clock in the afternoon, to act upon the following subjects of legislative business, to-wit:

First. To make appropriations of public money to pay general charges upon the treasury.

Second. To make appropriations of public money to pay members of the Legislature and for salaries of the officers of the government, in pursuance of section forty-two of Article seven of the Constitution.

Third. To take up, consider, amend and pass the following bills:

(1) A bill known in the session just expired as House Bill No. 188, entitled, "A Bill to amend and re-enact sections five, six, seven, ten, twelve, thirteen, fourteen, fifteen, seventeen, eighteen, nineteen, twenty, twenty-eight, twenty-nine, thirty, thirty-one, thirty-six, thirty-eight, forty-eight, forty-nine, fifty-two, fifty-three, fifty-seven, fifty-nine, sixty-four, sixty-five, sixty-seven, sixty-eight, seventy-one, seventy-two, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-six, one hundred and twenty-nine, one hundred and thirty and one hundred and thirty-two of chapter twenty-nine of the Code of West Virginia as last amended and re-enacted by chapter four of the Acts of 1904, and chapter thirty-five of the Acts of 1905, relating to the assessment of taxes."

(2) A bill known in the session just expired as Senate Bill No. 144, entitled, "A Bill to amend and re-enact sections one, two, ten, twelve, eighteen, forty, forty-four, sixty-two, sixty-six, seventy-four, seventy-seven, eighty-six, eighty-seven, eighty-eight, ninety-two, one hundred, one hundred and three, one hundred and seven, one hundred and nine, one hundred and thirteen, one hundred and fifteen, one hundred and seventeen, one hundred and twenty, and to add thereto section one hundred and twenty-a, of chapter thirty-two of

the Code of West Virginia as last amended and re-enacted by chapter thirty-six of the Acts of the Legislature of nineteen hundred and five, relating to the regulations respecting licenses, injury to persons arising from illegal sales of intoxicating liquors—remedy therefor, the amount of rate of tax on each subject of taxation, and to provide for the payment of all license privileges and franchise taxes collected by the state to the credit of the state fund.”

(3) A bill known in the session just expired as Senate Bill No. 171, entitled, “A Bill to create the department of mines, to provide a more efficient system of mine inspection, to re-district the state for the purpose of mine inspection, and to regulate mining operations.”

(4) A bill known in the session just expired as Substitute for House Bill No. 53, being a bill to amend and re-enact section two of chapter eight of the Acts of 1904.

(5) To take up, consider, amend and pass a bill known in the session just expired as Senate Bill No. 197, entitled, “A Bill imposing a state record tax on certain writings and instruments admitted to record in the office of the clerk of the county court.”

(6) To take up, consider, amend and pass a bill known in the session just expired as Senate Bill No. 215, entitled, “A Bill to define a trust and to provide for criminal penalties and civil damages and punishment of corporations, persons, firms and associations, or persons connected with them, and to promote free competition in commerce and all classes of business in the State.”

(7) To take up, consider, amend and pass a bill known in the session just expired as House Bill No. 155, entitled, “A Bill to repeal the act incorporating Adelphi Lodge No. 8 of the Independent Order of Odd Fellows in the town of Clarksburg, as passed by the General Assembly of Virginia, April 7, 1858, together with the amendment and re-enactment of the same by the Acts of 1866, of the Legislature of West Virginia, together, also with the amendment and re-enactment of the same by the Acts of 1891 of the Legislature of West Virginia, and all other Acts or parts of Acts relating to said incorporation of Adelphi Lodge No. 8.”

(8) To take up, consider, amend and pass a bill known in the session just expired as Senate Bill No. 138, entitled, “A Bill to amend and re-enact chapter thirty-nine of the Acts of West Virginia Legislature of nineteen hundred and five, constituting the auditor of this state the attorney-in-fact for all foreign and non-resi-

dent domestic corporations and prescribing his duties, as such, and requiring him to pay into the state treasury the revenues therefrom."

(9) To take up, consider, amend and pass a bill known in the session just expired as Senate Bill No. 139, entitled, "A Bill to amend and re-enact section twenty-four of chapter fifty-four of the Code of eighteen hundred and ninety-nine, concerning an attorney-in-fact."

(10) To take up, consider, amend and pass a bill known in the session just expired as Senate Bill No. 130, "A Bill to prohibit sales of merchandise in bulk in fraud of creditors."

Fourth. To act upon any message of the Governor disapproving any act or resolution of the Legislature, passed either at this extra session or at the session just expired, as provided in section 14 of article seven of the Constitution; and also to act upon any such act or resolution as provided in said section 14; and, also, to take up, consider, amend and pass again any such act or resolution.

Fifth. To consider and pass any act or acts relating to or concerning the revenues of the state arising from license taxes, or the assessment of property for taxation, or the levying of taxes on property.

Sixth. To pass resolutions or acts to put into effect from passage any act passed either at this extra session or at the session just expired.

I respectfully request, in order to economize in the expenditure of public money as far as practicable, that the Speaker and Clerk of the House, and the President and Clerk of the Senate, select only such clerks and other employes whose services are absolutely necessary during this extra session, and that such only be retained, and all other discharged.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed, this twenty-third day of February, in the year of
(GREAT SEAL) our Lord nineteen hundred and seven, and of the State the forty-fourth.

WM. M. O. DAWSON.

By the Governor;

C. W. SWISHER,

Secretary of State.

ACTS

OF

WEST VIRGINIA
LEGISLATURE

EXTRAORDINARY SESSION

1907.

ACTS OF 1907

EXTRA SESSION

CHAPTER 1.

(Senate Bill No. 15.)

AN ACT amending and re-enacting section twenty-one of an act passed on the twenty-fourth day of February, one thousand eight hundred and seventy-two, entitled, "An act to amend and re-enact the charter of the town of Charles Town, in the county of Jefferson."

[Passed March 1, 1907. In effect from passage. Approved Governor, March 6, 1907]

SEC.
21. Powers and duties of council.

Be it enacted by the Legislature of West Virginia:

That section twenty-one of an act passed on the twenty-fourth day of February, one thousand eight hundred and seventy-two, entitled, "An act to amend and re-enact the charter of the town of Charles Town, in the county of Jefferson," be and is amended and re-enacted so as to read as follows:

Sec. 21. The council shall have power to open new streets, and extend, widen, straighten and repair old streets and alleys; to curb and pave streets, sidewalks and gutters for public use, and to alter, improve and light the same; and shall have control of all the avenues for public use in said town, to have the same kept in good order and free from obstructions on or over them; to regulate and determine the width of all streets, sidewalks and public alleys; to order and direct the curbing and paving of all sidewalks and foot ways for public use in said town, to be done and kept in good order by the owners or occupants of the adjacent property; to control the construction and repairs of all houses, bridges and culverts; the opening and construction of all ditches, drains and gutters; to widen, deepen and clear the same of stagnant water and filth, and to determine at whose expense the same shall be done; to purchase,

to lay off and appropriate public grounds and control the use of the same; to provide, contract for and take care of all public buildings proper to the town; to provide for the regular building of houses or other structures; to cause the removal of unsafe walls or buildings; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated anything which, in the opinion of the majority of the whole council, shall be a nuisance; to regulate the keeping of gun powder and other combustibles; to provide in or near the town, places for the burial of the dead; and regulate the interments in the town, and provide ornamental trees; to provide for making division fences and for the draining of lots by proper drains and ditches; to make regulations for guarding against danger or damages from fire; to provide for the poor of the town; to organize one or more fire companies, and provide the necessary apparatus, tools, implements, engines, or any of them, for their use; to provide a sufficient revenue for said town, and appropriate the same to its expenses; to issue bonds of the corporation and make sale thereof; but no such bonds shall be sold by said corporation for less than par, nor bearing a higher rate of interest than eight per cent per annum; nor shall said corporation be indebted on account of such issue at any period in a greater sum than ten thousand dollars without the consent of a majority of the voters of the town, expressed at an election held for that purpose; nor shall the whole indebtedness of said town at any time ever exceed the sum of fifty thousand dollars; to provide for the annual assessment of taxable persons and property in the town; to adopt rules for the transaction of business and for the government and regulation of its own body, to promote the general welfare of the town, and to protect the persons and the property of the citizens therein; to appoint the officers authorized by section sixteen of this act, fix their term of service and compensation, require and take from them bonds, with such sureties and in such penalties as the council may determine, conditioned for the true and faithful discharge of their duties, and remove them at pleasure, (all bonds taken by the council shall be made payable to the town by its corporate name); to provide for and regulate the weighting of hay, coal, wood, and other articles sold or for sale in said town, and to regulate the transportation thereof through the streets; to establish and regulate markets, to prescribe the time for holding the same, and what articles shall be sold only

in said markets; to protect places of divine worship; to lay off the town into three or more wards and to appoint and publish the places of holding town elections; to erect, or authorize, or prohibit, the erection of gas works in or near town, to prevent injuries to and provide protection of the same; to provide for the purity of the water and the healthfulness of the town; for all of which purposes, except that of taxation, the council shall have jurisdiction for one mile beyond the corporate limits of said town.

CHAPTER 2.

(House Bill No. 67—Regular Session.)

AN ACT providing for a charter for the city of Chester, in the county of Hancock, and to nullify the certificate of incorporation heretofore granted by the circuit court of the said county to the town of Chester.

[Passed February 28, 1907; over the veto of the Governor. In effect ninety days from passage.]

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. Corporate name and powers. 2. Corporate boundaries. 3. Wards. 4. Officers; qualifications; common council. 5. Election; when held; voters; how elections held. 6. Contested elections. 7. Term of office of mayor, clerk and councilmen; successors; officers appointed by council; term of office; clerk ineligible for second appointment, unless, etc. 8. Oath of office. 9. Council to prescribe powers and define duties of officers by it appointed. 10. Council to take bond from officers whose duty it is to receive moneys. 11. Removals; how made; vacancies; how filled. 12. Power of council as to meetings; duties of mayor; when member of council cannot vote. 13. Minute book and ordinance book to be kept; by whom. 14. Proceedings of council of last meeting to be read, etc., and signed by presiding officer. 15. Requirements as to expenditure of money other than to defray current and incidental expenses. 16. Powers of council. 17. Council to have full authority to adopt needful ordinances, etc., mayor to inflict and enforce fines; who to act in absence of mayor. 18. Salary of mayor. | <p>SEC.</p> <ol style="list-style-type: none"> 19. Powers and duties of mayor. 20. Process in proceedings to enforce ordinances. 21. Power of mayor as to the issue of execution of fines imposed by him. 22. Duty of the jailor of Hancock county as to receiving prisoners; expenses of maintaining prisoners. 23. Docket to be kept; what to contain. 24. Appeals; within what time granted; provisions of law applicable. 25. Duty of mayor where appeal is taken. 26. If appellant found guilty of a violation of ordinance in question; what then. 27. Appeals in cases other than in violation of ordinances. 28. Duties of city clerk; salary; duties of sergeant. 29. Duties of assessor; compensation. 30. Council to lay levy based on estimate of annual expenses; what levy upon; capitation tax; council to have published financial statement. 31. Clerk to give bond; in what sum. 32. Duty of city clerk after annual levy is made; duty of sergeant as to collection. 33. Duty of sergeant as to taxes in his hands for collection; to keep regular books of account; compensation; recourse if sergeant fail to collect, etc., moneys with which he may be chargeable. |
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<p>SEC. 34. Duties of solicitor. 35. Lien on real estate. 36. Duties of chief of police; to execute bond; salary. 37. Violations in presence of police; offender may be forthwith apprehended, etc. 38. For what city license required. 39. Licenses, how applied for and granted; tax; to whom paid. 40. Provisions of law relating to state licenses applicable to licenses granted by city. 41. Council to have right to institute condemnation proceedings. 42. Pavements.</p>	<p>SEC. 43. Council to advertise for bids for paving and shall have authority to provide for paving, etc., how paid; assessments; lien on real estate. 44. City of Chester to succeed to all rights, etc., of the town of Chester; officers now in office; successors; certificate of incorporation annulled. 45. Inconsistent acts repealed; act to be in force as soon as ratified by a majority of voters; council of town of Chester to call an election.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. The inhabitants of Hancock county in this state, now and hereafter residing within the boundaries prescribed in the next section hereof, shall be and they are hereby constituted a body politic and corporate, by and under the name of "City of Chester" and as such, and by and in that name, shall have perpetual succession and a common seal, and may sue and be sued, contract and be contracted with, purchase, lease, hold and use real and personal property necessary for corporate purposes; and generally, shall have all the rights, powers and franchises belonging or appertaining to municipal corporations in this state.

Sec. 2. The boundaries of the said city shall be as follows: They shall include all of the territory included within the limits of the town of Chester, in Grant district, in said county, as the same existed at and prior to the passage of this act, and in addition thereto shall include the territory included by extending the eastern and western boundary lines as formerly existing to the north bank of the Ohio river and using the north bank of the Ohio river between these points of intersection as the north boundary lines of said town of Chester.

Sec. 3. The territory of the said city is hereby divided into five wards, as follows: The boundaries of the wards of said town of Chester as heretofore existing, shall remain and designate the limits of the several wards of said city.

The council of said city may change the boundaries of the different wards; and if at any time the number of inhabitants exceed ten thousand, the council may increase the number of wards to not more than eight; but in either case regard shall be had to equality of population; should the number of wards be increased the coun-

cil shall re-apportion the representation of the several wards in the council, giving to each ward equal representation.

Sec. 4. The officers of said city shall be a mayor, sergeant, clerk, solicitor, chief of police, health officer, street commissioner, assessor and one councilman from each ward; the mayor and clerk shall be elected by the qualified voters of said city; the other officers named except members of the council shall be appointed by the council and the councilmen shall be elected by the qualified voters of their respective wards.

No person shall be eligible to any city office unless he is a qualified voter thereof, nor unless he has resided therein for at least six months before his election; and, in the case of a councilman, unless he is a *bona fide* resident of the ward from which he is elected, or appointed and a free-holder of said city; and the removal of a councilman from the ward from which he is elected shall vacate his office; and no person shall be eligible to any city office unless he is a taxpayer and assessed and paid tax on at least \$100 worth of real or personal property in said city and a qualified voter thereof.

The municipal authorities of said city shall consist of the mayor and councilmen, who together shall form a common council, and all the corporate powers of said corporation shall be exercised by said council, or under its authority except where otherwise provided.

Sec. 5. The first election hereunder shall be held on the second Thursday in March, one thousand nine hundred and eight and biennially thereafter; every person who has been a *bona fide* resident of the city and otherwise a qualified voter, under the constitution and laws of the state, shall be entitled to vote at such election, in the ward in which he resides; the election shall be held, conducted and the results thereof ascertained, certified, returned and determined, under such rules and regulations as may be prescribed by council, which shall not be inconsistent with the general laws of the state governing municipal elections, and shall conform as nearly as practicable to such laws.

Sec. 6. Contested elections shall be heard and decided by the council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers; the council shall be the judge of election, returns and qualifications of its own members. In case two or more persons receive an equal number of votes for the same office, if such number be the highest

cast for such office, the persons under whom the supervision of such election is held shall decide by lot which of such two or more shall be returned elected and shall make their own return accordingly.

Sec. 7. The term of office of the mayor, clerk and councilmen shall begin on the first Monday in April next succeeding their election and shall be for the term of two years and until their successors shall have been elected and qualified; the sergant, chief of police, assessor, health officer and street commissioner shall be appointed by the council, and shall hold their office during the pleasure of the council; the same person shall not be appointed clerk for more than two consecutive terms, and any former incumbent shall be ineligible for a second appointment unless he shall have fully settled up the business of his former term or terms.

Sec. 8. Every person elected or appointed to any office in said city shall within twenty days after his election or appointment and before entering upon the discharge of the duties thereof, take and subscribe the oath of office prescribed by law for officers generally, which may be done before the mayor or clerk of said city, or before any person authorized by law to administer oaths; and the same, together with the certificate of the officer administering the oath, shall be filed with the clerk of said city.

Sec. 9. The council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this act defined; shall fix their compensation, and may require and take from them, respectively, bonds payable to the city in its corporate name with such sureties and in such penalties, as may be deemed proper, conditioned for the faithful performance of their duties.

Sec. 10. The council shall require and take from all officers elected or appointed as aforesaid whose duty it shall be to receive funds, assets or property belonging to said city, or have charge of the same, such bonds, obligations or other writings, as may be deemed necessary and proper, to secure the faithful performance of their several duties. All bonds, obligations and other writings taken in pursuance of any of the provisions of this act shall be made payable to the city of Chester, with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties, and for the accounting for and paying over, as required by law, all moneys coming into their hands by virtue of their offices, and the respective persons, and their heirs,

executors and assigns bound thereby, shall be subject to the same proceedings on said bonds, obligations and other writings, for enforcing the conditions of the terms hereof, by a motion or otherwise, before any court of competent jurisdiction held in the county of Hancock, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of county levies.

Sec. 11. The council shall have the authority to remove from office any officer of the city, whether elected or appointed, for misconduct or neglect of duty, by an affirmative vote of three-fourths of the members of the council, but only after reasonable notice to such officer, and a hearing of the charges preferred; and any vacancy in office however occasioned may be filled by the council for the unexpired term.

Sec. 12. The council shall fix the place and times of holding its regular meetings; may provide for special and adjourned meetings; shall have power to compel the attendance of its members; and may prescribe rules and regulations not inconsistent herewith, for the transaction of business and for its own guidance and government; the council shall be presided over at its meetings by the mayor, or in his absence by one of the councilmen selected by a majority of the council present, who may vote on any question as member of the council; the mayor shall have a vote only in case of a tie, and in no case shall the presiding officer have but one vote; a majority of the council shall be necessary to constitute a quorum for the transaction of business; no members of the council shall vote upon or take part in the consideration of any proposition in which he is or may be interested otherwise than as a resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a well bound book, to be called the "minute book" accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called "ordinance book" accurate copies of all general ordinances adopted by the council; both of which shall be fully indexed and open to the inspection of any one required to pay taxes to the city, or who may be otherwise interested; all oaths and bonds of officers of the city, and all papers of the council, shall be endorsed, filed and securely kept by the clerk; all printed copies of such ordinances purporting to be published under authority of the council, and transcripts of such ordinances, etc., orders and resolutions, certified by the clerk, under the seal of the

city, shall be deemed *prima facie* correct, when sought to be used as evidence in any court, or before any justice.

Sec. 14. At each meeting of the council the proceedings of the last meeting shall be read, and if erroneous, corrected, and signed by the presiding officer for the time being. Upon the call of any member the yeas and nays on any question shall be taken and recorded in the minute book.

Sec. 15. No ordinance or by-law, and no resolution or measure for the expenditure of money, other than to defray the current and incidental expenses of the city, shall be deemed passed or adopted, unless it shall have been fully read at two consecutive meetings of the council, and shall have received a majority of the votes of the members present, when it shall stand and be declared adopted, and not otherwise.

Sec. 16. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair roads, streets, alleys, pavements, sidewalks, crossings, drains, and gutters therein and light the same for the use of the citizens or of the public, and to keep the same free from obstruction of every kind; to regulate the width of pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the times of holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling or regrating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter houses and soap factories within the city limits; or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement or removal thereof, by or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner, any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle, sheep or other animals and fowls of all kinds from going or being at large in such city, and, as one means of prevention, to provide for impounding and confining such animals and fowls, and, upon failure to reclaim, for the sale thereof; to protect places of divine worship and to pre-

serve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide for the making and maintaining of division fences by the owners of adjoining premises, and for the proper drainage of city lots; or other parcels of land, by or at the expense of the owner or occupant thereof, to provide against damage or danger by fire; to punish for assaults and batteries; to prohibit loitering in, or visiting houses of ill-fame, or loitering upon the streets; to prevent lewd and lascivious conduct, the sale or exhibition of indecent pictures or other representations; the desecration of the Sabbath day, profane swearing; to protect the persons of those residing or being within said city; to appoint, when necessary or advisable, a police force, permanent or temporary; to assist the chief of police in the discharge of his duties; to build or purchase or lease and use a suitable place within or near said city for the safe keeping or punishment of persons charged with, or convicted of the violation of ordinances; to provide for the employment of persons convicted of the violation of ordinances or who may be committed in default of payment of fines, penalties or costs, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the city, and to use such means to prevent their escape, while at work, as they may deem expedient; to erect or authorize or prohibit the erection of gas works, electric light works, or water works within the city limits; to prevent injury to such works or the pollution of any gas or water used or intended to be used by the public or by individuals, and to do all things necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell and control electricity and gas for heat, light and power, and to furnish light for the streets, houses, buildings, stores and other places in and about said city; to establish and construct wharves and docks, and to repair, alter or remove any landing, wharf or dock, which has been or shall be so constructed, and to establish and collect rates and charges for the use thereof; to regulate the running and speed of engines and cars within the said city; to organize one or more fire companies and provide necessary apparatus, tools, implements, engines, or any of them for their use, and in their discretion to organize a paid fire department; to make regulations with respect to the erection and location of all telephone, telegraph, electric light or other

poles within said city and the extension of any wires, lines and poles by any individuals or corporation; to grant and regulate all franchises in, upon, over and under the streets, alleys and public ways of said city, under such restrictions as shall be provided by ordinance, but no exclusive franchise shall be granted by said council to any individual or corporation, nor shall any franchise for a longer period than fifty years; to create by ordinance such committees, or boards, and delegate such authority thereto, as may be deemed necessary or advisable to provide for the annual assessment of the taxable property therein, including dogs kept in said city, and to provide a revenue for the city for municipal purposes, and to appropriate such revenue to its expenses, and generally to take such measures, as may be deemed necessary or advisable, to protect the property, public and private, within the city; to preserve and maintain peace, quiet and good order therein and to preserve and promote the health, safety, comfort and well being of the inhabitants therein.

The council of said city shall have power and authority to provide for the granting of building permits; to cause the removal of unsafe walls or buildings; and may upon the petition of the person or persons owning the greater amount of frontage of the lots abutting on any street between any two cross streets, or in any square in said city, prohibit the erection on such street, or in such square, of any building, or of any addition to any building, more than ten feet high, unless the outer walls thereof be made of brick and mortar, or other fireproof material, and to provide for the removal of any building or addition which shall have been erected contrary to such prohibition, at the expense of the owner or owners thereof.

Sec. 17. To carry into effect these enumerated powers and all others by this act or by general law conferred, or which may hereafter be conferred upon the said city or its council or any of its officers, the said council shall have and possess full authority to make, pass and adopt all needful ordinances, by-laws, orders and resolutions, not repugnant to the constitution and laws of the United States or of this state; and to enforce any or all of such ordinances, by-laws, orders and resolutions, by prescribing for a violation thereof, fines and penalties and imprisonment in either the county jail of Hancock county, or the city prison, if there be one; but no fine shall exceed one hundred dollars, and no term of imprisonment shall exceed ninety days; such fines and penalties shall

be imposed and recovered, and such imprisonment inflicted and enforced by and under the judgment of the mayor of said city, or in case of his absence or inability to act, the clerk of said city shall act as mayor, or, in the absence of both of said officers, one of the councilmen, appointed for that purpose by the council shall act.

Sec. 18. The mayor shall receive a salary of not less than two hundred nor more than three hundred dollars per annum and in addition thereto such fees as properly accrue to him in proceedings for the enforcement of ordinances, but all such fees shall be collected, when practicable, and accounted for to the city, and warrants drawn covering such costs when collected, payable to the mayor.

Sec. 19. The mayor shall be the chief executive officer of said city, and shall take care that the orders, by-laws, ordinances and resolutions, of the council thereof, are faithfully executed; he shall be *ex officio* a justice and conservator of the peace within the city, and shall, within the same, have, possess and may exercise all the powers and perform all the duties, whether in civil or criminal proceedings, vested by law in a justice of the peace; any summons, warrants, or other process issued by him may be executed at any place within the county; he shall have control of the police of the city, and may appoint special police officers whenever he deems it necessary; and it shall be his duty, especially, to see that the peace and good order of the city are preserved, and that persons and property therein are protected, and to this end, he may arrest and detain, or cause the arrest and detention of all riotous and disorderly persons before taking other proceedings in the case; he shall, from time to time, recommend to the council such measures as he may deem needful for the welfare of the city; he shall not receive any money due or belonging to the state or to corporations, or to individuals, unless and until he shall have given the bond and security required of a justice of the peace by chapter fifty of the code of West Virginia; and all the provisions of said chapter relating to moneys received by justices shall apply to moneys received by him in like cases.

Sec. 20. The process in proceedings to enforce any ordinance prescribing a fine or imprisonment, or a fine and imprisonment, for the violation thereof, shall be a summons in the name of the city of Chester as plaintiff directed to the chief of police, or to any constable of any district within said city, requiring him to summon the person accused of such violation, and who may thereafter be

designated as defendant, to appear before the mayor, at any time and place therein named, to make answer to such accusation, and to be dealt with according to law; such summons shall contain such a statement of the facts alleged as will inform such person of the general nature of the offense against the city with which he stands charged; and, except in case of arrest upon view, shall be issued only upon the complaint, on oath, of some credible person; but the mayor may for good cause appearing, by indorsement on the summons, order the person so accused to be forthwith apprehended and brought before him for a hearing of the charge; the clerk of said city, as well as the mayor, shall have authority to receive any complaint in writing of the violation of any ordinance, and to sign and issue the proper summons based on such complaint, the mayor shall have, possess, and may exercise, the power and authority belonging to a justice under sections two hundred and twenty-four and two hundred and twenty-five of chapter fifty of the code of West Virginia, in summoning and enforcing the attendance and examination of witnesses, in punishing for contempt, in granting continuances, and in securing and enforcing the further attendance of the accused with a view to a trial or hearing; if any recognizance be taken for such further attendance and is forfeited the mayor may record the default, and an action may be maintained, in the name of the city, before the mayor, or any justice having jurisdiction, against the accused and his securities, if any, to recover the penalty thereof.

Sec. 21. The mayor shall have the power to issue an execution for any fine and costs assessed or imposed by him, for the violation of any ordinance, or he may, at the time of rendering judgment therefor, or at any time thereafter, and before satisfaction of such judgment, by his order in writing require the immediate payment thereof; and in default of such payment he may commit the person so in default to the jail of Hancock county or in his discretion to the prison of said city, if one shall have been provided by the council, until the fine and costs are fully paid; but such imprisonment shall not exceed ninety days.

Sec. 22. The jailor of Hancock county shall take and receive into his custody any person sentenced to imprisonment in the jail of said county, or committed thereto for the non-payment of a fine and costs, or for the failure to enter into a recognizance by the judgment or order of the mayor, in proceedings for the violation of

an ordinance; and the expense of maintaining such person while so in confinement shall be paid by the city except in cases of persons held to answer a commitment or indictment.

Sec. 23. A book well bound and indexed, to be denominated the "docket," shall be kept in the office of the mayor, in which shall be noted each case brought or tried by him, together with the proceedings therein, including a statement of complaint, the summons, the return, the fact of appearance or non-appearance, the defense, the hearing, the judgment, the costs and in case the judgment be one of conviction, the action taken to enforce the same; the record of such case shall be signed by the mayor, or other person acting in his stead; and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

Sec. 24. In any case for the violation of an ordinance of the said city, in which there is a judgment by the mayor of imprisonment or for a fine of more than five dollars, an appeal shall lie at the instance of the person against whom such judgment is rendered, to the circuit court of Hancock county; such appeal shall not be granted by the mayor unless, within ten days from the date of the judgment such person shall enter into a recognizance, with security deemed sufficient, to appear before the said court on the first day of the next term thereof, to answer for the offense against the city with which he stands charged, and not thence depart without leave of said court; the provisions of chapter one hundred and sixty-two of the code of West Virginia, relating to recognizance in criminal cases, shall be applicable to the recognizance contemplated by this section; but any money recovered thereon or by virtue thereof shall inure to the said city.

Sec. 25. If such appeal be taken, the mayor shall forthwith deliver to the clerk of the said court, the complaint in writing, if any, the summons, a transcript of the record including the judgment, the recognizance and any other papers belonging to the case; and such clerk shall receive and file the same, and place the case upon the trial docket of the next succeeding term of said court, and said court shall proceed to try the same in its order.

Sec. 26. If the appellant be found guilty of a violation of the ordinance in question, whether upon the verdict of the jury of otherwise, the court shall ascertain by its judgment the fine or imprisonment, or the fine and imprisonment, to be paid or suffered by such defendant, having regard to the punishment prescribed by such

ordinance, and shall include in any such judgment the costs incurred by said city, as well as in the proceedings before the mayor as those in court, including a fee to the attorney for the city of ten dollars, and the fees, if any, of the jailor or the keeper of the city prison; and the proceedings to enforce the collection of any such fine and costs, as may be provided in sections ten, eleven and twelve of chapter thirty-six of the code of West Virginia, except that the writ, mentioned in the tenth section, may be issued by the clerk upon the order of the mayor of the city, and the notice contemplated by the eleventh section shall be given to such officer; if the judgment be for the defendant he shall recover his costs against the city.

Sec. 27. From all judgments by the mayor in cases other than for violation of ordinances, appeals shall be allowed as in similar cases before justices.

Sec. 28. It shall be the duty of the city clerk to keep a journal of the proceedings of the council, and have charge of and preserve the records, bonds, papers and other documents belonging to the city; he shall, in case of sickness or disability of the mayor to act; or in case of his absence from the city, or during any vacancy in the office of the mayor, perform the duties of mayor, and shall be vested with all powers necessary for the performance of such duties; he shall also perform such other duties pertaining to the fiscal affairs of the city, or otherwise, as may be required of him by this act or by the council; he shall receive such salary as may be fixed by council, which shall not be less than one hundred nor more than four hundred dollars per annum.

The sergeant shall be at the head of the police department of the city. It shall be the duty of the sergeant to collect the city taxes, fines, levies and assessments; he has all power to enforce the payment and collection thereof, that the officer collecting the state tax has or may hereafter be given under the statutes and laws of West Virginia, and the said sergeant shall have all the powers, rights and privileges within the corporate limits of such city in regard to the collection of claims, the arrest of persons, the execution and return of process that can be legally exercised by a constable of the district and he shall be entitled to the same fees and liable to the same penalties, forfeitures, etc. as the constable of the district; the sergeant shall be at the head of the police department

of the city with the same powers within the limits of the city as the sheriff in his county.

Sec. 29. It shall be the duty of the assessor to ascertain the property within said city, subject to taxation, including a capitation upon each male inhabitant of said city who has attained the age of twenty-one years, substantially in manner and form as in the case of assessments by county assessors, and make return thereof to the council on or before the first day of July of each year; he shall also make out the land books for said city in each year, and make proper transfers of such property as shall have changed ownership within the preceding year, and charge the same on said books to the person who by himself has the freehold in his possession, whether in fee or for life, on the first day of April, in such year; when a tract or lot of land becomes the property of different owners, in several parcels, the assessor shall divide the value, at which the whole land had before been assessed, among the different owners, having regard to the value of each interest compared with that of the whole, and enter the same on the land books for said year; he shall also enter in said land book the value of any old building omitted for one or more years, and of addition or improvement to a building, and of any building newly erected, not theretofore assessed, if the same be of the value of one hundred dollars or upwards; he shall have the same power and be subject to the same penalties, in ascertaining and assessing the property and subjects of taxation in said city, as are conferred and imposed upon county assessors by general law; but the council may correct any error on his part in making such assessment, upon the application of any person aggrieved; the council shall have authority to prescribe, by general ordinance such other rules and regulations as may be necessary to enable and require the assessor to ascertain and properly assess all property subject to taxation by said city, so that such assessment and taxation shall be uniform and equal, and may enforce such rules and regulations by reasonable fines and penalties to be imposed upon any one failing or refusing to comply therewith; the said assessor shall also list the number of dogs or other animals subject to a license tax in said city, and the names of the persons owning the same which list shall be returned to the council at the same time the assessment is returned; he shall receive for his services such compensation as shall be fixed by the council.

Sec. 30. The council shall cause to be made up annually, and

spread upon its minute book, an accurate estimate of all sums which are or may become lawfully chargeable against the city, which ought to be paid within one year, and it shall order, at a meeting held by it in the month of July of each year, a levy of so much as will in its judgment be necessary to pay the same; such levy shall be upon all real and personal property otherwise subject to state and county taxes, and an annual capitation tax of one dollars upon each male inhabitant of said city who has attained the age of twenty-one years; *provided*, that such levy shall not exceed the rate fixed by the general acts of West Virginia on the ascertained value of such property; at least once in each year the council shall cause to be made up and published, in one or more of the newspapers of the city, or of Hancock county, a statement of the financial condition of said city, including the revenue received from the different sources, and of the expenditures upon the different accounts, for the preceding year or portion of the year as the case may be.

Sec. 31. The clerk of said city, before entering upon the discharge of his duties, shall execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for and paying over, as required by law, all money which may come into his hands by virtue of his office with sureties satisfactory to the council, payable to the city of Chester, in a penalty of not less than one thousand dollars, as the council may prescribe; he shall be custodian of all bonds, notes, together with all valuable papers which may be placed in his possession by the council.

Sec. 32. Immediately after the annual levy of city taxes is made, it shall be the duty of the city clerk to extend the same in the property books returned by the assessor, including as well the proper capitation tax, and make out therefrom proper tax tickets, and the same after being examined and compared and approved by the finance committee of the council, and if found to be correct, shall be turned over to the sergeant on the first day of September following the levy, whose receipts shall be returned to the council and entered upon its records, and the sergeant shall be charged therewith; the sergeant shall give notice that said tickets are in his hands for collection, stating the penalty for non-payment thereof, and the time and place where the same may be paid, which notice shall be published for twenty days in one or more newspapers published

in said city or county. To all persons who shall pay their taxes in full before the first day of October, next succeeding said levy, there shall be allowed a discount of two and one-half per centum on the whole amount of the taxes so paid and not otherwise; to all taxes remaining unpaid on the first day of January, next succeeding said levy, a penalty of ten per centum shall be added, and the sergeant shall forthwith proceed to collect from the parties, by distraint or otherwise, the entire amount of the taxes with which they are severally charged therein with interest at the rate of one per centum per month, from the said first day of January, until they are fully paid, together with the penalty herein provided to be added thereto.

Sec. 33. It shall be the duty of the sergeant, at least once in six months during his continuance in office, and more often if required by council, to render an account of taxes, levies, assessments and other claims in his hands for collection and return a list of such as he shall not have been able to collect, by reason of insolvency, removal or other cause to which list he shall append an affidavit that he has used due diligence to collect the claims therein mentioned, but has been unable to do so, and if the council shall be satisfied with the correctness of said list, and shall allow him a credit for said claims, but may thereafter take such lawful measures to collect the same as shall by it be prescribed; he shall keep regular books of account, to be examined and approved by the council, of all moneys received and disbursed by him, and of other matters pertaining to his office, which books shall at all times be open to the inspection of the council, or any committee appointed by it for such purposes; all moneys belonging to the city shall be paid over to the sergeant, no moneys shall be paid out by him except upon the order of the council, countersigned by the mayor; he shall receive for his services a compensation fixed by the council not to exceed a commission of five per cent of the total taxes collected including revenue collected other than state moneys, but no commission shall be charged by said sergeant for receiving state funds for town purposes, and no additional commissions shall be charged by sergeant for disbursement of moneys; if the sergeant shall fail to collect, account for and pay over, all or any moneys, with which he may be chargeable belonging to the city according to the conditions of his bond and the orders of the council, it shall be lawful

for the council to recover the same by action or by motion upon ten days' notice in the corporate name of the city in the circuit court of Hancock county against him and his sureties or any or either of them or his or their executors or administrators; if the sum claimed does not exceed three hundred dollars, such recovery may be had before the mayor, or any justice of said county.

Sec. 34. It shall be the duty of the solicitor to prepare, when directed by the council, all ordinances for said city, to represent the said city in all matters and proceedings in any court, in which the said city is interested, and counsel the said council when requested; he shall receive as compensation for his services, to be fixed by the council, not exceeding three hundred dollars per annum.

Sec. 35. There shall be a lien on real estate, within said city for the city taxes assessed thereon, and for all fines and penalties assessed to, or imposed upon the owners thereof, by the authorities of such city, from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes or in such other manner as council shall by ordinance provide. If any real estate within said city be returned delinquent for the non-payment of the delinquent taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for the city taxes, interest and commissions thereon, in the same manner, at the same time and by the same officers, as real estate is sold for the non-payment of state taxes.

Sec. 36. It shall be the duty of the chief of police to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duty; he shall be present in the police court, whenever the same shall be in session and see that all its orders and requirements are properly executed; he shall with the consent of the council enter of record, but not otherwise, appoint one or more policemen as the council may determine; he shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for and paying over, as required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than one thousand dollars nor more than three thousand

and dollars, as the council may prescribe; he shall receive such salary as may be fixed by council, which shall not be less than six hundred nor more than one thousand dollars per annum.

Sec. 37. In case a violation of any ordinance of said city is committed in the presence, or within view, of the chief of police or other police officers, the offender may be forthwith apprehended and taken before the mayor, and a complaint under oath, stating such violation there lodged and filed; and thereupon such offender may be tried and dealt with according to law, without summons. The chief of police shall execute, within the county of Hancock, any proper process issued by the mayor in proceedings for the enforcement of ordinances; and shall collect, by levy or execution or otherwise, and duly account for, all fines assessed and costs imposed in such proceedings; he shall have all the right and powers, within said city, in regard to the arrest of persons, the collection of claims and the execution and return of process, that are or may be lawfully exercised by a constable of a district within the same, and shall be entitled to the compensation therefor; and he and his sureties shall be liable to all fines, penalties and forfeitures that a constable is liable to for any dereliction of duty in office, to be recovered in the same manner, and in the same courts, that such fines, penalties and forfeitures are recovered against constables.

Sec. 38. The council shall have the authority to require a city license as follows: For anything to be done, carried on or exhibited within the city, for which a state license is now or may hereafter be required (other than the sale of spirituous, vinous or malt liquors) also for the keeping of hacks, carriages, carts, wagons, and other vehicles for hire within the city, and for the keeping of dogs within the city, and the council may provide for the killing of all dogs, the keeping of which is not so licensed; and upon all such licenses the council may impose a reasonable tax for the use of the city.

Sec. 39. The council shall prescribe by ordinance, the manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the collector and treasurer before delivery to the person applying therefor.

Sec. 40. The provisions of the twenty-ninth section of chapter thirty-two of the code of West Virginia, relating to state license shall be deemed applicable to licenses of a similar character to

those therein mentioned, when granted by or under the authority of the council of said city; licenses for keeping dogs shall also expire on the thirtieth day of April next after they are granted.

Sec. 41. The council shall have the right to institute proceedings in the name of the city, for the condemnation of real estate for streets, alleys, drains, market grounds, landings, wharves, city prison or other work or purposes of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia; and the cost thereof shall be borne by the city, except that in contests involving a hearing in the circuit court shall be reserved by the prevailing party.

Sec. 42. After having caused proper curb of brick, stone or other suitable material to be set and placed on any of the streets or alleys of said city at the expense of the property owner, the council may require sidewalks or footways on such streets or alleys to be paved with brick, stone or such other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or the fractional part of lots, facing or abutting on such sidewalk or footway and if the owner of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner; and the same may be collected in the manner herein provided for the collection of city taxes, and the same shall constitute a lien on such property, which may be enforced by a suit in equity in the name of the city in the circuit court of Hancock county as other liens against real estate are enforced; *provided, however,* that reasonable notice shall first be given to said owners that they are required to construct such sidewalks or footways, and in case the owner is a non-resident of the state, the notice aforesaid may be given by publication for four successive weeks, in a newspaper published in said city or county; the provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore or which may be hereafter laid and completed, and which may be deemed insufficient.

Sec. 43. The council shall have the authority to provide that any street or alley, or any portion thereof between the curbstones, shall

be macadamized, or paved with bricks, cobblestones or other suitable material, upon the lowest and best terms obtainable, after advertisement for four weeks in one or more newspapers of the city or county for bids and proposals for the work; and the two-thirds of the cost of such macadamizing or paving, from curb to curb of such street or alley, shall be assessed to the owners of the lots, or fractional parts of lots, fronting or abutting on such street or alley, that is to say: The property owners on each side of said street or alley to be assessed one-third of the cost of said improvements, to each property owner a sum proportionate to the distance, or extent in feet by him owned, and one-third of the sum so assessed shall be paid by each property owner to the city within thirty days after the completion of the work, and the remainder in two equal installments in six and twelve months thereafter, or at such other times as the council may prescribe; the remaining one-third of such expense, as well as the expense of macadamizing or paving at the intersections of streets and alleys, shall be defrayed by the city; the council shall cause a notice to be published for one week in a newspaper of said city or county showing the owners of the property and the number of feet fronting on said improvements, as well as the time and the place where the said council will proceed to fix said assessments as above provided, and giving notice to any person having an interest in said property to appear and show cause, if any they can, why such assessment should not be made; and the council may, in making said assessments, consider the petition of any person or corporation relative to the inequality of said assessment, and may equalize and adjust the same; the assessment to be made to any owner of real estate shall constitute a lien on such estate; and like proceedings may be had and taken to enforce such lien, or to recover from such owner the amount of such assessment, or of any installment thereof, as those provided for in the preceding section, providing for the laying of pavements. The council of said city may cause an additional annual levy of twenty-five cents on the hundred dollars of the ascertained value of all the real and personal property within said city, or subject to taxation, for the purpose only of defraying the expense of paving the streets and alleys of said city as herein provided; such levy shall be made at the time the general levy is laid, and shall be collected in like manner, but a separate account shall be kept of the receipts and expenditures of such fund.

Sec. 44. The city of Chester shall succeed to all the rights, powers and responsibilities, and be vested with the title to all property, of the town of Chester as heretofore existing, and all officers of said city acting as such at the time this enactment takes effect shall continue until the first Monday in April, one thousand nine hundred and eight, or until their successors, the officers herein mentioned, are elected or appointed and qualify, to exercise the powers, perform the duties, and receive the compensation heretofore conferred, prescribed and allowed by former charter, by general law, or by the ordinances of said city; such ordinances in force at the time referred to shall continue to have full operation and effect until amended, repealed or superseded by the council of said city. The certificate of incorporation heretofore granted by the circuit court of said county of Hancock, incorporating the town of Chester, is hereby annulled.

Sec. 45. All acts or parts of acts which are in conflict and inconsistent with this act are hereby declared inoperative in so far as they are in conflict or inconsistent with this act; and this act shall not be construed to take away any of the powers conferred upon said town or upon the council or any officer thereof, conferred by general law, except so far as the same may be inconsistent with the powers conferred by this act; this act shall be in force as soon after its passage as it shall have been ratified by a majority vote of all the qualified voters on the same, under this charter, within the territory described in this act. The present council of the town of Chester shall have power to call an election, or elections to take the vote of the people upon the ratification or rejection of this charter, and shall publish in some newspaper of the county and post notices of said election in at least three public places for a period of not less than ten days preceding such election.

CHAPTER 3.

(Senate Bill No. 14.)

AN ACT to create the municipal corporation of the city of Logan, in the county of Logan, to grant a charter thereto and to annul the charter of the town of Aracoma.

[Passed March 5, 1907. In effect ninety days from passage.. Approved by the Governor, March 6, 1907.]

<p>Sec. 1. Corporate name; corporate rights and powers. 2. Corporate limits and boundaries. 3. Wards. 4. Officers; board of control; by whom appointed; their term of office and qualifications; other officers to be elected by vote of the people. 5. Powers of council. 6. Who eligible to hold office. 7. Duties and qualification of mayor. 8. Power and duties of council. 9. Vacancies; how filled. 10. Qualifications of voters. 11. Time of holding elections; term of office; when term of office of appointed officers to expire; contested elections; how heard and decided; tie vote how decided; candidates aggrieved shall have right to appeal to the circuit court. 12. Time for elected or appointed officers to qualify. 13. Council to prescribe powers and define duties of appointed officers; and to require bonds of them. 14. Council to have authority to remove officers for misconduct or incompetency; how removed; officers shall have right to appeal. 15. Presiding officer of council; who to be. 16. Tie vote in council; recorder to have no vote in council. 17. Council to keep journal; records of the town of Aracoma; where deposited.</p>	<p>Sec. 18. Council to have authority to make ordinances; mayor to impose fines; in his absence, who then. 19. } Council to enter on its journal of all sums chargeable to city; its duty to make levy; how made; to be agreed to by board of control. 20. } 21. All taxes and fines collected for violations of city ordinances shall be applied to the benefit of the city; all receipts and expenditures to be published; when. 22. Control of liquor sales by council; persons granted license to give bond; license to be approved by the county court. 23. Council may revoke license. 24. Other licenses to be granted. 25. Construct sidewalks and by whom paid; city to have authority to issue bonds; how issued. 26. There shall be a lien on all real estate in the city for city taxes; real estate returned delinquent. 27. Duties of treasurer; qualification; compensation. 28. Duties of assessor; compensation and how paid. 29. City to support its own poor. 30. Duties of recorder; his powers. 31. Duties of chief of police; qualification and powers; powers of special police. 32. Council to fix salaries of officers. 33. Condemnation of real estate. 34. Inconsistent acts repealed. 35. } City shall succeed to all rights and liabilities of the town of Aracoma. 36. }</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That the inhabitants of that portion of Logan county, in the state of West Virginia, included in the boundary in section two of this act, be and they are hereby made a municipal corporation by the name of "The city of Logan," by which name they shall have perpetual succession, and a common seal and by which name they may sue and be sued, plead and be impleaded, contract and be contracted with, purchase and otherwise acquire and hold real estate and personal property, needed in the discharge of the function of government conferred by this chapter.

Sec. 2. The corporate boundaries of said city shall be as follows:

Beginning at a stake in the center line of the Guyan Valley Railroad at the Bill Ellis hollow; thence north 17° 33' east 854.65 feet to a dead sugar tree in the Bill Ellis hollow; thence north 29° 39' west 7019 feet to a stake in the center line of the Guyan Valley railroad at

the mouth of Varney branch; thence north $78^{\circ} 29'$ west 528.07 feet crossing Guyandotte river to a stake at high water mark and on the lower edge of the county road; thence with the high water mark of said river to the mouth of Island creek, a distance of about one-half of a mile; thence with the right hand side of said creek as you descend the same to the mouth of Coal branch; thence crossing said Island creek, to a stake at high water mark; thence down said Island creek with the right hand side thereof as you descend to the mouth of a small tributary thereof, known as the Tide; thence with the meanders of the Tide in an easterly direction to a stake at high water mark on the bank of the Guyandotte river at the east mouth of said Tide; thence following the right hand side of the said Guyandotte river at high water mark as you ascend the same to a point opposite the mouth of the Bill Ellis hollow, a distance of about one mile; thence crossing said Guyandotte river to a stake, the point of beginning.

Sec. 3. If at any time the common council of said city shall deem it necessary, they may divide the territory of said city into wards, having regard to compactness of the territory included in each ward and equalizing as far as possible the population of the several wards; and may from time to time change the boundaries of the several wards so as to equalize the number of inhabitants in each ward as near as may be; *provided, however*, that no such change shall be made within ninety days next preceding any city election.

Sec. 4. The municipal authorities of said city shall be a mayor, recorder, chief of police, assessor, treasurer, health officer, street commissioner, and (until the city shall be divided into wards as provided in section three) five councilmen and a board of control.

The board of control shall consist of four persons who shall be first appointed by the mayor of said city and shall be a non-partisan board, two of whom shall be republicans and two democrats and they shall be appointed for the following number of years; one for the period of one year and one for the period of two years, one for the period of three years and one for the period of four years, and at the expiration of the term for which a member shall be so appointed his successors shall be appointed by the members of said board of control, from the same political party as such outgoing member for the period of four years, and thereafter the term of office of a member of said board of control shall be four years, one to be ap-

pointed each year by said board of control and said board shall at all times be composed of two members each of the two dominant political parties of this state; said members of said board of control shall be freeholders of the city of Logan, *bona fide* residents thereof, and qualified voters therein and shall receive no compensation as such members of said board; and no member of said board shall be appointed to succeed himself as a member of said board.

The mayor, recorder, treasurer and councilmen shall be elected by the qualified voters of said city; the other officers named shall be appointed by the board of control. After the territory of said city shall have been divided into wards, then each ward shall have one councilman for each three hundred (300) or fraction thereof exceeding one hundred and fifty of its inhabitants, but each ward shall have at least one councilman.

Sec. 5. All the corporate powers and functions pertaining to said city shall be exercised by the common council or under its authority in the corporate name of the city, unless otherwise provided by the state law or municipal ordinance.

Sec. 6. No person shall be eligible to any elective office, or be a member of the board of control, in said city, unless he is a qualified voter thereof, nor unless he has resided therein for at least one year next before his election, and be a free-holder in said city, and if a councilman he shall be a *bona fide* resident of the ward for which he is elected, and the removal from the ward of a councilman from which he is elected shall vacate his office; and no person shall be eligible to any office in said city unless he is a qualified voter thereof.

Sec. 7. The mayor shall be the chief executive officer of said city and shall see that the ordinances, by-laws and resolutions of the council are faithfully executed; he shall be *ex-officio* justice of the peace within the city, within the same time, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace; any warrant or other process issued by him may be executed at any place within the county of Logan; but such mayor shall not receive any money belonging to the state, or to individuals, unless he shall give bond and security required of a justice of the peace by chapter fifty of the code of West Virginia, and all the provisions of said chapter relative to moneys received by justices shall apply to like moneys received by such mayor.

Sec. 8. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads,

streets, alleys, pavements, sidewalks, crosswalks, drains, and gutters therein, for the use of the public, and to improve and light the same and to keep the same clean and free from obstructions of every kind; to regulate the width of pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clean by the owners, or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the time of holding the same, provide suitable and convenient buildings therefor; prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter houses and soap factories within the city limits, or the exercise of any unhealthful or offensive business, trade or employment; prohibit all nuisances within the city limits, or to require and compel the abatement or removal thereof, by or at the expense of the owner of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner of any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs or sheep or other domestic animals or fowls of all kinds from going or being at large in said city, and as one means of prevention thereof, to provide for impounding and confining such animals and fowls and upon failure to reclaim for the sale thereof; to protect places of divine worship and to preserve order in and about the premises where such worship is held; to regulate the keeping of gun powder or other inflammable or dangerous substances; to provide and regulate the building of houses and other structures, and for the making and maintaining of division fences by the owners of adjoining premises, and for the proper drainage of city lots or other parcels of land by or at the expense of the owner or occupant thereof; to provide against damages or danger by fire; to punish for assault and battery; to prohibit loitering or visiting houses of ill-fame, or loitering in saloons or upon streets; to punish for offenses committed and forbidden under and by virtue of section seven of chapter one hundred and forty-eight of the code of West Virginia, relating to the carrying of pistols and other dangerous and deadly weapons; to prevent the operation and maintenance of slot machines and other gambling devices; to prevent lewd and lascivious conduct, the sale or exhibition of indecent pictures or other representations; to prevent and punish for profane swearing; illegal sale of all intoxicating liquors; to

protect the persons of those residing or being within the city, and to prevent and punish for all crimes and misdemeanors other than felonies; to build, purchase or lease and to use a suitable place within or near said city for the safe keeping or punishment of persons charged with or convicted of the violation of ordinances; to provide for the employment of persons convicted of the violations of ordinances or who may be committed in default of the payment of fines, penalties or costs, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the city, and to use such other means to prevent their escape while at work as they may deem expedient; to acquire, erect or prohibit the erection of gas works, electric light works, or water works within the said city limits; to prevent injury to such works or the pollution of any gas or water used or intended to be used by the public or individuals, and to do all things necessary to adequately supply said city and inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell and control the electricity and gas for heat, light and power, and to furnish light for the streets, houses, buildings and other places in and about said city; to provide a sewerage system for said city, to regulate the speed of moving trains in or through said city, to organize one or more fire companies and to provide the necessary tools, implements and engines or any of them for their use; to make regulations with respect to the erection and location of all telephone, telegraph, electric light or other poles within said city, and the extension of wires, lines or poles by any individual or corporation; to grant and regulate all franchises in, upon, over and under the streets, alleys and public ways in said city, under such restrictions as shall be provided by ordinance, but no exclusive franchise shall be granted nor shall any franchise be granted for a longer period than twenty years; to create by ordinance, such committees or boards and grant such authority thereto as may be deemed advisable; to provide for the annual assessments of taxable property in said city, including dogs kept therein, and to provide a revenue for the city for municipal purposes, and appropriate such revenue to its expenses and generally to take such measures as may be deemed necessary or advisable to protect the property, public or private, within the city; such police regulations as may be ordained by said city and the right and power to enforce the same, shall extend one mile in the state of West Virginia beyond the corporate limits of the city; *pro-*

vided, however, that no fine shall be imposed for the violation of any ordinance exceeding one hundred (\$100.00) dollars, and that no person shall be imprisoned or compelled to labor as aforesaid for more than six (6) months for any one offense, and in all cases where a fine is imposed for an amount exceeding ten (\$10.00) dollars, or the person be imprisoned or compelled to labor as aforesaid, an appeal may be taken from the decision, upon the same terms and conditions that appeals are taken from the judgments of justices of the peace of this state. *Provided, however,* that in the granting of all franchises, the construction of all sewers, pavements and public buildings and the expenditure of all moneys exceeding in amount the sum of twenty-five dollars, the assent of a majority of the board of control of said city be first had agreeing and assenting thereto.

The council of said city shall have power and authority to control and regulate the construction and repair of all houses and other buildings within the said city; to provide for the granting of building permits; to cause the removal of unsafe walls or buildings, and may upon the petition of any person or persons owning the greater amount of the frontage of the lots abutting on any street between any two cross streets, or in any square in said city, prohibit the erection on such streets, or in such square, of any building or any addition to any building unless the outer walls thereof be made of brick and mortar or other fire-proof materials, and to provide for the removal of any building or addition, which shall have been erected contrary to such prohibition, at the expense of the owner or owners thereof.

Sec. 9. Whenever a vacancy shall occur in the office of mayor, recorder, treasurer or councilman, the common council shall fill the same by election, by a *viva voce* vote for the unexpired term.

Sec. 10. Every person who has been a *bona fide* resident of the city for six months next preceding any city election therein and who is a qualified voter under the constitution and laws of this state, shall be entitled to vote at any city election and (after the city has been divided into wards, in the ward in which he resides); but no person shall be deemed a resident of such city by reason of being stationed therein for any temporary purpose.

Sec. 11. The first election hereunder shall be held the first Thursday in January, one thousand nine hundred and eight, at which election all the elective officers provided for in section four,

shall be elected; the term of office of all officers elected at said first election shall begin on the first day of February, one thousand nine hundred and eight, and shall continue until the first day of May, one thousand nine hundred and nine, and until their successors are duly elected and qualified; the next election held hereunder shall be held on the first Thursday in April, one thousand nine hundred and nine, and all subsequent elections, each second year thereafter on the first Thursday in April. The term of office of all persons elected hereunder in one thousand nine hundred and nine and all succeeding elections, shall begin on the first day of May, next after said election and shall be for two years and until their successors are elected and qualified unless they are sooner removed in the manner provided by law.

The term of all appointive officers, except the board of control, shall expire at the same time as elected officers and vacancies, if any, shall be filled for the unexpired term; the election shall be held, conducted and the result ascertained, certified, returned and determined under the constitutional and general laws of the state, governing municipal elections, and shall conform as nearly as practicable to such laws; contested elections shall be heard and decided by the council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers; the council shall be the judge of the election returns and qualifications of its own members; in case two or more persons shall receive an equal number of votes for the same office, if such numbers be the highest cast for such office, the persons under whom the supervision is held, shall decide by lot which of them shall be elected and shall make their return accordingly.

Any candidate thinking himself aggrieved by the action of said council in any contested election, shall have the right to appeal to the circuit court of the county of Logan.

Sec. 12. Every person elected or appointed to an office in such city, shall within twenty days after his election or appointment and before entering upon the duties of his office, take and subscribe the oath of office prescribed by law in the case of district officers, which may be done before any person authorized by law to administer oaths in this state, and the certificate of the officers administering the oath, shall be filed with the recorder of the city.

Sec. 13. The council shall prescribe the powers and define the duties of all the officers appointed, except so far as the same is here-

in prescribed and defined, and may require and take from them, respectively, bonds payable to the city in the corporate name, with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties.

Sec. 14. The council shall have the authority to remove from office any officer of the city, whether elected or appointed, for misconduct in office, incompetency to perform the duties required by their office and gross immorality, by vote of four-fifths of the members elected to the common council, but no officer of said city shall be removed as aforesaid, until he shall have been served with a written notice, specifying the charges and reason for such removal, and such notice shall be given at least ten days prior to the day therein set for hearing the same, and shall also state the place where said hearing shall take place, and the said officer shall have the full right to be heard in his own defense, and in the case of an elective officer, said officer shall have the right to appeal to the circuit court of the county and the right of trial by jury, but said appeal shall not be taken after ten days have expired from the decision of the council.

Sec. 15. The council shall be presided over at its meetings by the mayor, or in his absence by the recorder, or, in the absence of both mayor and recorder, by a councilman, selected by the majority of the council present. A majority of the council shall be necessary to form a quorum for the transaction of business.

Sec. 16. The recorder shall have no vote as a member of council; the mayor, or recorder presiding in his stead, shall have a vote only in case of a tie, and in no case shall the presiding officer have more than one vote. No member of the council shall vote upon or take part in the consideration of any proposition, in which he is or may be interested otherwise than as a resident of said city.

Sec. 17. The council shall cause to be kept in a well bound book called the council journal, an accurate record of all its proceedings, by-laws, ordinances, orders and resolutions, which shall be fully indexed and shall be open to the inspection of any one who is required to pay taxes to the city. The records of the town of Aracoma shall be deposited with the council of said city and it shall make suitable provisions for the safe keeping of same; at each meeting of council, the proceedings of the last meeting shall be read, corrected, if erroneous, and signed by the then presiding officer.

Sec. 18. To carry into effect the enumerated powers and all others by this act or by general law conferred or which may hereaf-

ter be conferred upon the said city or its council or any of its officers, the said council shall have and possess full authority to make all needful ordinances, by-laws, orders and resolutions, not repugnant to the laws and constitution of the United States, and of this state, and to enforce any and all of such ordinances, by-laws, orders or resolutions by prescribing for a violation thereof fines and penalties and imprisonment in either the county jail of Logan county, or the city of Logan prison, if there be one, but such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced by and under the judgment of the mayor of said city, or in case of his absence or inability to act, of the recorder of said city, or in case of the absence or inability to act of both of said officers, of one of the councilmen appointed for that purpose by the council.

Sec. 19. The council shall cause to be annually made up and entered on its journal not later than the first day of July of each year, an accurate estimate of all sums that are or may become chargeable to such city, and which should be paid within one year, and it shall order a levy sufficient, in its opinion, to pay the same; *provided, however*, that said levy be agreed to by a majority of the board of control of said city.

Sec. 20. The levy so ordered shall be a specific levy of not more than ten (\$10.00) dollars on each dog within the said city, and tax upon all real and personal property therein, subject to state taxes upon the basis of the valuation of such property as fixed for state purposes; but the taxes so levied upon the said property shall not exceed the rate of forty (40) cents on every one hundred dollars of the valuation thereof in any one year for the current expenses for the said city, unless authorized by two-thirds of the voters of said city voting at an election to be held for that purpose, and in no case shall said levy exceed fifty cents on every one hundred dollars valuation.

Sec. 21. All taxes which the council are or may be authorized to levy and collect, and all fines and penalties which may be imposed and collected for violations of the laws and ordinances of said city, shall enure to the exclusive benefit of said city, and all moneys received or collected for the use of said city, shall be paid into the city treasury and shall not be drawn therefrom, except as the council in accordance with this act, may by order duly recorded in the council journal of said city and by orders drawn

upon the city treasurer, signed by the mayor and countersigned by the recorder, and no order shall be issued upon any fund unless there is an unexpended balance to the credit thereof sufficient to cover such order, and money in the treasury to pay it; the council shall on or before the first day of April in every year, cause to be published in two newspapers of different political faith if there be two newspapers of different political faith published in said city, and if not, then in one newspaper published in said city, a statement of receipts and expenditures of said city for the past year, for each of the several funds, and the same shall be signed and sworn to by the recorder.

Sec. 22. The council shall have full power to make and enforce ordinances for the regulation and control of the sale of all spirituous, vinous and malt liquors within the city, provide for the forfeiture, cancellation and annulment of any license for the violation of any condition of the bond given by any licensee, or for a violation of any ordinance regulating and controlling the sale of such liquors; to make and enforce ordinances determining the class, character and qualifications of licensee and their employees; to impose a license for the sale of such liquors upon the licensee for the use of the city in excess of the amount required to be paid to the state for the same purpose.

When any such license is granted by the council it shall take from the person so licensed, a bond with approved security in a penalty not less than three thousand dollars payable to the city of Logan and conditioned as prescribed by the constitution and laws of the state of West Virginia. The council may provide for the punishment of such person, or persons, for the violation of any of the conditions for the said bond, and suit may be brought and maintained against any person, or persons, or their securities on such bond for the same object, by the same persons, in the same manner and with like effect as upon a bond taken under the laws mentioned; and also for any fines and costs that may be imposed by the mayor for any offenses against the city under its ordinances involving a breach of the conditions of such bond; but nothing contained in this act shall be construed to authorize the corporate authorities of said city to grant state license for the sale of spirituous liquors, wines, ale, beer, or drink of like nature within the corporate limits of said city without the consent and approval of the county court of Logan county; *provided, however*, that in no

event shall such license be granted to any person without the assent of a majority of the board of control of said city.

Sec. 23. The council may revoke any license for the breach of any of the conditions of such bond or for other good cause shown, but the person holding the license must first have ten days' notice of the time and place of hearing as well as the cause alleged, and he shall be entitled to be heard in person or by counsel in opposition of such revocation.

Sec. 24. When anything for which a state license is required, other than the sale of intoxicating liquors, is to be done within said city, the council may require a city license therefor, in the manner prescribed by law and may impose a tax thereon for the use of the city; and the council may make and enforce all reasonable ordinances respecting the same, *provided*, only that such ordinances shall not be in conflict with the constitution and laws of this state or of the United States.

Sec. 25. If the owner or occupant of any real property abutting on any sidewalk, footway or gutter of said city, shall fail or refuse to curb, pave or keep the same clean in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city and to assess the amount of such expense on such property or upon the owner thereof, and the same may be collected by the treasurer in the same manner provided herein for the collection of city taxes.

Upon the petition in writing of the person or persons owning the greater amount of frontage of the lots abutting on any street or alley, between any two cross streets, or between a cross street and an alley, the council of the city by a majority thereof, may order such part of any such street or alley to be paved between the sidewalk with brick or other suitable material from one of such cross streets or alleys to the other, under such regulations as may be fixed by ordinances duly passed by the council; the cost of such paving shall be paid by the city; but nothing in this act shall be construed as to prevent the said city from issuing bonds, upon a vote of three-fifths of the qualified voters thereof, assenting thereto for the purpose of paying for the one-third of all paving, except crossings and then to pay for all of such paving over such crossing, and paving the streets and alleys of the said city, or any of them; *provided* that the council shall not by the issue and sale of said bonds cause the aggregate of the city debt of every kind

whatever to exceed two and one-half per cent on the value of the taxable property therein, which value shall be ascertained by the last assessment for state and county taxes, previous to the issuing of such bonds, nor shall they issue and make sale of the same without at the same time providing for the collection of a direct annual tax, sufficient to pay annually the interest on such debt and the principal thereof as the said bonds fall due, but the said city shall not impose nor exact from the inhabitants thereof a greater amount annually than fifty cents on every one hundred dollars, value of the property therein, as ascertained by the last assessment for state and county purposes, and the said direct tax shall be collected by the treasurer of said city in the manner and at the same time provided herein for the collection of city taxes for other current purposes; the bonds issued as aforesaid shall be in the denomination of one hundred dollars and multiples thereof, and shall be payable in regular periods, the longest of which shall not exceed thirty years, and shall not be sold for less than par, nor shall said bonds bear greater interest than five per cent per annum; and the said city shall not levy nor collect any tax on the bonds issued as aforesaid. The council of the said city shall cause the election to be held in said city, to determine the question of issuing said bonds, for paving said streets and alleys as aforesaid, upon the petition in writing of twenty freeholders of said city, under such regulations as the council by ordinances may prescribe.

Sec. 26. There shall be a lien on real estate in said city for the city taxes assessed thereon, and for all fines and penalties assessed to or imposed upon the owners thereof, by the authorities of said city from the time the same are assessed or imposed, which shall have priority over all other liens, except for taxes due the state, county and district, and which may be enforced by the council in the same manner provided by law for the enforcement of county taxes; if any real estate within the said city be returned delinquent for the non-payment of taxes thereon, a copy of such delinquent list shall be certified to the auditor and the same may be sold for city taxes, interest and commission thereon, in the same manner, at the same time and by the same officer as real estate sold for the non-payment of state taxes; all other liens created by this section may be enforced by said city by a suit in equity, in the name of the city against the person against whom such liens exist.

Sec. 27. The treasurer of said city, before entering upon the

discharge of his duties, shall execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for and paying over as required by law, all moneys which may come into his hands by virtue of his office, with surety satisfactory to the council payable to the city of Logan, in a penalty of not less than three thousand dollars, nor more than fifteen thousand dollars, as the council may prescribe; he shall be the custodian of all moneys, bonds, notes, certificates and other evidence of indebtedness to the city, together with all valuable papers which may be placed in his hands by the council; he shall be chargeable with and it shall be his duty to collect the city taxes, levies, assessments, fines and penalties, under such regulations as may be prescribed by law and the ordinances of the city, and he shall have the same power and authority to distrain and sell therefor in like manner as the officer collecting the state and county taxes and levies; his compensation shall not exceed five per cent of the amount duly collected and accounted for; in case the collector shall fail to collect, account for and pay over all or any funds with which he may be chargeable belonging to the city according to the condition of his bond and the ordinances of the council, the city shall have the right in its corporate name to recover the same by action in the circuit court of Logan county, or where the sum does not exceed three hundred dollars before a justice of the peace of the county of Logan, against the treasurer and his sureties or any of them, or his or their personal representative, upon giving ten days' notice in writing of any such motion or action. The treasurer shall, on the last day of each month, file with the recorder a sworn itemized statement showing his total collections, if any, and disbursements for said month; and he shall annually on or immediately before the first day of July make such settlement with the council as the general laws of this state provide for sheriff's settlements with the county court; and upon the completion of such settlement all orders surrendered by such treasurer shall be collected by the recorder in the presence of the council of said city by a prefixing stamp, showing that the same have been paid; and said treasurer shall at any time, upon a written order of a majority of the members of the board of control of said city, make settlement of his accounts as such treasurer before a committee of three persons to be appointed, as follows; one by the said board of control, one by the said treasurer and the other by the two ap-

Sec. 34. All acts and parts of acts which are in conflict and inconsistent with this act are hereby repealed; but this act shall not be construed to take away any of the powers conferred upon the said town or upon the council or any officer thereof conferred by general law, except so far as the same be inconsistent with the power conferred by this act.

Sec. 35. The said city shall succeed to all the rights and liabilities of the town of Aracoma, and it shall be liable for all the debts and obligations of the said town of Aracoma, the same as if such indebtedness were created by the said city of Logan.

Sec. 36. The ordinances in force in said town of Aracoma at the time this act goes into effect, so far as they are not inconsistent with this charter, shall continue in force as ordinances of the city of Logan until amended or repealed by the council of said city.

CHAPTER 4.

(House Bill No. 17.)

AN ACT to amend and re-enact section twenty-seven of chapter sixty-six of the acts of one thousand nine hundred and three, incorporating "The city of Parkersburg" in the county of Wood.

[Passed February 28, 1907. In effect from passage. Approved by the Governor, March 5, 1907.]

SEC.

27. Right of council to levy and collect taxes.

Be it enacted by the Legislature of West Virginia:

That section twenty-seven of chapter sixty-six of the acts of nineteen hundred and three, incorporating "The city of Parkersburg" in the county of Wood be amended and re-enacted so as to read as follows:

Sec. 27. The council shall have authority to levy and collect an annual tax on real estate, personal property and tithables in the said city, and upon all other subjects of taxation under the several laws of the state; *provided*, said tax does not exceed forty cents on each one hundred dollars of the said assessed value of said property, or the sum of two dollars upon every tithable therein; which taxes shall be uniform with respect to persons and proper-

ty within the jurisdiction of said city, and shall only be levied upon such property, real, personal and mixed, and on capital on which the state imposes a tax; to impose a tax on all licenses, for which a tax is now or may hereafter be imposed for state purposes, in addition to the tax paid the state, and which said taxes are for the use of the city; the taxes so levied, other than upon licenses, shall be payable upon the twentieth day of December of the year in which the levy is made, or as soon thereafter as notice shall be given by the collector by publication for five days in one or more newspapers, published in said city, that he is ready to receive all such taxes; the bills for such taxes shall be made out for each year, and when paid, receipted by the collector and delivered to the person paying the same. Any taxpayer may pay the whole amount of taxes assessed against him, including tithables, in December of any year, or as soon as the collector is ready to receive taxes as aforesaid, and receive a discount of two per centum; and the council shall have authority to subject any person or persons who, without having paid the taxes imposed by said council for the privilege, shall do any act or follow any employment or business in the said city, upon which the council is or shall be authorized to impose a tax to any fine or imprisonment which they are or may be authorized to impose or inflict for the enforcement of their ordinances; the council shall have authority to levy such tax or license on dogs within the city limits, as they shall deem proper, and enforce the payment of the same by such fines and penalties or both, as they deem proper.

The tax or license for dogs shall be paid in such manner and at such times as the council shall by ordinance prescribe.

CHAPTER 5.

(Senate Bill No. 17.)

AN ACT authorizing the city of Central City to pave the streets avenues and alleys and construct lateral or branch sewers therein, and authorizing the entire costs of such improvement to be paid by abutting property owners, except intersections, and the issuing of bonds or certificates to defray the costs thereof, and recording liens for the costs of such improvements against the lot owners.

[Passed March 1, 1907. In effect from passage. Approved by the Governor, March 6, 1907.]

<p>SEC.</p> <p>1. } Duty of council as to improvement 2. } of streets, etc.</p> <p>3. Council to make assessments; notice by publication.</p> <p>4. Lien upon property assessed; how assessments against property paid.</p> <p>5. Recovery of assessment by suit.</p> <p>6. Assessments; how collected; if insufficient; if irregularity in proceedings.</p>	<p>SEC.</p> <p>7. Holder of bonds may foreclose liens; when; how.</p> <p>8. Power of council as to issuance of bonds; how applied; interest.</p> <p>9. Bond question submitted to vote; limit of indebtedness to be created.</p> <p>10. No bonds to be issued until, etc.</p> <p>11. Account of financial matters to be kept by council.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. Whenever a petition signed by a majority in interest on the basis of foot frontage of the owners of property abutting on any street, avenue or alley, in the city of Central City, is regularly presented to the common council of said city for the purpose, or whenever the said council shall deem it necessary to construct any sewer or pave any of the streets, avenues or alleys of said city, whether such petition has been filed or not, the council shall by resolution declare the necessity therefor, and shall cause to be prepared by the city engineer, and filed for inspection in the office of the city clerk, plans, specifications and profiles of the proposed work of improvement, with careful estimates of the costs thereof, and the costs of each running foot, and the names of the owner or owners of lots or parts of lots, abutting on the streets, avenues or alleys, or the part thereof to be improved, and shall cause notice thereof to be immediately published once a week for two successive weeks in some newspaper of general circulation in said city, which notice shall state the kind, size and location of the proposed improvement, and shall designate the terminal points thereof, and the estimated cost per foot front to property bordering on that part of the street, avenue or alley proposed to be improved, and shall require the owners of lots and parts of lots, abutting on the street, avenue or alley, or that part thereof proposed to be improved as aforesaid, to appear before the council of said city at a meeting thereof, not less than five days from the last publication of said notice, and show cause, if any they can, why said improvement should not be made; the said hearing may be adjourned from time to time. The sewers mentioned and included in this act shall be only branch or lateral sewers and this act shall not be construed to embrace trunk sewers.

Sec. 2. If upon the hearing, said improvement be still deemed necessary, the council, by a majority vote of all the members elected to said body, may order such street, avenue or alley between such designated points, between the sidewalks thereof, to be curbed, graded and paved with some suitable material, and a sewer to be constructed therein from one of such streets, avenues or alleys to the other, or to have such paving done without the construction of a sewer, or a sewer constructed without such paving being done, under such regulations as the council may provide by ordinance, and may let the contract upon the lowest and best terms to be obtained by advertisements for bids or for proposals therefor, and the entire cost of such grading, paving and curbing and the entire cost of such sewer and all expenses connected therewith, shall be assessed against the property abutting on such street, avenue or alley by the foot frontage of such property so abutting; each lot or fractional part of lot, to bear its proportion of said costs according to the distance it so covers on such improvement. The intersection of streets, or of a street and alley paved, or provided with sewer, under this section, shall be correspondingly paved or sewerred at the sole expense of the city.

Sec. 3. The council may make the assessments provided in the preceding section, before the work is done, or contracted for (using the estimate of the city engineer as a basis therefor) or make such assessments during the progress of said work, or after the completion thereof; but the council shall immediately after making such assessments, cause to be published once a week for two successive weeks in some newspaper of general circulation in said city, a notice which shall name and describe the location of the street, avenue or alley upon which said paving shall, or has been constructed; give the name or names of owner or owners of each lot abutting on said street, avenue or alley, if known, if unknown, such lot or lots shall be described with reasonable certainty for identification, and the fact that the names of the owners of such lots are unknown, shall be stated; the number of feet that each lot, or fractional part of lot, of each known as well as unknown owner or owners abuts on such streets, avenues or alleys, shall be stated; the amount assessed upon each lot, or part of lot, and when the same shall be payable; said notice shall require all owners of lots and parts of lots, abutting on the street, avenue or alley to be improved as aforesaid, to appear before the common council of said

city at a meeting thereof, within twenty days from the first publication of said notice (the time and place of said meeting to be designated in said notice) and show cause, if they can, why said assessment should not become final; the council may alter or amend any assessment made against the property of any such owner for good cause shown therefor.

The said hearing may be adjourned from time to time. In case any of the owners of said lots shall fail to appear before the said council before the expiration of said twenty days from the first publication of said notice, and show good cause for having such assessment corrected, said assessment shall become final, and the decision of the said council shall be final and conclusive.

Sec. 4. The assessment provided in sections two and three with the interest accruing thereon, shall be a lien upon the property so assessed, to the same extent that taxes are a lien, and shall remain a lien until fully paid, and shall have precedence over all other liens excepting taxes, and shall not be divested by any transfer or conveyance of the property, or by judicial or other sale thereof, and any mistake in the description of the property or location thereof, or in the name of the owner or owners thereof, shall not vitiate the lien of said assessment; *provided*, that said lien shall be void, as to purchasers of any such real estate for value and without notice, who shall have purchased the same at any time after the expiration of twelve months from the date of said assessment, unless an abstract of such assessment, giving the location of the real estate, the name of the owner or owners thereof and the date and the amount of the assessment against the same shall have been first recorded in trust deed record, in the office of the clerk of the county court of Cabell county, council shall provide for releasing said liens when the amount secured thereby shall have been fully paid, in the manner that other liens are released.

The said assessments against said property shall be paid as follows: Ten per cent of the entire assessment, with interest thereon, from the date of assessment shall be paid to the city treasurer within thirty days after the completion of the work or improvement, or at such time as the council may prescribe, and the remainder shall be in equal annual installments, not exceeding ten, payable at a certain stipulated time, as council may by ordinance prescribe; each installment of such assessment shall bear interest

from the date of the assessment at the rate of six per cent per annum.

Sec. 5. If the payment is not made by the time stipulated for payment of such assessment, or any installment thereof, the amount assessed and due as aforesaid, together with interest and costs thereon, may be recovered by suit before a justice of the peace, or other court of competent jurisdiction, in the name of the city, against the owner or owners; but the owner shall not be liable beyond his interest in the property assessed at the time such assessment was made; proceedings for the recovery of assessments may be instituted by the city, in a court in chancery, against the owners or any number of them, who are in arrears, to enforce the lien against any lot or parcel, or any number of them embraced in any one assessment; but the judgment or decree shall be rendered severally or separately for the amount assessed; if in any such action it shall appear that by reason of any technical irregularity, the assessment has not been properly made against any lot or parcel of land sought to be charged, or against the owner of such lot, the court may nevertheless, on satisfactory proof that expense is to be or has been incurred, which is a proper charge against such defendant, or lot or parcel of land in question, render judgment or decree for the amount properly chargeable against such defendant or on such lot of land.

Sec. 6. Each installment of the amount so assessed, including interest from date of assessment to the time when payable, shall be placed on the tax books of the city for the year in which it is payable, and it shall be collected by the city in the same way that taxes are collectable, or in such way as the council may prescribe, and the law governing the collection of taxes, so far as applicable, shall govern the collection of such assessments, and the proceeds arising therefrom shall constitute a special fund for the payment of the costs of such street or alley improvement, and the bonds and certificates hereinafter provided for, and for no other purpose; *provided*, that any person may pay the whole or any part of such assessment, before the said bonds or certificates are issued, in which event the interest on said assessment, or the part thereof paid, shall be collected only to the date of such payment; if the assessment proves insufficient to pay for the improvement and expenses incident thereto, the council may make an additional *pro rata* assessment to supply such deficiency. When it appears to the

council that any such special assessments, invalid by reason of any informality or irregularity in the proceedings, the council may order a re-assessment, whether the improvements have been made or not, which shall be conducted in the same manner as is herein provided for the original assessment.

Sec. 7. If the city shall fail or refuse to promptly collect such assessments when due, the owner or holder of the bonds or certificates hereinafter provided for, in the name of the city, may foreclose said liens by suit in chancery, and the amount realized by the sale of any such property, or the payment of such assessments in any suit, after the payment of costs of such proceedings, shall to the extent of such assessment, with interest thereon, be applied *pro rata* to the payment of the outstanding bonds, certificates and claims, incurred on account of such improvement, without reference to the time of the maturity of such bonds, certificates or claims.

Sec. 8. The council, for the purpose of anticipating collection of such assessments, shall have power to issue street or improvement bonds or certificates for the purpose of raising money to pay for such improvements made, the proceeds arising from the issuing of such bonds shall be supplied exclusively to and appropriated and used for no other purpose than the liquidation of the costs of the improvements of said street or alley and sewer improvements; said bonds shall bear the name of the street or alley improved or sewer constructed, and shall be payable in equal installments out of the special fund herein provided, extending over a period not exceeding ten years, and shall bear interest not exceeding six per cent per annum until paid, and shall be issued in such denominations as the council may direct; but the bonds made payable in any one year shall not be in excess of the aggregate amount of the special assessments collectible for said year.

Sec. 9. It shall be lawful for the council to provide by ordinance, for the issuing of certificates or bonds to the contractor, who under contract with the city, shall have constructed any such improvements, in payment therefor; the bonds or certificates shall be the same as the bonds or certificates provided for in the preceding section; *provided, however*, that before the said bonds shall be issued and the debt contracted as provided herein, all questions connected with the same shall have been first submitted to a vote of the people of said city at a general or special election, and

have received three-fifths of all the votes cast for and against the same; and, *provided, further*, that such indebtedness hereby created shall not increase the indebtedness of the said city to an amount, including existing indebtedness in the aggregate, exceeding two and one-half per centum on the value of the taxable property in said city to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness; nor without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and the principal thereof within and not exceeding thirty-four years.

Sec. 10. No bonds or certificates shall be issued under this act until the assessments provided herein shall have been made and the abstract of same shall have been filed for record in the office of the clerk of the county court as provided in section four of this act.

Sec. 11. The council shall enter upon its minutes a complete record of all the proceedings hereunder and shall provide, by ordinance, for the keeping of complete and correct books of account of all financial matters herein provided for.

CHAPTER 6.

(House Bill No. 16.)

AN ACT to amend and re-enact and reduce into one, the several acts creating the Parkersburg independent school district.

[Passed February 28, 1907. In effect ninety days from passage. Approved by the Governor, March 6, 1907.]

<p>SEC.</p> <ol style="list-style-type: none"> 1. Name of independent school district. 2. Board of education; election thereof. 3. Qualification and salary of board. 4. Oath of office; secretary of board authorized to administer oath. 5. Vacancies in office of school commission; how filled. 6. Board to hold meetings; when and where; special meetings; by whom called; quorum; no contracts to be made in special meetings without giving notice to all members. 7. Secretary to be elected; when; term of office; secretary to give bond. 8. Duties of president. 9. Duties of secretary; compensa- 	<p>SEC.</p> <ol style="list-style-type: none"> tion. 10. Board made a corporation; its corporate powers. 11. Enumeration of youth to be made; when; how made. 12. Apportionment of school funds; duties of state superintendent of schools in making his report; to whom made; what to contain. 13. Board of education to construct school houses, etc., duty of board to levy tax; increase of levy to be submitted to the voters; contracts made in extent to involve levy of any future year; void unless submitted to the vote of the people; president of board to issue a proclamation to be published; elections; how held.
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| <p>SEC.</p> <p>14. Additional levy; for what purpose; power to establish a public school library; failure of board to lay levy; what then.</p> <p>15. Regulation of schools; duties of board.</p> <p>16. School for manual training and domestic science; how established and maintained.</p> <p>17. Money; how disbursed.</p> <p>18. District superintendent; how appointed; compensation; term of office; vacancies; how filled.</p> <p>19. Examining committee; how appointed; their duties; all applicants to pay fee; time certificate to be issued for; time of</p> | <p>SEC.</p> <p>holding meetings; compensation of committee.</p> <p>20. Teachers may be removed for incompetency, etc.; teachers to be appointed by board; salaries fixed by whom; what teachers to be placed on retired substitute teachers' list; their compensation.</p> <p>21. Inconsistent or conflicting acts of general school laws with this act shall be void.</p> <p>22. Members of board now in office shall remain for term they were elected.</p> <p>23. Inconsistent acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

Sec. 1. The magisterial district of Parkersburg, in the county of Wood, shall constitute one school district to be known as the "Parkersburg independent school district."

Sec. 2. There shall be elected by the voters of said district at the general election to be held in the year one thousand nine hundred and eight, and every four years thereafter, two commissioners; and at the general election to be held in the year one thousand nine hundred and ten, there shall be elected a president of the board of education and two commissioners; whose terms of office shall commence on the first day of January next succeeding their respective elections, and shall continue for four years, respectively, and until their successors are elected and qualified; the president and commissioners shall constitute a board of education for said district, named "Board of education of Parkersburg district."

Sec. 3. Each member of said board shall be a qualified voter and a *bona fide* resident of said district and shall have been such for at least two years prior to his election; and shall be the owner of real estate which shall have been charged with district taxes in his name on the tax records of Wood county for at least two years prior to his election. The salaries of the members of the board shall be fixed by the board; *provided*, that the salary of the president shall not exceed five hundred dollars per annum, and each commissioner shall receive not to exceed three dollars for each regular or special meeting at which he may be present.

Sec. 4. Before entering upon their duties as officers, the said president and each of said commissioners shall be required to qualify by taking and subscribing to the following oath of office: "I, A..... B....., do solemnly swear (or af-

firm) that I will faithfully perform the duties of president of the board of education or school commissioner of the school district of Parkersburg during the term for which I was elected, to the best of my ability, according to law; so help me God.”

The secretary of the board of education is authorized to administer said oath, a copy of which shall be kept by him upon the files of his office.

Sec. 5. Vacancies in the office of president or commissioner shall be filled by the board at the first regular meeting after which said vacancy shall be declared, by the appointment of a duly qualified person, who shall hold office until the next election, at which time a qualified person shall be elected to fill the unexpired term caused by said vacancy.

Sec. 6. The board shall hold a meeting on the first Monday in January of each year, and thereafter at least twice each month at such time and place and on such day as the board may fix, which action shall be taken at the first meeting to be held in January, and shall be entered on the records of the proceedings of such meeting; such meetings are designated regular meetings; special meetings may be called at any time by the president or by the secretary upon the written request of two members of the board; no business shall be transacted at any special meeting except it be mentioned in the call, which shall be in writing and be recorded in the proceedings of such special meeting; no contract shall be made by the board in special meeting involving one hundred dollars or more unless all members of said board shall have had at least twelve hours' notice of said meeting by personal service of the call thereof. A majority of the board shall be necessary to constitute a quorum.

Sec. 7. At each meeting to be held on the first Monday of January after the election of the president, the board shall elect a secretary, whose term of office shall continue for four years, and until his successor is elected and qualified. Vacancies in the office of secretary shall be filled by the board for the unexpired term; the secretary shall qualify by executing his bond with good security in such penalty as the board may prescribe, to be approved by the board, which bond shall be committed to the custody of the president.

Sec. 8. The president shall perform such duties as ordinarily devolve upon the presiding officer of a deliberative body; by virtue

of his election he shall be a member of the board, and entitled to vote upon all questions submitted. In his absence the board may choose a president *pro tempore*.

Sec. 9. The secretary shall record in a well bound book to be provided for the purpose, all the official acts and proceedings of the board, which shall be a public record open to the inspection of all persons interested therein; he shall also keep and preserve books of account which shall show the resources of the board for each current year and the funds from which the same is derived; all credits to be charged against said resources by way of delinquents, commissions and otherwise; all disbursements made by the board and on account of what fund, and the balance to the credit of each fund, together with a descriptive entry, showing for what purpose each item of disbursement is made; which books of account shall always show the financial resources of the district and shall be always subject to inspection by any taxpayer of said district; he shall also preserve in his office all papers containing evidence of title, contracts and obligations; and in general, shall record and keep on file in his office all such records, papers and documents as may be required by this act, and perform such duties, not inconsistent herewith, as may be prescribed by the board; he shall be *ex officio* librarian, and shall perform such duties as such relating to its preservation, maintenance and conduct as may be prescribed by the board; he shall make such reports as are required to be made by secretaries of the boards of education by the general school laws of the state; for his services he shall receive such salary as may be fixed by the board, not to exceed twelve hundred dollars per annum, and he may be removed at any time by a majority vote of all the members of the board in regular meeting.

Sec. 10. The said board of education shall be a body corporate in law, and as such may purchase, hold sell and convey real and personal property for purposes within the purview of this act; may receive any gift, grant, donation or devise; and as such may sue and be sued, and contract and be contracted with. The legal title to all property belonging to said school district shall be vested in said board, and it shall have the management, custody and control thereof, subject to the limitations prescribed by this act, and shall be responsible therefor.

Sec. 11. Not later than the first regular meeting in March of each year, the board shall employ a competent person, a resident

of the district, to make an enumeration of all the youths resident in said district, who shall be over six and under twenty-one years of age on the first day of July following, in the manner prescribed by the general school law of the state; which enumeration shall be verified in the manner and returned to the secretary of the board, within the time prescribed by said general school laws; the board shall examine said report of enumeration at its next regular meeting after its return, and shall take such steps as it may deem necessary to verify the same, and the secretary shall certify said enumeration to the county superintendent of schools within the time and in the manner prescribed by law.

Sec. 12. The state superintendent of schools, in his report to the auditor, shall specify separately the enumeration of youth in said district, and in the apportionment of the school funds, the amount to be due said district shall be apportioned and certified to the secretary of said board separately, and requisition therefor shall be drawn in favor of the treasurer of said district accordingly.

Sec. 13. The board of education shall provide by purchase, condemnation, lease, construction, or otherwise, school houses and grounds, furniture, fixtures and appliances, as may be necessary for school purposes, and keep and maintain the same in good order and repair; shall supply said school buildings with fuel and other things necessary for comfort and convenience; and shall pay all charges incurred by virtue of any of the provisions of this act which are not chargeable to the "teachers' fund." In order to provide the funds necessary for the purposes of this section, the board of education shall annually at its first regular meeting in July, or as soon as practicable thereafter, levy a tax on the property taxable in said district, in the manner, within the limits and not to exceed the amount prescribed by the general laws of the state relating to levies by boards of education for like purposes; *provided, however,* that in case such levies, in the judgment of the board, are not sufficient to provide the funds necessary for the purposes mentioned in this section for said year, it may submit the question of increased or additional levy to the voters of the district, and such additional or increased levy shall not be laid unless three-fifths of all the votes cast thereon shall be in favor thereof.

All contracts made by the board, in the extent that they shall involve the levy of any future year, are void, and no debt shall

be contracted or incurred by the board in any one year which shall exceed the funds available for that purpose, unless the object, nature and extent thereof shall have been first submitted to the voters of the district, at a special election to be called by the board for that purpose, and shall have received three-fifths of all the votes cast for and against the same; the president of said board shall issue a proclamation of said special election, in which he shall recite the object, nature and extent of the indebtedness proposed to be incurred, and for what purpose, which proclamation shall be published once in each week for four weeks previous to the day of election in at least two newspapers published in said district. Every special election held pursuant to the provisions of this section, except as herein otherwise specially provided, shall be held and conducted and the result certified in the manner prescribed by the general election laws of the state relating to county or magistral district elections. The proceeds of taxes so levied, or property sold, of all donations and devises applicable to any of the purposes mentioned in this section, shall constitute a fund to be called the "building fund," to be appropriated exclusively to the purposes mentioned in this section.

Sec. 14. In addition to the levy named in the preceding section the board of education shall for the support of the schools in the district, annually levy such tax on the taxable property in the district, as will, with the money received from the state for the support of free schools, be sufficient to keep said schools in operation for not less than nine months in the year; *provided*, that said tax shall not, in any year, exceed the rate of twenty-five cents on every hundred dollars' valuation, according to the latest available assessments made for the state and county taxation; the proceeds of this levy, together with the money received from the state aforesaid, shall constitute a special fund, to be called the "teachers' fund," and no part thereof shall be used for any other purpose than the payment of teachers' salaries and the salary of the city superintendent and the establishment and maintenance of the public school library provided for in this section; the board of education shall have power to establish and maintain a public school library, and the library so established and maintained shall be known as the "Parkersburg public school library," and shall be for the use of the public schools of Parkersburg district and the inhab-

itants thereof, and shall be governed by such rules and regulations as the board of education may prescribe.

Upon failure of the board of education to lay the levies required by this act, or any of them, they shall be compelled to do so by the circuit court by writ of *mandamus*.

Sec. 15. The board of education shall prescribe all necessary rules and regulations for the government of the schools of the district; for the admission of pupils therein and for the exclusion of pupils dangerous to the health or detrimental to the morals or discipline of the schools; it shall hire all teachers, establish and maintain such high schools and evening schools as may be necessary, and with the approval of the district superintendent, designate such branches of learning as shall be taught therein; upon the recommendation of said district superintendent it shall prescribe the text books to be used in the schools of the district, and shall establish a system of grades, by which admission to the high school shall be regulated.

Sec. 16. The board of education is hereby authorized to establish and maintain schools for manual training and domestic science, which shall be conducted under the order and direction of the board, and in accordance with such rules and regulations as it may prescribe; for this purpose the board is authorized to expend each year not to exceed five per cent out of the building fund and five per cent out of the teachers' fund of the district for such year; *provided, however*, that for the purpose of acquiring the necessary buildings and grounds, furniture, fixtures and appliances, debt may be contracted by the board, provided the same is authorized by the people of the district at special election to be held and conducted according to the provisions of this act. The secretary of the board shall keep separate accounts of the cost of establishing and maintaining each of the schools established pursuant to the provisions of this section, and the annual statement of disbursements shall show by items all disbursements made on account thereof.

Sec. 17. No money shall be disbursed except by order of the board, duly entered of record, and all orders on the treasurer shall be signed by the president and secretary, and shall specify upon its face the particular account to which the same is chargeable.

Sec. 18. Annually, at the first meeting in July, the board shall

appoint a district superintendent of schools, and fix his salary, whose term of office shall continue until the first day of July next succeeding his appointment, but may be removed at any time for immorality, misconduct or lack of proficiency; any vacancy in the office shall be filled by the board for the unexpired term; he shall have general supervision of the conduct of the schools, make all necessary reports, and perform such other duties as the board may prescribe; the said district superintendent shall not receive, directly or indirectly, any gift, emolument or reward for his influence or services in securing any contract, book, supplies or apparatus, or the adoption of any text book, supply or apparatus, and in case he should do so he shall be removed from office.

Sec. 19. The board of education shall appoint two competent persons to act with the district superintendent as an examining committee to examine all applicants for teachers of schools in the district; each applicant for examination shall pay a fee of one dollar. Certificates of qualification shall be issued by said committee, according to proficiency, as follows: Number one, very good; number two, good; number three, medium; but the board may by special regulations, provide for issuance of certificates to colored teachers; no certificate shall be issued for longer than one year, but the number one certificate may be renewed from year to year by the examining committee, at its option, under such regulations as the board may prescribe; the committee shall hold meetings for examination at such times and places as the district superintendent shall appoint; the examining committee shall receive such fees for their services as the board may allow, to be paid out of the examination fees, the excess, if any, to be paid into the building fund.

Sec. 20. Teachers shall be subject in all respects to the rules and regulations adopted by the board, and they may be removed by the board for incompetency, immorality or misconduct, upon complaint of the superintendent or any member of the board.

All teachers shall be appointed and their salaries fixed by the board; but no person shall be appointed unless he shall first have obtained a certificate from the examining committee, except that the superintendent and the members of the examining committee shall not be required to have a certificate.

Teachers who have taught in the public schools of Parkersburg district for at least thirty consecutive years shall be placed on a list to be known as "The retired substitute teachers' list" upon re-

quest being made in each case by the teacher to be so placed and shall each be paid a salary equal to three-fourths that received during the thirtieth year of such service; said teachers shall perform the duties of substitute teachers and shall devote all their time to the performance of such duties when called upon by the district superintendent so to do; *provided*, that when such teachers shall devote more than three-fourths their time to such substitute work they shall be paid for each additional day a sum equal to what they received for each day's work during their thirtieth year of service; said substitute teachers shall, so long as residents of said district, continue as such substitutes until removed for immorality, misconduct or lack of proficiency.

Sec. 21. All provisions of the general school law of the state, which are inconsistent or in conflict with any of the provisions of this act shall be void within said district; otherwise, to have full force and effect.

Sec. 22. The president and members of the board of education now in office shall remain in office during their respective terms for which they were elected, and the secretary of said board now in office shall hold his office until the first meeting of the board in January, nineteen hundred and eight, at which time his successor shall be appointed to serve for the unexpired term as fixed by the provisions of this act.

Sec. 23. All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 7.

(Senate Bill No. 10.)

AN ACT authorizing the board of education of the school district of Wheeling to borrow money and issue bonds for the purchase and construction of property and buildings relating to its work.

[Passed February 27, 1907. In effect ninety days from passage. Approved by the Governor, March 3, 1907.]

SEC.
1. Power of board of education of school district of Wheeling; may issue bonds; interest; limit of debt to be contracted; when indebtedness incurred.

SEC.
2. Before indebtedness incurred, board of education to pass resolution; what to specify; election; when held; how.
3. Board of education to provide for assessment of an annual tax.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The board of education of the school district of Wheeling may from time to time incur such indebtedness as may be necessary to purchase such real property situated within the city of Wheeling and to construct such buildings for school purposes or library purposes as in its discretion shall be proper, and for the purpose of providing for any such indebtedness as may from time to time be incurred in the acquisition of such property or the construction of such buildings, the said board of education may issue and sell its bonds for such sum or sums as from time to time may be needed; any such bonds which may be issued as aforesaid shall bear interest at not more than five per centum per annum and shall not be sold by the said board of education at less than their par value; but no debt shall be contracted nor bonds issued under this act for any amount which shall increase the total indebtedness of the said board of education to an amount which shall be in excess of two per centum of the value of all of the taxable property within the city of Wheeling as such value is shown by the assessment for state and county taxes which shall have been made last previous to the incurring of such indebtedness or the selling of such bonds. It is *further provided* that no such indebtedness shall be incurred or bonds sold by the said board of education unless the said board shall at the same time provide for the collection of a direct annual tax sufficient to pay annually the interest on such indebtedness or on such bonds and also to pay the principal thereof within a specified period, which period shall not exceed thirty-four years from the incurring of such indebtedness and the sale and issue of such bonds. It is *further provided* that no such debt shall be incurred and no such bonds shall be issued or sold by the said board of education under the provisions of this statute unless all questions connected with the same shall have been first submitted to a vote of the people of the said city of Wheeling and shall have received three-fifths of all the votes cast for and against the same.

Sec. 2. Before proceeding to incur any such indebtedness or to sell any such bonds, the said board of education shall pass a resolution which shall specify particularly the property proposed to be acquired or the buildings proposed to be erected, or both, and the amount of the indebtedness which is to be incurred for such pur-

poses and the amount represented by the bonds to be issued and shall also in such resolution specify the day on which an election shall be held in order that the vote of the citizens of the said city of Wheeling may be taken and the day so fixed shall not be less than thirty days after the date of the passage of such resolution; so soon as such resolution shall have been passed the board of education shall cause copies of it to be published not less than once a week for four successive weeks prior to such election in one or more of the newspapers published in the said city of Wheeling. On the day fixed for such election by the said resolution, voting places, ballots, poll clerks and other necessary things shall be provided, such as are provided at the time of and in connection with the regular elections held for the election of members of the board of education aforesaid, and such things shall be provided in every one of the districts of the county of Ohio which are within the corporate limits of the city of Wheeling, and such election shall be conducted and the results thereof ascertained under and in conformity with the provisions of the law relating to the election of the members of the said board of education, so that all of the citizens of the said city of Wheeling shall have the opportunity to vote in the usual and ordinary way, and so that the votes which may be cast for and those which may be cast against the course proposed in such resolution may be definitely ascertained, and the expenses incident to such election shall be paid by the board of education.

Sec. 3. So soon as any such debt shall have incurred or any such bonds shall have been issued and sold, the said board of education of the school district of Wheeling shall provide for the assessment of an annual tax which shall be sufficient in amount to pay off and discharge such debt or such bonds and the interest thereon within a period which shall not exceed thirty-four years from the time when such debt shall have been incurred or such bonds shall have been issued and sold, and the said annual tax which shall be so provided for shall be in addition to the other taxes levied by the said board of education for the payment of other previously incurred indebtedness and for the payment of the other expenses incident to its work.

CHAPTER 8.

(House Bill No. 5.)

AN ACT to repeal the act incorporating Adelphi Lodge No. 8 of the Independent Order of Odd Fellows in the town of Clarksburg, as passed by the general assembly of Virginia, April seventh, one thousand eight hundred and fifty-eight, together with the amendment and re-enactment of the same by the acts of one thousand eight hundred and sixty-six of the legislature of West Virginia, together also with the amendment and re-enactment of the same by the acts of one thousand eight hundred and ninety-one of the legislature of West Virginia, and all acts or parts of acts relating to said incorporation of Adelphi Lodge No. 8, and also providing for the transfer of the right, title and interest to all property, both real and personal, now held by said lodge upon its re-incorporation under the provisions of chapter fifty-five of the code of West Virginia, to said lodge as re-incorporated.

[Passed February 25, 1907. In effect ninety days from passage. Approved by the Governor, March 1, 1907.]

<p>SEC. 1. Previous acts relating to Adelphi Lodge No. 8, I. O. O. F., repealed.</p>		<p>SEC. 2. Title to property held by lodge to be transferred; duty of trustees.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That the act incorporating Adelphi Lodge No. 8 of the Independent Order of Odd Fellows of Clarksburg, passed by the general assembly of Virginia, April seventh, one thousand eight hundred and fifty-eight, together with the amendment and re-enactment of the same by the legislature of West Virginia by the acts of one thousand eight hundred and sixty-six, together also with the amendment and re-enactment of the same by the acts of one thousand eight hundred and ninety-one of the legislature of West Virginia and all other acts or parts of acts relating to the incorporation of Adelphi Lodge No. 8, of the Independent Order of Odd Fellows of Clarksburg, be and the same are hereby repealed.

Sec. 2. And that as it is contemplated to re-incorporate said lodge by the same name under chapter fifty-five of the code of West Virginia, the title to all property, real and personal, now held by said lodge shall at once, upon its re-incorporation under said code

chapter, be transferred to and vested in said lodge as so re-incorporated. And the trustees of said lodge now holding title to the said property shall by proper conveyance, duly acknowledge, convey and transfer all right, title and interest vested in them as such trustees to such property to the said corporation when it shall have been re-incorporated.

CHAPTER 9.

(Senate Bill No. 1.)

AN ACT to amend and re-enact chapter thirty-nine of the acts of West Virginia legislature of one thousand nine hundred and five, constituting the auditor of this state the attorney in fact for all foreign and non-resident domestic corporations and prescribing his duties as such, and requiring him to pay into the state treasury the revenues therefrom.

[Passed March 2, 1907. In effect from passage. Approved by the Governor, March 6, 1907.]

- | Sec. | Sec. |
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| <p>1. Auditor constituted attorney in fact for foreign and non-resident domestic corporations; except, etc., provisions relating to appointment of such attorney.</p> | <p>3. What must be filed with auditor; duty of auditor after being served with or accepting any such process, etc.; when auditor not to accept such notice or process.</p> |
| <p>2. Payment of attorney's fee to secretary of state for services of auditor; when paid; amount of fee; if certificate of authority issued after last day of July; what then; amount for auditor's services; monthly report of secretary of state; what to include; moneys collected by auditor to belong to state.</p> | <p>4. Corporation may appoint in addition to auditor some other person as its attorney; provisions of this act not to apply to building and loan associations.</p> |
| | <p>5. } Penalty for failure to pay attorney's fee to auditor, and to appoint the auditor its statutory attorney.</p> |
| | <p>6. }</p> |
| | <p>7. Inconsistent acts repealed.</p> |

Be it enacted by the Legislature of West Virginia:

That chapter thirty-nine, acts of the West Virginia legislature of one thousand nine hundred and five, be amended and re-enacted so as to read as follows:

Sec. 1. The auditor of this state shall be, and he is hereby constituted the attorney in fact for and on behalf of every foreign corporation doing business in this state and of every non-resident domestic corporation, except that the terms of this act shall not apply to any such corporation which owed the state any license tax on its charter, or on its certificate of authority, as the case may be, on the twenty-third day of May, one thousand nine hundred and

five, and has continued to owe such tax since that time, but shall apply to any such corporation when it has been officially or judicially reinstated to its charter rights and franchises or authority to do business in this state; the provisions of this act shall not apply to any foreign corporation which has not been duly authorized to hold property and transact business within the state. Every such foreign and non-resident corporation shall, by power of attorney duly executed, acknowledged and filed in the auditor's office of this state, appoint said auditor and his successors in office, attorney in fact to accept service of process and notice in this state for such corporation, and by the same instrument it shall declare its consent that service of any process or notice in this state on said attorney in fact, or his acceptance thereof endorsed thereon shall be equivalent for all purposes to, and shall be and constitute due and legal service upon said corporation.

Sec. 2. Such foreign or non-resident domestic corporation shall at the time of taking out its charter, or procuring its authority to do business in this state, and as a condition to obtaining such charter or procuring such authority as the case may be, pay to the secretary of state, for the services of the auditor as its attorney in fact, ten dollars for the then current year ending on the thirtieth day of April next ensuing; but if the certificate of incorporation or authority be issued after the last day of July, the secretary of state shall assess and collect one dollar for each month, or fractional part of a month, to ensue before the first day of the next May; and on or before this said first day of May, for each year, such corporation shall pay to the auditor the like sum of ten dollars for his services as such attorney; *provided*, that if the certificate of incorporation or authority be issued in the month of March or April, the secretary of state shall assess and collect the sum of one dollar for each month, and shall in addition thereto and at the same time, assess and collect the full fee of ten dollars for the year beginning with the first day of the ensuing May; all fees collected by the secretary of state under the provisions of this act shall be included in his monthly report to the auditor, required by section ninety-two of chapter thirty-two of the code of one thousand eight hundred and ninety-nine, as amended by section forty, of chapter thirty-five of the acts of one thousand nine hundred and one; and all such corporations as have heretofore taken out charters, or procured authority to do business in this state, shall for the fiscal

year commencing on the first day of May, one thousand nine hundred and seven, pay the sum of ten dollars to the auditor as the fee for such attorney to receive service of process and annually thereafter a like sum; all moneys received by the auditor under this chapter shall belong to the state, and be by him immediately paid into the state treasury. The auditor shall keep in a well bound book in his office, a true and accurate account of all moneys so received, and paid over to him.

Sec. 3. The post office address of such corporation shall be filed with the power of attorney, and there shall be filed with the auditor from time to time statements of any change of address of said corporation. Immediately after being served with, or accepting any such process or notice, the auditor shall make and file with said power of attorney a copy of such process or notice, with a note thereon indorsed of the time of service, or acceptance, as the case may be and transmit such process or notice by registered mail to such corporation at the address last furnished as aforesaid. But no such process or notice shall be served on the auditor or accepted by him less than ten days before the return thereof.

Sec. 4. In addition to the auditor, any such company may designate any other person in this state as its attorney in fact, upon whom service of process or notice may be made or who may accept such service; and when such local attorney is appointed, process in any suit or proceeding may be served on him to the same effect as if the same were served on the auditor. The provisions of this act shall not be construed to apply to building and loan associations, mentioned under sub-section five of chapter forty-five, acts of one thousand nine hundred and five.

Sec. 5. Failure to pay the attorney's fee as hereinbefore required shall have all the force and effect and subject corporations to the same penalties and forfeitures, as are or may be prescribed by law for failure to pay the license tax required to be paid by such corporations.

Sec. 6. Any corporation failing to comply with the provisions of this act in so far as it relates to the appointment of the auditor as its statutory attorney, within ninety days from its incorporation or from procuring authority to do business in this state as the case may be, shall forfeit one hundred dollars as a penalty for such failure and upon a failure to pay such penalty the charter of such corporation shall thereby be forfeited and be void.

Sec. 7. All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 10.

(Senate Bill No. 2.)

AN ACT to amend and re-enact section twenty-four of chapter fifty-four of the code of one thousand eight hundred and ninety-nine, concerning an attorney in fact.

[Passed March 2, 1907. In effect from passage. Approved by the Governor, March 5, 1907.]

<p>SEC. 24. Resident domestic corporations, to appoint some person to accept service on behalf of said corporation; unless, etc.; when; power of attorney to be</p>	<p>SEC. recorded; where; penalty for not complying with requirements; inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That section twenty-four of the code of one thousand eight hundred and ninety-nine be amended and re-enacted so as to read as follows:

Sec. 24. Every resident domestic corporation, unless otherwise specifically and expressly provided, shall, within thirty days after its first election of officers, by power of attorney duly executed, appoint some person residing in the county in this state wherein its business is conducted, to accept service on behalf of said corporation, and upon whom service may be had of any process or notice; the said power of attorney shall be recorded in the office of the clerk of the county court of the county in which the attorney resides, and filed and recorded in the office of the secretary of state, and the admission to record of such power of attorney shall be deemed evidence of compliance with the requirements of this section; any corporation failing to comply with said requirements within twelve months from the date of its incorporation, shall by reason of such failure, forfeit its charter to the state, and the provisions of section one hundred and thirty-six of chapter thirty-six, acts of the legislature of one thousand nine hundred and five shall apply thereto.

All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 11.

(Senate Bill No. 18.)

AN ACT to provide for the appointment of a state board of examiners, and for the examination and registration of nurses.

[Passed March 1, 1907. In effect ninety days from passage. Approved by the Governor, March 5, 1907.]

SEC.

1. Governor to appoint board of examiners; when; board to be composed of whom; term of office.
2. Board to elect a president and secretary; when; quorum; board to make biennial report to the governor; duties of secretary; compensation of secretary and members of board; expenses and salaries; how paid.
3. Board to hold meetings; when;

SEC.

- notice of meetings to be published; applicants to deposit a fee
4. } Duties and qualifications of applicants for registration; unlawful to practice without a certificate; after what time.
 5. }
 6. Nursing to which this act does not apply.
 7. Penalties for violations.
 8. Board to have power to revoke certificates; how revoked.

Be it enacted by the Legislature of West Virginia:

Sec. 1. Upon the taking effect of this act, the governor within sixty days shall appoint a board of examiners to be composed of five members, two of whom may be women; one of these members shall be designated by the governor to hold office one year, two for two years and two for three years; and hereafter, upon the expiration of the term of office of the person or persons so appointed, the governor shall appoint a successor or successors to hold office for three years. All vacancies occurring in the board shall be filled by the governor.

Sec. 2. And be it further enacted: that the members of this state board of examiners shall as soon as organized, and annually thereafter in the month of June, elect from their members a president, and a secretary, who shall be the treasurer; three members of this board shall constitute a quorum, and special meetings of the board shall be called by the secretary upon written request of any two members; the said board of examiners is authorized to frame such by-laws as may be necessary to govern its proceedings, and said board shall make a biennial report of all its receipts and disbursements to the governor for transmission to the legislature; the secretary shall be required to keep a record of all meetings of the board, including a register of the names of all nurses duly registered under this act, which shall at all reasonable times be open to public scrutiny, and the board shall cause the prosecution of

all persons violating any of the provisions of this act, and may incur necessary expenses on this behalf; the secretary shall receive a salary, to be fixed by the board, not to exceed one hundred (\$100.00) dollars per annum, also traveling and other expenses necessarily incurred in the discharge of her official duties; the other members of the board shall receive four dollars (\$4.00) for each day actually engaged in this service, and all legitimate and necessary expenses; said expenses and salaries shall be paid from fees received by the board under the provisions of this act, and no part of salaries or other expenses of the board shall be paid out of the state treasury; all money received in excess of said allowance and other expenses provided for shall be held by the treasurer for meeting the expenses of the said board, and the cost of annual report of the board.

Sec. 3. That after January first, one thousand nine hundred and eight, it shall be the duty of said board of examiners to meet at some convenient point within the state not less frequently than once a year, notice of which meeting shall be given to the public press and in one nursing journal one month previous to the meeting; at this meeting it shall be their duty to examine all applicants for registration under this act; to determine their fitness and ability to give efficient care to the sick. Upon filing application for examination and registration each applicant shall deposit a fee of five dollars (\$5.00).

Sec. 4. That the applicant shall furnish satisfactory evidence that he or she is twenty-one (21) years of age, of good moral character, has received the equivalent of a high school education and has graduated from a training school connected with a general hospital where two years of continuous residence training, with a systematic course of instruction is given.

Sec. 5 That all nurses possessing the above qualifications or furnishing satisfactory evidence that applicant has an equivalent to a high school education and has been continuously and successfully engaged in general nursing for ten years; (these facts certified to by three reputable physicians shall be deemed satisfactory evidence,) shall be permitted to register before January first, one thousand nine hundred and eight, without examination, upon payment of registration fee. And all nurses, having been continuously and successfully engaged in nursing for five years, and who maintain the proper standard, shall, upon passing an examination, be entitled to

registration; *provided* such application be made before January first, one thousand nine hundred and eight. Graduates of training schools in connection with special hospitals giving a two years course, who shall obtain one year's additional training in an approved general hospital, shall be eligible for registration without examination before June first, one thousand nine hundred and seven; or said graduates from special hospitals shall be eligible for registration prior to said date, upon passing special examination before the board of examiners in subjects not adequately taught in the training schools from which they have been graduated; and it shall be unlawful after the expiration of that time for any person to practice professional nursing as a registered nurse without a certificate in this state. A nurse who has received his or her certificate according to the provisions of this act shall be styled and known as a "Registered Nurse." No other person shall assume such a title or use the abbreviation "R. N." or any other letters or figures to indicate that he or she is a registered nurse.

Sec. 6. That this act shall not be construed to affect or apply to the gratuitous nursing of the sick by friends or members of the family; and also it shall not apply to any person nursing the sick for hire, but who does not in any way assume to be a registered nurse.

Sec. 7. That any person violating any of the provisions of this act, or who shall wilfully make any false representations to the board of examiners in applying for a certificate, shall be guilty of a misdemeanor, and, upon conviction, be punished by a fine of not more than five hundred dollars (\$500.00).

Sec. 8. That the state board of examiners of graduate nurses may revoke any certificate for sufficient cause; but before this is done the holder of said certificate shall have thirty days' notice, and after a full and fair hearing of the charge, by a majority vote of the whole board, the certificate can be revoked.

CHAPTER 12.

(Senate Bill No. 19.)

AN ACT to regulate the practice of pharmacy and the sale of medicines, drugs and poisons, and to repeal chapter fifty-two of the acts of one thousand eight hundred and eighty-one, chapter one hundred and twelve of the acts of one thousand eight hundred and eighty-two, chapter eighty-two of the acts of one thousand eight hundred and eighty-three, and chapter one hundred and eighty of the acts of one thousand eight hundred and seventy-two and three.

[Passed March 1, 1907. In effect ninety days from passage. Approved by the Governor, March 6, 1907.]

SEC.		SEC.	
1.	}	18.	Penalty for the adulteration of drugs, etc.
2.		19.	
3.	}	20.	Unlawful to sell certain poisons, except as hereinafter provided.
4.		22.	
5.	}	23.	Provisions not applicable to the dispensing of drugs in not unusual quantities, etc.
6.		24.	
7.	}	25.	Provisions governing prescriptions delivered to persons; original prescription at all times to be open to inspection; by whom.
8.		26.	
9.	}	27.	Act not construed to authorize any person to carry on business of druggist, without obtaining license, or sell liquors, etc., except, etc.; registered pharmacist who is a practicing physician prohibited from selling liquors, etc., upon his own prescription; penalty for violation.
10.		29.	
11.	}	30.	Duty of clerk of court or justice of the peace upon conviction for violations; duty of board of pharmacy.
12.		31.	
13.	}		
14.			
15.	}		
16.			
17.	}		
17.			

Be it enacted by the Legislature of West Virginia:

Sec. 1. It shall be unlawful for any person not a registered

pharmacist within the meaning of this act, who does not employ a registered pharmacist within the meaning of this act, to conduct any pharmacy, drug store, apothecary shop or store for the purpose of retailing, compounding or dispensing medicines or poisons, except as hereinafter provided.

Sec. 2. It shall be unlawful for the proprietor of any store or pharmacy to permit any person except a registered pharmacist or registered assistant pharmacist to compound or dispense the prescriptions of physicians or to retail or dispense the poisons named in schedule "A", "B", and "C" herein, except as an aid to and under the supervision of a registered pharmacist or registered assistant pharmacist; *provided*, that in any village of not more than five hundred inhabitants where there is no person licensed as a pharmacist within less than two miles of such village, the board of pharmacy may grant to any person who is licensed as assistant pharmacist a permit to conduct a drug store or pharmacy in such village, which permit shall not be valid in any other village than the one for which it was granted, and shall cease and determine when the population of the village, for which such permit was granted, shall become greater than five hundred.

Sec. 3. The board of pharmacy shall consist of one voter from each congressional district of this state, licensed as pharmacist and actively engaged in the practice of pharmacy, appointed by the governor by and with the advice and consent of the senate, whose term of office shall begin on the first day of July, one thousand nine hundred and seven, and continue for five years, except that of the first appointments made under this act, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years; and on the expiration of their respective terms the governor shall appoint a successor for the full term of five years; any person appointed in the recess of the senate shall serve until the next meeting of the senate; vacancies shall be filled by appointment by the governor for the unexpired term; a majority of the board shall constitute a quorum for the transaction of business; the president and secretary shall have power to administer oaths in all matters relating to the examination and registration of pharmacists and assistant pharmacists.

Sec. 4. Annually the board shall organize by the election of a president, a vice-president and a secretary, all of whom shall be members of the board, who shall hold their offices for one year

and until their successors are elected; the secretary shall give a bond in such sum as may be prescribed by the board, conditioned upon the discharge of the duties of his office according to law; the board shall hold two meetings each year at such times and places as it may provide by rule, for the examination of candidates, and for the discharge of such other business as may legally come before it, and such additional meetings as may be necessary.

Sec. 5. The board shall have a common seal, and shall have power to adopt such rules and by-laws, not inconsistent with law, as may be necessary for the regulation of its proceedings and for the discharge of the duties imposed under this statute; the attorney general, when requested by the president or secretary of the board, shall conduct all prosecutions under this act, and in such prosecutions shall have all the rights and privileges of a prosecuting attorney in any county; the board shall have power to employ an attorney to conduct prosecutions or assist in the conduct of prosecutions under this act.

Sec. 6. The board shall keep a record of its proceedings and a register of all persons to whom certificates of license as pharmacists and assistant pharmacists and permits have been issued, and of all renewals thereof; and the books and register of the board, or a copy of any part thereof certified by the secretary and attested by the seal of the board, shall be accepted as competent evidence in all the courts of the state.

Sec. 7. Within sixty days after this act takes effect, the secretary of the board shall make a report to the secretary of state of all registered pharmacists and registered assistant pharmacists licensed in this state, giving date of license, name of the person, and his residence; on or before the fifteenth day of each month, the secretary of the board shall certify to the secretary of state all changes in said list, required by the addition of new licenses, renewals, deaths, forfeiture of licenses or for other cause, in the preceding month; the secretary of state shall enter in an appropriate book, known as "list of pharmacists," the facts shown by such reports, which reports shall be filed and preserved in his office.

Sec. 8. The board shall make annually to the governor, before the first day of November, a written summary of its proceedings and a statement of its receipts and disbursements, and of all persons licensed to practice as pharmacists and assistant pharmacists in this state.

Sec. 9. The secretary shall receive such salary as may be prescribed by the board, and his necessary expenses while engaged in the performance of his official duties; the other members shall receive five dollars for each day actually employed in the discharge of their official duties, and their necessary expenses while engaged therein; but no money shall be paid to any officer or member under this section until he has made a full itemized statement and attested the same.

Sec. 10. All fees collected by the secretary for the examination of pharmacists and assistant pharmacists, and for the issuing of the permits authorized by this act, and for the renewal of certificates of registration and permits, and all other funds collected under this act, shall be paid by him into the state treasury monthly, not later than twenty days after the close of each month. The compensation and expenses of the officers and members of the board, and all expense incurred by the board in carrying into execution the provisions of this act, shall be paid out of the money appropriated therefor, upon the warrant of the auditor, issued upon requisition signed by the president and secretary of the board.

Sec. 11. In order to be hereafter licensed as a pharmacist within the meaning of this act, an applicant shall be not less than twenty-one years of age, and shall present to the board of pharmacy satisfactory evidence that he has had four years' experience in pharmacy under the instructions of a licensed pharmacist, and he shall pass a satisfactory examination by or under the direction of the board of pharmacy; in order to be licensed as an assistant pharmacist, within the meaning of this act, an applicant shall be not less than eighteen years of age, shall have a sufficient preliminary general education, and shall have not less than two years' experience in pharmacy under the instruction of a licensed pharmacist and shall pass a satisfactory examination by or under the direction of the board of pharmacy; *provided, however*, that in the case of a person who has attended a reputable school or college of pharmacy, the actual time of attending such school or college of pharmacy may be deducted from the time of experience required of pharmacists, but in no case shall less than two years' experience be required for registration as a licensed pharmacist.

Sec. 12. Every person now registered as a pharmacist within this state shall within ninety days after this act takes effect make application to the board of pharmacy for a renewal of such license,

and if the board of pharmacy shall find that such applicant has been legally registered within this state, it shall issue to him a renewal of such license, and for such service shall be entitled to charge and collect the sum of one dollar; every license and permit and every renewal thereof issued to registered pharmacists or registered assistant pharmacists, shall be for a period of two years.

Sec. 13. The board of pharmacy may issue license to practice as pharmacists or assistant pharmacists in this state without examination, to such persons as have been legally registered or licensed as pharmacists or assistant pharmacists in other states, *provided*, that the applicant for such license shall present satisfactory evidence of qualifications equal to those required from licentiates in this state, and that he was registered or licensed by examination in such other state, and that the standard of competence required in such other state is not lower than that required in this state, and *provided also*, that the board is satisfied that such other state accords similar recognition to the licentiates of this state; applicants for license under this section shall, with their application, forward to the secretary of the board the same fees as are required of other candidates for license.

Sec. 14. Every certificate or license to practice as pharmacist or assistant pharmacist, and every permit to an assistant pharmacist to conduct a drug store in villages of not more than five hundred inhabitants, and every renewal of such license or permit, shall be conspicuously exposed in the pharmacy or drug store or place of business of which the pharmacist or assistant pharmacist or other person to whom it is issued is the owner or manager, or in which he is employed.

Sec. 15. Every licensed pharmacist or assistant pharmacist who desires to continue in the practice of his profession, shall within thirty days next preceding the expiration of his license or permit, file with the board an application for the renewal thereof, which application shall be accompanied by the fee-hereinafter prescribed; if the board shall find that the applicant has been legally licensed in this state and is entitled to renewal of license, or to a renewal of such permit, it shall issue to him a certificate attesting that fact; if any pharmacist or assistant pharmacist shall fail for a period of ninety days after the expiration of his license, to make application to the board for its renewal, his name shall be erased from the register of licensed pharmacists or assistant pharmacists,

and such person in order to again become registered as a licensed pharmacist or assistant pharmacist, shall be required to pay the same fee as in the case of examination.

Sec. 16. The board of pharmacy shall be entitled to charge and collect the following fees: For examination of an applicant for license as a pharmacist, ten dollars; for the examination of an applicant for license as an assistant pharmacist, five dollars; for renewing the license of a pharmacist, one dollar; for renewing the license of an assistant pharmacist, fifty cents; for issuing a permit to an assistant pharmacist to conduct a drug store in villages of not more than five hundred inhabitants, five dollars; in case any applicant fails to pass a satisfactory examination, he shall be permitted to present himself for re-examination at any board meeting within twelve months next succeeding and no charge shall be made for such examination; all fees shall be paid before any applicant is admitted to examination or his name placed upon the register of pharmacists or assistant pharmacists, or before any license or permit, or any renewal thereof, shall be issued by the board.

Sec. 17. Every applicant for registration as a pharmacist or assistant shall present to the board of pharmacy satisfactory evidence that he is a person of good moral character and not addicted to drunkenness or the use of narcotic drugs, and all persons whether registered pharmacists or not shall be held responsible for the quality of all drugs, chemicals and medicines they may sell or dispense, with the exception of those sold in original packages of the manufacturer and those known as "patent medicines."

Sec. 18. Any person who shall knowingly, adulterate or cause to be adulterated any drugs, chemicals or medicinal preparations, or knowingly sell any adulterated drugs, chemicals or medicinal preparations, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not exceeding one hundred dollars, and if he be a registered pharmacist or assistant pharmacist, his name shall be stricken from the register.

Sec. 19. It shall be unlawful for any person not legally licensed as a pharmacist, unless he has in his employ a registered pharmacist, to take, use, or exhibit the title of pharmacist, or licensed or registered pharmacist, or the title of druggist or apothecary, or any other title or description of like import; and it shall be unlawful for any person not legally licensed as an assistant pharmacist to take, use or

exhibit the title of assistant pharmacist, or any other title or description of like import.

Sec. 20. No person, firm or corporation shall dispense or sell at retail any of the poisons enumerated in the following schedule except as hereinafter provided.

Schedule A.

Sec. 21. Arsenic and its preparations, corrosive sublimate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia and essential oil of bitter almonds.

Schedule B.

Sec. 22. Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, and their pharmaceutical preparations; croton oil, chloroform, sulphate of zinc, sulphate of copper, acetate of lead, mineral acids carbolic acid and oxalic acid.

Sec. 23. Whenever any of the said poisons are sold, the box, vessel or paper in which the same is put up shall be distinctly labeled with device bearing the death's head and cross bones, and also the name of the article and the word "poison," and the name and place of business of the seller; the seller shall also ascertain upon due inquiry that the purchaser is aware of the poisonous character of the drug and that it is to be used for legitimate and lawful purposes; he shall also before delivering any of the poisons named in schedule "A" to the purchaser, cause an entry to be made in a book kept for that purpose, which entry shall show the date of the sale, the name and residence of the purchaser, the name and quantity of the poison sold, the purpose for which it is to be used as represented by the purchaser, and the name of the dispenser, such book to be always subject to the inspection of the proper authorities and to be preserved for at least five years, from the date of the last entry.

Sec. 24. The provisions of the last four sections shall not apply to the dispensing of drugs in not usual quantities on the prescription of physicians.

Schedule C.

Sec. 25. Cocaine, alpha or beta eucaine, opium, morphine, heroine, chloral hydrate or any salt or compound of any of the forego-

ing substances or any preparations or compound containing any of the foregoing substances or their salts or compound, except upon the original written order or prescription of a lawfully authorized practitioner of medicine, dentistry, or veterinary medicine, which order or prescription shall be dated and contain the name of the person for whom prescribed, or if ordered by a practitioner of veterinary medicine, shall state the kind of animal for which ordered, and shall be signed by the person giving the prescription or order; such written order or prescription shall be permanently retained on file by the person, firm or corporation who shall compound or dispense the articles ordered or prescribed, and it shall not be again compounded or dispensed except upon the written order of the original prescriber for each and every subsequent compounding or dispensing.

Sec. 26. No copy or duplicate of such written order or prescription shall be made or delivered to any person, but the original shall at all times be open to inspection by the prescriber and properly authorized officers of the law; *provided, however*, that the provisions of schedule "C" shall not apply to preparations containing not more than two grains of opium, or not more than two grains of codein, or not more than one-fourth grain of morphine, or more than one-fourth grain heroine, or more than one-eighth grain or cocaine, or not more than one-eighth grain of alpha or beta eucaine, or not more than ten grains of chloral hydrate in one fluid ounce, or if solid preparation in one troy ounce; *provided, also*, that the provisions of schedule "C" shall not apply to preparations containing opium and recommended and sold in good faith for diarrhœa and cholera, each bottle or package of which is accompanied by specific directions for use and a caution against habitual use, nor to powder of ipecac and opium, commonly known as Dovers powder, nor to liniments or ointments when plainly labeled "for external use only;" and *provided, further*, that the provision of schedule "C" shall not apply to sales at wholesale, by jobbers, wholesalers and manufacturers to retail druggists, to regular practitioners of medicine, dentistry or veterinary medicines, nor to sales made to manufacturers of proprietary or pharmaceutical preparations for use in the manufacture of such preparation, nor to sales to hospitals, colleges, scientific or public institutions.

Sec. 27. It shall be unlawful for any practitioner of medicine, dentistry or veterinary medicine to furnish to or prescribe for the

use of any habitual user of the same any cocaine, heroine, alpha or beta eucaine, opium, morphine, chloral hydrate or any salt or compound of any of the foregoing substances or their salts or compounds. And it shall also be unlawful for any practitioner of dentistry to prescribe any of the foregoing substances for any person not under his treatment in the regular practice of his profession, or for any practitioner of veterinary medicine to prescribe any of the foregoing substances for the use of any human being; *provided, however*, that the provisions of this section shall not be construed to prevent any lawfully authorized practitioner of medicine from furnishing or prescribing in good faith for the use of any habitual user of narcotic drugs, who is under his professional care, such substances as he may deem necessary for his treatment, when such prescriptions are not given or substances furnished for the purpose of evading the provisions of this act. Any person who shall violate any of the provisions of sections twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven shall be guilty of a misdemeanor; and, upon conviction, for the first offense shall be fined not less than twenty-five dollars nor more than fifty dollars; and upon a conviction for a second offense shall be fined not less than fifty dollars nor more than one hundred dollars; and upon the conviction of a subsequent offense shall be fined not less than one hundred dollars nor more than two hundred dollars and may be imprisoned in the county jail for not more than six months, and, if a licensed pharmacist, physician, dentist or veterinary surgeon, his license shall be revoked. It shall be the duty of all judges of the circuit and criminal courts of this state at every regular term thereof to charge regularly impaneled grand juries to diligently inquire into and investigate all cases of the violations of the provisions of this act, and to make a true presentment of all persons guilty of such violations. It shall be the duty of the board of pharmacy to cause the prosecution of all persons violating the provisions of this act.

Sec. 28. Nor shall this act be construed to authorize any person to carry on the business of druggist without first having obtained a license therefor, or to sell, offer or expose for sale any of the liquors, drinks, mixtures or preparations mentioned in section one of chapter thirty-two of the code of West Virginia, except for medical, mechanical or scientific purposes; and no sale of any such liquors, drinks, mixtures or preparations shall be made by any

druggist or registered pharmacist for medical purposes except upon the written prescription of a practicing physician in good standing in his profession and not of intemperate habits, specifying the name of the person and the quantity of such liquor to be furnished him; but no druggist or registered pharmacist who is a practicing physician shall himself or by his agent or clerk sell any such liquors, drinks, mixtures or preparations upon his own prescription, any person carrying on or in the business of a druggist shall, in violation of this act, sell any such liquors, drinks, mixtures or preparations, he shall be guilty of a misdemeanor and for such offense be fined not less than twenty-five dollars nor more than one hundred dollars. In any prosecutions against persons carrying on or interested in the business of a druggist for selling any such liquors, drinks, mixtures or preparations contrary to law, if the sale be proved it shall be presumed that such sale was unlawful unless the contrary be shown.

Sec. 29. This shall not apply to physicians putting up their own prescriptions, nor to the sale of patent or proprietary medicines, nor to such ordinary drugs or dye-stuff as are usually sold in a country store, but the term "ordinary drugs" shall not be held to include any of the poisons named in schedule "A," "B" and "C" nor any intoxicating liquors.

Sec. 30. It shall be the duty of the clerk of the court in which, or of the justice of the peace before whom, any conviction is had to transmit forthwith a certified copy of the record entry of such convictions to the board of pharmacy, who shall upon a second conviction revoke his license and strike his name from the register, and it shall be unlawful for such person to practice the business of pharmacy, conduct a drug store, or act as a registered pharmacist or assistant registered pharmacist in this state.

Sec. 31. That chapter fifty-two of the acts of one thousand eight hundred and eighty-one, chapter one hundred and twelve of the acts of one thousand eight hundred and eighty-two, chapter eighty-two of the acts of one thousand eight hundred and eighty-three, chapter one hundred and eighty of the acts of one thousand eight hundred and seventy-two-three, and all other acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

CHAPTER 13.

(Senate Bill No. 16.)

AN ACT to amend and re-enact section two of chapter forty-two, and to repeal section forty-eight-a, of chapter fifty-four of the code of eighteen hundred and ninety-nine, relating to public uses for which private property and public highways may be taken or damaged.

[Passed March 1, 1907. In effect ninety days from passage. Approved by the Governor, March 6, 1907.]

<p>SEC. 2. In what cases and how private property may be taken or damaged for public use, etc.</p>		<p>SEC. 48a of chapter 54 of the code repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That section two of chapter forty-two of the code of eighteen hundred and ninety-nine be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 2. The public uses for which private property may be taken or damaged, are as follows:

First. For the construction of railroads, canals, turnpike roads, county roads, public landings, bridges and public streets and alleys, and all other roads and internal improvements for public use.

Second. For incorporated companies of which the state is sole or part owner.

Third. For court houses and other public buildings for the use of a county or municipal corporation.

Fourth. For cemetery associations and for other cemeteries; *provided*, that the property to be taken for such other cemeteries adjoins the land upon which a church or another cemetery is located.

Fifth. For companies organized for the purpose of transporting carbon oil or natural gas or both, or water, by means of pipes or otherwise; when for public use.

Sixth. For telegraph and telephone companies and electric power, heat, light and traction companies, when for public use. That telephone and electric light, heat, traction and power companies desiring to extend their lines in this state may place poles and wires along any county road, by and with the consent of the county court through which such lines may pass; *provided*, that all such poles and wires shall be placed and erected so as not in any way to inter-

fere with the public use of such road or with any fruit or shade trees or with any private property; and *provided, further*, that when any such company desires to erect its poles along any street of any incorporated city, town or village, the consent of the council of such city, town or village shall first be obtained.

Provided, that any power company using or occupying any highway under this act, shall furnish to any person, company or corporation, along, upon or near its line or lines desiring the same, every kind of service at the minimum charge for like services charged to any other person, company or corporation for like service, and upon the same terms, if amount of power consumed and conditions and expenses to such power company be the same; should at any time the power generated by any power company be insufficient to furnish all persons, companies and corporations the amount of power desired, such power company shall first serve municipal corporations having contract therefor; second, persons, companies or corporations engaged in manufacture or transportation; and third, individual customers.

Any violation of any provisions of this clause shall work a forfeiture of all rights acquired under it.

Seventh. For public school houses and all other purposes of public utility which now are or may be prescribed by law.

Eighth. By any city, town or village, or company, now incorporated or hereafter incorporated under the laws of this state for the purpose of establishing water works for public use, to acquire any land necessary for the construction of reservoirs, dams, cisterns, and other water works which may be necessary for its purposes and land and right of way for which pipes, conduits for the conveyance of water and so much water from any springs, rivers and creeks as may be necessary for its purposes, and any water rights and easements therein, and such land, water rights and easements as may be necessary to protect, preserve and maintain the purity of the springs or water so acquired.

That the county courts, as to public roads, and the council of any municipal corporation, as to streets and alleys, in their respective jurisdiction, may, subject to such regulations and restrictions as they may prescribe, grant to such company the right of way to lay pipes and conduits in such public roads, streets and alleys.

Ninth. By the Government of the United States, for the pur-

pose of erecting thereon light houses, signal stations, beacons, locks, dams, works for improving navigation, post offices, custom houses, court houses or any other needful public structure or work of improvement whatever, subject to provisions of chapter one of the code; but no land shall be taken for cemetery purposes which lies within four hundred yards of a dwelling house, unless to extend the limits of a cemetery already located, and then only so that such limits shall not be extended nearer to any dwelling house which is within four hundred yards. But this act shall not be construed to interfere with the power of municipal corporations to enact and enforce such ordinances as may be necessary to protect the lives and property of citizens from the effects of explosions of carbon oil or natural gas.

Sec. 48-a. Of chapter fifty-four of the code is hereby repealed.

CHAPTER 14.

(House Bill No. 19.)

AN ACT, to amend and re-enact sections seven, eight, nine nine-a-1, nine-a-2, nine-a-3 and nine-a-4, and to repeal sections nine-a-10 and nine-a-11; all of chapter sixty-two of the code of one thousand eight hundred and ninety-nine relating to the protection of sheep, lambs, goats and kids from chasing, worrying and killing by dogs, the taxing and making personal property of dogs, and their protection as such.

[Passed March 4, 1907. In effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.

7. Any person may kill any dog; when; unless, etc.
8. Owner of dog liable to owner of sheep, etc., killed; amount of damage sustained; how recovered; no compensation from county court; if compensation is obtained from county court; court may recover by suit, same as owner of sheep might have done; penalty for harboring or secreting dog which has killed sheep, etc.
9. Duty of owner or keeper of dog that has been worrying or killing sheep; if owner refuse to kill dog; cost of proceedings; owner of dog liable, etc.
- 9a. (1) Duty of assessor as to listing

Sec.

- dogs; compensation; when dog deemed property; penalty for unlawful killing, etc., dogs; right of action in damages; killing of vicious or dangerous dogs.
- 9a. (2) County court to levy per capita tax on dogs; amount of tax.
 - 9a. (3) Per capita tax; how collected and accounted for; compensation of sheriff; surplus arising from moneys accruing to be applied to general road fund.
 - 9a. (4) Delinquent list for non-payment of per capita dog tax to be delivered to constable; duty of constable upon receiving such list; compensation; certain sections of code repealed.

Be it enacted by the Legislature of West Virginia:

That sections seven, eight, nine, nine-a-1, nine-a-2, nine-a-3 and nine-a-4 of chapter sixty-two of the code of West Virginia of one thousand eight hundred and ninety-nine be amended and re-enacted so as to read as follows:

Sec. 7. Any person may kill any dog that he may see chasing, worrying, wounding or killing any sheep, lambs, goats or kids outside of the enclosure of the owner of such dog, unless the same be done by the direction of the owner of such sheep, lambs, goats or kids.

Sec. 8. If any dog shall have killed or assisted in killing, wounding or worrying any sheep, lambs, goats or kids out of the enclosure of the owner of such dog, the owner or keeper of such dog shall be liable to the owner of such sheep, lambs, goats or kids in the amount of the damages sustained, to be recovered in action before any court or justice having jurisdiction of such action; and it shall not be necessary to sustain in such action, to prove that the owner or keeper of such dog, knew such dog was accustomed to do such worrying, killing or wounding; but a recovery under this section shall bar and preclude the owner of such sheep, lambs, goats or kids from obtaining compensation from the county court, and when compensation is obtained from the county court under any law which is now or may hereafter be in force, then the county wherein the payment is made, is authorized to sue under this section, and recover as the owner of the sheep, lambs, goats or kids, might have done, and the amount so recovered shall be paid into the county treasury; but no suit shall be commenced unless authorized by the county court. Any person who shall harbor or secrete or aid in secreting any dog which he knows or has reason to believe has worried, chased or killed any sheep, lambs, goats or kids, not the property of the owner of such dog, out of his enclosure, or knowingly permits the same to be done on any premises under his control, shall be guilty of a misdemeanor, and upon conviction thereof before any court or justice having jurisdiction thereof, in the county in which the offense is committed, be fined not less than ten dollars nor more than fifty dollars, and at the discretion of the court or justice, imprisoned in the county jail not more than thirty days; and each day that such dog is harbored, kept or secreted, shall constitute a separate offense.

Sec. 9. The owner or keeper of any dog that has been worrying, wounding, chasing or killing any sheep, lambs, goats or kids, not the property of such owner or keeper, out of his enclosure shall, within forty-eight hours after having received notice thereof in writing from reliable and trusty source, under oath, cause such dog to be killed; if the owner or keeper refuse to kill said dog as hereinbefore provided, any justice of the peace upon information, shall summon the owner or keeper of said dog, and after receiving satisfactory proof that his dog did the mischief, shall issue a warrant on application being made by the owner of the sheep, lambs, goats or kids killed, and give it into the hands of the constable, special constable or sheriff, who shall kill the dog forthwith; the cost of said proceedings shall be paid by the owner of the dog so killed, including a fee of fifty cents to the officer killing the said dog; the owner of said dog so killed, shall in addition to the costs, be liable to the owner of the sheep, lambs, goats or kids, or to the county court for the value of the sheep, lambs, goats or kids so killed or injured.

Sec. 9a-1. That it shall be the duty of every assessor, annually, to list all dogs over four weeks old owned or kept within his district, particularly noting the number owned or kept about any one house, giving such description of each as he can conveniently obtain, distinguishing between males and females, and for this purpose he may examine on oath any person found in his district; the fact that any dog is kept or allowed to remain about any house shall be deemed sufficient evidence to authorize the assessor to return the person inhabiting said house as the owner of such dog; such list shall be returned by the assessor to the clerk of the county court of his county, on or before the time fixed for levying the county levy in each year; the assessor shall receive as compensation the sum of ten cents for each dog so listed.

That it shall be lawful, if he so choose, for the owner of any dog to have the same listed by the county assessor of any county in this state, the same as all other personal property is listed and taxed; and when the owner of any such dog shall have paid the taxes assessed against the same, such dog shall be deemed property in the meaning of the law.

Any person who shall wilfully, unlawfully or maliciously steal, poison, wound or kill any such dog or dogs, shall upon conviction be punished as provided by law for stealing, poisoning, wounding or

killing other property; and the owner of any such dog or dogs, so stolen, wounded, poisoned, or killed, after complying with the provisions of this act, may have a right of action in damages against any such person or persons guilty of the violation of the provisions of this act for the sum not exceeding the assessed value of such dog or dogs.

But nothing in this act shall prevent the killing of any vicious or dangerous dog off the premises and out of the control of the owner, nor the killing of any dog running at large and out of the control of the owner thereof, after such owner shall have had notice and still permits such dog to run at large and out of his control; and no person shall be liable in damages or to prosecution by reason of any such killing.

Sec. 9a-2. The county court shall annually levy a per capita tax on every male dog four weeks old and over, or every female dog four weeks old and under eight months old, of one dollar, and on every unspayed female dog over eight months old, three dollars. Any court may discriminate as to each owner of more than one dog by increasing the amount of tax on each additional dog, and the tax so levied shall be paid by the person respectively, in whose name the dogs shall be listed.

Sec. 9a-3. The per capita tax imposed upon the dogs of any county, shall be collected and accounted for by the sheriff of such county, as county levies are collected and accounted for, and to that end it shall be the duty of the court, in convenient time, to cause a list to be delivered to such sheriff, containing the names of all persons charged with a per capita tax on dogs, and the amount assessed against each; for collecting, accounting for and paying out the per capita dog tax, the sheriff shall be allowed the like commission as allowed for collecting and accounting for the county levies; *provided, however*, that for so much thereof as he receives from the constables upon the list provided for by the next section, he shall for accounting for and paying out the same be allowed one-half commission; the sheriff shall have charge of all the moneys accruing from the per capita tax upon dogs, or for fines imposed under this act, collected within his county; and the same shall constitute a fund for remunerating the inhabitants thereof for any loss they may sustain by injury done to their sheep, lambs, goats or kids by dogs within their county; whenever the surplus arising from any such fund at the end of any fiscal year shall ex-

ceed one-half of the amount expended therefrom, for the preceding year, the county court of any county shall apply such excess to the general road fund of such county.

Sec-9-a-4. The court shall cause a list of all persons failing to pay the per capita dog tax assessed against them, and by the sheriff returned delinquent for non-payment of per capita dog tax, to be delivered to the constable of the districts in which they reside with the number of dogs listed to each, and amount of per capita tax assessed severally against each; and it shall be the duty of such constable upon receiving such list forthwith to search out, kill and bury every dog in respect to the per capita tax on which the owner shall be delinquent (where there are more than one constable in the district the court shall designate which shall act,) and any person who shall conceal a dog for the purpose of evading the provisions of this section shall pay a fine of five dollars; but no dog shall be killed by virtue of this section, whose owner shall pay the constable the per capita tax in respect to which he is so delinquent; and it shall be the duty of such constable, before killing any dog by virtue of this section, to notify the owner of such delinquency and of the amount of per capita tax he is required to pay; each constable receiving such list shall make due return to his county court, at such time as the court shall direct, of the manner in which he has discharged his duties respecting the same, and shall pay over to the sheriff any taxes or fines collected by him, taking duplicate receipts therefor, one of which he shall file with the clerk of the county court, who shall charge the sheriff with the amount of the same; each constable shall be liable for the per capita tax assessed upon every dog enumerated in such list, of which he shall not fail to return a satisfactory account to the court. The constable shall be allowed by their respective courts, a just compensation for the services required of and performed by them under this act, to be paid out of such per capita dog tax, and they and their securities shall be liable on their official bond, upon motion in the circuit court of their respective counties, for any money received by them which they may be liable to pay by virtue of this act.

2. Section 9a-10 and section 9a-11 of the code of one thousand eight hundred and ninety-nine are hereby repealed.

CHAPTER 15.

(House Bill No. 13.)

AN ACT to amend and re-enact sections fifty-three and seventy-nine of chapter twenty-nine of the code of West Virginia as last amended and re-enacted by chapter four of the acts of one thousand nine hundred and four, and chapter thirty-five of the acts of one thousand nine hundred and five, relating to the assessment of taxes.

[Passed March 5, 1907. In effect ninety days from passage. Approved by the Governor, March 6, 1907.]

<p>SEC. 53. Duty of assessor or his assistants to see every person in his county liable to taxation; capitation tax; collected by assessor; assessor to report to auditor; when; compensation for collecting; assessor to report to county court; duties of sheriffs to</p>	<p>SEC. 70. Banks and trust companies; how assessed; returns; when made.</p>	<p>SEC. collect delinquent capitation tax; duty of state tax commissioner to furnish all tickets, blanks and forms; penalties for failure to turn over moneys collected.</p>
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Be it enacted by the Legislature of West Virginia:

That sections fifty-three and seventy-nine of chapter twenty-nine of the code of West Virginia as last amended and re-enacted by chapter four of the acts of one thousand nine hundred and four, and chapter thirty-five of the acts of one thousand nine hundred and five, relating to the assessment of taxes be and the same are hereby amended and re-enacted so as to read as follows:

Sec. 53. While making such assessments, it shall be the duty of the assessor and assistants to see every person in his county who is liable to taxation therein upon property or capitation, and obtain from him the sworn statement of his personal property. He shall at the same time collect from every person liable for the capitation tax mentioned in section two or article ten of the constitution, or for road capitation tax, the amount of such tax, and deliver to such person a receipt therefor. In case any person liable therefor shall fail or refuse to pay such capitation, the assessor shall levy upon and take into his possession property or effects of the delinquent sufficient to pay said capitation taxes, and the cost of levy and sale; the assessor shall have as to said capitation taxes, the same powers of levy and sale and of collection of taxes, and he shall be entitled to the same fees; the assessor shall, not later than the fifteenth day of each month turn over to the auditor all capitations

for the state school purposes collected by him during the previous month and not paid over, less commission of ten per cent, to which the assessor shall be entitled for collection; he shall also at the end of each month turn over to the sheriff all capitations collected for district road purposes and not paid over, less commissions of ten per cent, to which the assessor shall be entitled for collection. At the levy term of the county court the assessor shall make report to said court of all capitations collected for state school purposes, and all capitations collected for district road purposes, the names of those from whom collected, the names of all delinquents, and the cause of delinquency in each case. The said report shall be verified by the affidavit of the assessor; said assessor shall not thereafter for the year have authority to collect capitations, but a copy of said report shall be by the county court turned over to the sheriff, who shall forthwith proceed to collect all capitations remaining unpaid whether or not they appear on said report; upon the capitation collected by the sheriff for state school and district road purposes, he shall be allowed a compensation of ten per cent, of which the assessor shall be required to pay one-half of all over five per cent; the assessor shall be charged by the county court with all delinquencies appearing in his said report, and likewise with all delinquencies not reported by him but afterwards ascertained or reported by the sheriff, or ascertained in any other way, and credited with all collections on that account made and paid over to the sheriff, less two and one-half per cent, to cover the sheriff's extra compensation; he shall also be credited with such delinquencies as the county court shall be satisfied could not have been collected either by the assessor or sheriff, by the exercise of due diligence, and in case the sheriff shall fail to use due diligence in the ascertainment and collection of such delinquencies, he and his sureties on his official bond, shall be liable to the assessor for all damages sustained by him on that account. The assessor shall in addition to other bonds required of him, give a bond in a penalty to be fixed by the county court of not less than four thousand dollars, nor more than twenty thousand dollars, and conditioned for the faithful performance of his duties under this chapter.

It shall be the duty of the state tax commissioner to prepare and furnish to the assessors all tickets, blanks and forms necessary for the purpose of this section; the ticket so furnished for each county shall be numbered consecutively, and the assessor shall account for

each ticket furnished him, as well as for the taxes collected. Any assessor, assessors or assistant assessors failing to account for and turn over any money or moneys collected by them under the provisions of this section shall be guilty of embezzlement.

Sec. 79. The shares of stock in a bank, trust company or national banking association, shall be assessed at the true and actual value, according to the rule prescribed in section twelve of this chapter, to the several holders of such stock in the county, district and town where such bank, company or association, is located, and not elsewhere, whether such holders reside there or not, and no deductions shall be allowed from the valuations of such shares of stock on account of what is due another as principal debtor or otherwise, notwithstanding the provisions of any other section or sections of this chapter; the real and actual value of such shares shall be ascertained according to the best information which the assessor may be able to obtain, whether from any return made by such bank, company or association to any officer of the state or United States, for actual sales of the stock, from answers to questions by the assessor as hereinafter provided, or from other trustworthy sources; the cashier, secretary or principal accounting officer of every such bank, company or association, shall cause to be kept a correct list of the names and residence of all the shareholders therein and the number of shares held by each, which list shall be open to the inspection of the assessors of the county, and of the state tax commissioner or assistants; and such cashier, secretary or officer shall answer under oath such questions as the assessor may ask him concerning the matters shown by said list and concerning the value of said shares, and shall be subject to the same penalties for failure to do so, which are imposed by law upon individuals failing to answer questions which the assessor is authorized to ask. The taxes so assessed upon the shares of any such bank, company or association shall be paid by the cashier, secretary or proper accounting officer thereof, and in the same manner and at the same time as other taxes are required to be paid in such county, district and town. In default of such payment such cashier, secretary or accounting officer as well as such bank, company or association, shall be liable for such taxes, and, in addition, for a sum equal to ten per centum thereof; any taxes so paid upon any such share may, with interest thereon, be recovered from the owners thereof, by the bank, company, association or officer paying them or may be deducted from

the dividends accruing on such shares. The real estate of any such bank, company or association shall be assessed as in other cases, and a proportionate share of such assessed value shall be deducted in ascertaining the market value of these shares. The return shall be made as of the first day of the assessment year.

CHAPTER 16.

(Senate Bill No. 12.)

AN ACT to amend and re-enact sections thirteen, thirty-nine, forty-seven, forty-eight, fifty-four, sixty-seven, seventy-eight, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, one hundred and thirty-three, one hundred and thirty-four, one hundred and thirty-six and one hundred and thirty-eight of chapter thirty-two of the code of West Virginia, concerning the revenues of the state arising from license taxes, and to add thereto section one hundred and forty-two and section one hundred and forty-four.

[Passed March 5, 1907. In effect ninety days from passage. Approved by the Governor, March 6, 1907.]

<p>SEC. 13. Petitions for license; when heard; duty of county court as to hearing of petitions.</p> <p>39. When license tax year to begin; when to expire; if granted for less time than one year.</p> <p>47. Dally list of licenses issued to be delivered to sheriff.</p> <p>48. List to be transmitted to auditor; when; what to contain.</p> <p>54. When license taxes paid into state treasury.</p> <p>67. Reports and records by distillers; what to show; aggregate annual tax based on production capacity.</p> <p>78. Wholesale license for porter, ale, beer, etc., reports and records of such wholesaler; basis of taxation.</p> <p>129. Assessment and collection of tax on resident and non-resident corporations.</p> <p>130. Foreign corporations doing business in this state to make report to auditor; when; what report to contain.</p>	<p>SEC. 131. Preliminary report of every foreign corporation to be filed with secretary of state; report to contain sufficient information upon which to base license tax; duty of secretary of state.</p> <p>133. Notice by auditor to corporations; statement of domestic corporations; license tax as a lien.</p> <p>134. Publication of list of delinquent corporations.</p> <p>136. Proceedings against delinquent corporations.</p> <p>138. What corporations exempt from license tax.</p> <p>142. If returns be made on behalf of telephone or telegraph company, what to show.</p> <p>144. When returns to be made; to include number of miles operated by express company; to be verified by affidavit. (2) When license tax to begin and expire. (3) When new licenses required. (4) Inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

1. That sections thirteen, thirty-nine, forty-seven, forty-eight, fifty-four, sixty-seven, seventy-eight, one hundred and twenty-nine,

one hundred and thirty, one hundred and thirty-one, one hundred and thirty-three, one hundred and thirty-four, one hundred and thirty-six and one hundred and thirty-eight of chapter thirty-two of the code of West Virginia, concerning the revenues of the state arising from license taxes, be amended and re-enacted, and that section one hundred and forty-two and section one hundred and forty-four be added to said chapter, so as to read as follows:

Sec. 13. The court shall hear the petitions at a regular or special term called for that purpose on the first Monday of the last month of the license tax year, in the order in which they are filed with the clerk, who shall prepare a docket thereof and the court shall grant or refuse the licenses applied for. The said county court shall hear any petitions of residents of the county, in addition to that of the applicant, in favor of and any remonstrance against the application for such license, and in all cases shall refuse the same whenever in the opinion of said court (having due regard to the number and character of the petitioners for and against said application) such license is not necessary or that the applicant is not a fit person to whom such license should be granted. Upon sufficient cause being shown or proof being made to the said court, that the person holding a license has knowingly violated any laws of the state relating to the sale of liquors, the said court, upon notice being given to the person licensed, shall revoke the said license.

Sec. 39. The license tax year for all annual licenses named in sections one and two shall begin on and with the first day of July of each year and end with the thirtieth day of the following June. Every state license for any purpose named in sections one and two (except as hereinafter otherwise provided) shall expire on the thirtieth day of June. If granted for a less time than a year, the state tax thereon shall be computed from the annual tax in proportion to such time as the license has to run.

Sec. 47. He shall complete and deliver to the sheriff or collector daily, the list of licenses issued by him.

Sec. 48. He shall transmit to the auditor on or before the fifteenth day of each month proper lists of all state licenses for which certificates may have been issued in his county for the preceding month; if he shall have ascertained that the state tax specified in any certificate was not paid, he shall note the fact on the proper list; the said list shall be verified by the affidavit of the clerk; if

no certificate for license was issued during any month, he shall return that fact to the auditor, verified by his affidavit.

Sec. 54. Every sheriff and collector shall account for and pay into the treasury of the state, state taxes on state licenses at the following times:

The taxes assessed during the quarters ending March thirty-first, June thirtieth, September thirtieth and December thirty-first shall be accounted for and paid on the twentieth day of April, the twentieth day of July, the twentieth day of October and the twentieth day of January, respectively.

Sec. 67. Every person, company, firm or corporation, carrying on a brewery or distillery in this state, except a distillery for distilling solely apple and peach brandy from fruit grown exclusively in this state, shall not later than the last day of the license tax year in the year nineteen hundred and seven and in each year thereafter, make a report under oath to the auditor, and to the clerk of the county court of the county in which the distillery or brewery is situated, showing the annual productive capacity of such distillery or brewery. The aggregate annual tax each year for carrying on any such brewery or distillery shall be based in the first instance upon the annual productive capacity of such distillery or brewery, and shall be paid in full each year before such distillery or brewery is carried on after the last day of each license tax year.

Sec. 78. Every person, company, firm or corporation selling porter, ale, beer or drinks of like nature at wholesale, shall, not later than the last day of the license tax year in the year one thousand nine hundred and seven and in each year thereafter, make a report to the auditor and to the clerk of the county court in which his place of business is situated, showing as nearly as may be the amount of his annual sales. The aggregate annual tax in each year on such license shall be based in the first instance upon the annual sales as estimated under this chapter, and shall be paid in full each year before any sales are made under such license after the last day of each license tax year.

Sec. 129. When application is made to the secretary of state for a certificate of incorporation, it shall be his duty to make the assessment and collect the license tax for the first year before issuing such certificate. If such certificate be issued after the last day of the third month of the license year, he shall assess one-tenth of the amount of the annual tax for each month, or fractional part of

a month, to ensue before the first day of the next license tax year; but in no case shall the amount assessed and collected be less than five dollars for a resident corporation, nor less than ten dollars for a non-resident corporation.

Thereafter, on or before the first day of the license tax year next following the date of the certificate of incorporation, and on or before the first day of each succeeding license tax year, the auditor shall collect such tax for a full year; except that if the certificate of incorporation be issued on or after the first day of the second month preceding the beginning of the license tax year and before the first day of the ensuing license tax year, the secretary of state shall assess and collect the tax for the full year beginning on said first day of the license tax year in addition to the initial tax. The moneys so received by the secretary of state and the auditor shall be paid by them into the state treasury.

Sec. 130. Every foreign corporation holding property or doing business in this state shall make report to the auditor annually in the third month preceding the beginning of the license tax year, in which report shall be set out:

I. The name of such corporation, the name of the state or country by which incorporated, the date of incorporation, the date of the certificate of the secretary of state authorizing it to do business in this state, the place of its principal office, the names and post-office addresses of its president, secretary, and of its officer, if any, charged with the duty of making returns of its property for taxation; and the name and post office address of its attorney of record in this state.

II. The number of shares of its authorized capital stock, and the par value of each share.

III. The value of the property owned and used by such corporation within this state, where situate, of what it consists and the number of acres of land it holds in this state; and the value of its property owned and used without this state; and,

IV. The proportion of its capital stock which is represented by property owned and used in the state of West Virginia; which report shall be verified by the affidavit of the president, secretary or other executive officer of such corporation. It shall be the duty of the auditor to assess and fix its license tax according to the proportion of its capital stock which is represented by its property owned and used in this state, according to the rates prescribed in

section one hundred and twenty-six of this chapter, if the assessed values of its property located in this state amounts to five thousand dollars; but if the assessed value of such property be less than five thousand dollars, the assessment shall be according to the rates prescribed in section one hundred and twenty-eight of this chapter; *provided*, that no such corporation shall pay an annual license tax of less than one hundred dollars. The auditor may in any case require such additional information as he may deem necessary to enable him to assess and fix the just amount of license tax of such corporation, and it shall be his duty to notify every such corporation of the amount so assessed by him; and it shall be the duty of the corporation to pay the same into the treasury of the state within thirty days thereafter, and if it fail to do so it shall be liable to the penalties prescribed in sections one hundred and thirty-six and one hundred and thirty-seven of this chapter.

Sec. 131. Every foreign corporation at the time of its application for the certificate mentioned in section thirty of chapter fifty-four of the code, shall file with the secretary of state a report preliminary to the annual report hereinbefore provided for, which preliminary report shall contain sufficient information upon which to base an assessment of its license tax for the then current year. It shall be the duty of the secretary of state to make assessment of its license tax for the said year, and he may require such further information as he may deem necessary for that purpose. Before issuing such certificate the secretary of state shall collect the amount of license tax he finds to be proper for the license tax year ending with the thirtieth day of the last month of the license tax year. If the certificate be issued after the last day of the third month of the license tax year and before the first day of the ensuing license tax year, the secretary of state shall assess and collect such taxes at the rate of one tenth the amount of the annual license tax for each month or fractional part of a month to ensue before the said first day of the ensuing license tax year. Thereafter on or before the first day of the license tax year next following the date of the certificate of authority and on or before every succeeding first day of the license tax year, the auditor shall collect such tax for a full year; *provided*, that if the certificate be issued in either of the last two months of the license tax year, the secretary of state shall assess and collect the license tax for said month, as well as for a full year beginning with the first day of the ensuing license tax year.

When the auditor shall assess and collect the tax on any such foreign corporation, he may include in the tax for any year any amount that such corporation should have paid for any previous year and failed to pay. All moneys collected by the secretary of state and the auditor shall be paid into the state treasury in the manner prescribed by law.

Sec. 133. It shall be the duty of the auditor, between the fifteenth day of the third month next preceding the first day of the license tax year and the fifteenth day of the second month next preceding the first day of the license tax year, in each year to notify every corporation liable to the tax imposed by this chapter, of the time of payment of such tax and the amount thereof; such notices may be sent through the mails, addressed to the corporation at its last known post office address as shown by the records in the office of the secretary of state, or be so sent or be delivered to the attorney of the corporation appointed pursuant to section twenty-four of chapter fifty-four of the code. If the auditor shall make a mistake in the amount of such tax the said corporation may file a sworn certificate of the president, vice-president or secretary of the corporation, showing such mistake, or showing the actual amount of tax due; and, in that event, it shall be the duty of the auditor to accept the amount due as shown by said certificate, unless contrary to the provisions of this chapter. At the time of making payment to the auditor every domestic corporation shall deliver to him a statement which shall show the name of the corporation, the date of its charter, the name and post office address of its attorney of record in this state, the names and post office addresses of its president, secretary and treasurer, the amount of its authorized capital stock, the number of acres of land it holds in this state if the number exceeds ten thousand acres, and such other facts as the auditor may require. Such statement shall be signed by the president, secretary or treasurer of the corporation. The amount of such tax shall be deemed a debt due the state, and shall be a lien on all the property and assets of the corporation prior to all other liens except the lien of the taxes levied on its property for state, county and district purposes. Such tax shall be a preferred debt in cases of insolvency.

Sec. 134. The auditor shall, between the first and fifteenth day of the second month of the license tax year in every year, publish in some daily newspaper of general circulation printed in this

state, a list of all corporations failing to pay the license tax, or any part thereof, due therefrom on or before the first day of the first month of the license tax year. Such list shall contain the names of such delinquent corporations, arranged in three classes, resident, non-resident and foreign. The cost of such publication shall be paid by the auditor, when allowed by the board of public works, out of the moneys in the treasury and not otherwise appropriated, and such sums as may be necessary to pay such costs as are hereby appropriated. Any such delinquent corporation may, on or before the first day of the fifth month of the license tax year following or at any time before judgment or decree is entered as hereinafter provided, pay the amount of such tax and a penalty of one per cent per month for each month or fractional part thereof, that such failure continued, but the amount of such penalty shall not be less than five dollars.

After the publication of the list of delinquent corporations by the auditor, he shall mail to the last known post office address of each of such corporations a supplemental notice, together with a statement of the total amount of taxes and penalties due therefrom, which notice shall be mailed at least thirty days before the first day of the fifth month of the license tax year.

Sec. 136. Within thirty days after the said first day of the fifth month of the license tax year the auditor shall certify to the governor and the secretary of state a list of all such delinquent corporations, resident, non-resident and foreign. The secretary of state shall preserve the list in his office, and a certificate from him that the name of any corporation mentioned in such certificate is delinquent in the payment of the license tax imposed by this chapter shall be *prima facie* evidence thereof. Within thirty days after receiving such list from the auditor the governor shall issue his proclamation, in which he shall declare the delinquency of every such corporation. A copy of such proclamation shall be filed and recorded in the office of the secretary of state, and be published in such newspapers as the governor may designate, not exceeding one in each congressional district; the costs of such publication shall be paid by the governor when allowed by the board of public works, out of any money in the treasury not otherwise appropriated, and such sums as may be necessary to pay such costs are hereby appropriated. Within sixty days after the date of the publication of such proclamation it shall be the duty of the attorney gen-

eral to institute on the chancery side of the circuit court, in the county in which the seat of government is, a suit or proceeding, or suits or proceedings, in the name of the state, in which such delinquent corporations shall be made defendants; in the bill or petition so filed it shall only be necessary to allege that the corporations therein made defendants have failed to pay such license tax, and that each of them justly owes to the state the amount of license tax, penalty and fines stated therein, in connection with the name of the corporation, which amount shall be computed up to the first day of the month succeeding that in which such bill or petition is filed. No such corporation shall interpose as a plea or defense in such suit the fact that the auditor failed to notify it as prescribed in this chapter, or that it failed to receive such notice, or that its name was not included in the list or proclamation hereinbefore mentioned. Upon the hearing of such suit, if it shall appear to the court that any such corporation has failed to pay any such license tax and the penalties and fines assessed against it, the court shall enter a decree or judgment against such corporation for the amount due, including the costs of the proceeding, or such portion of such costs as the court shall apportion to be paid by such corporation, and if the same be not then and there paid, the court shall enter a decree if it be a domestic corporation, forfeiting its charter, rights and franchises; and if it be a foreign corporation, revoking its rights and privileges to hold property and transact business in this state. The amount of the judgment or decree, including costs, entered against any corporation, and interest thereon until paid, may be collected by the attorney general, or be collected by the auditor in the same manner that other claims due the state are collected. In any such suit or proceeding the court may take such orders and decrees as he shall deem necessary and proper for a court of equity; and may appoint a receiver for any such corporation and order its assets marshalled and distributed among its creditors; and may, on motion of the attorney general, grant an injunction against any such corporation restraining it from the exercise of any franchise or the transaction of any business within this state, until such tax and the costs be paid. Any person or persons who shall exercise or attempt to exercise any powers under the charter of any such corporation after the issuing of the governor's proclamation, shall be guilty of a misdemeanor, and shall be punished by imprisonment not exceeding one year, or a fine not exceeding one

thousand dollars, or both, in the discretion of the court. The words "license tax" used in this section shall include, in addition to the amount of license tax proper, all penalties and fines accruing for failure to pay such tax, and the cost of any suit or proceeding to enforce the collection of the same. When two or more corporations are included in one suit or proceeding the court shall apportion the cost thereof among them as he may deem just.

Sec. 138. Nothing in this chapter shall be construed as imposing a license tax on corporations chartered strictly for educational, literary, agricultural, scientific, religious or charitable purposes, or upon charters incorporating cemeteries or lodges of masons, odd fellows, or the like, or other charitable fraternal or patriotic societies not incorporated for profit to the stockholders; but the secretary of state shall require full proof as to the character of any such corporation claiming such exemption from the payment of license tax. Every such corporation, however, shall in the third month preceding the first day of the license tax year in each year, deliver to the auditor the statement required in section one hundred and thirty-three of this chapter.

Sec. 142. If such returns be made on behalf of a telegraph or telephone company they shall show the full number of miles of telegraph or telephone line used or operated by the said telegraph or telephone company within this state during the annual period ending on the last day of the last month of the license tax year next preceding. But in ascertaining said mileage no more than one line of wire shall be counted or measured.

Sec. 144. The said return shall be made within twenty-one days after the first day of the second month of the license tax year, and shall include the full number of miles of road used or operated by said express company, of the full number of miles of telegraph or telephone lines used or operated by said telegraph or telephone company during the twelve months preceding the first day of January in that year. The returns so made shall be verified by the affidavit of the officer or agent making the same.

2. All licenses issued by the county clerks, county courts and auditor, including franchise license tax, of this state, under the provisions of chapter thirty-two of the code, and which expire on the thirtieth day of April, one thousand nine hundred and seven, shall be extended upon payment of the license tax, as hereinafter provided in this section, by the authority that issued same to the first

day of July, one thousand nine hundred and seven, the beginning of the license year as provided by this act, and the license tax for the months of May and June shall be computed from the annual tax in effect at the time the license was granted in proportion to such time as the license has to run; *provided*, that any license or franchise tax, the rate of which has not been increased by any act of the regular or extraordinary session of the legislature of one thousand nine hundred and seven, may be granted to begin on the first day of May, one thousand nine hundred and seven, and expire on the thirtieth day of June, one thousand nine hundred and eight, and the license tax computed from the annual tax for such time as the license is granted.

3. The new licenses provided by chapter thirty-two of the code, as amended and re-enacted by the acts of one thousand nine hundred and seven, shall not be required before the first day of July, one thousand nine hundred and seven.

4. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER 17.

(House Bill No. 10.)

AN ACT making appropriations of public money to pay members of the legislature for the regular session of one thousand nine hundred and seven, and for salaries of the officers of the government in pursuance of the forty-second section of the sixth article of the constitution.

[Passed March 5, 1907. In effect from passage. Approved by the Governor, March 10, 1907.]

SEC. 1. } Appropriations to pay members
and officers of the legislature
and officers of the government
for the fiscal years ending Sep-
tember 30th, 1907 and 1908.

SEC. 3. Directing the auditor as to pay-
ments; he may pay salary in ad-
vance of appropriations there-
for; when and to what extent.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be and are hereby appropriated for the fiscal year ending September thirtieth, one thousand nine hundred and seven, the following sums of money for the pay of the members and officers of the government:

Legislative Department—Senate.

To pay the per diem of members, five thousand five hundred and eighty-two dollars.

Mileage of members, one thousand one hundred and fifty-six dollars.

Per diem of officers and attaches, twenty thousand eight hundred and twenty-three dollars.

To pay the per diem of chief clerk, five hundred and fifty dollars.

House of Delegates.

To pay mileage of eighty-six members of the house, three thousand five hundred and sixty-nine dollars and eighty cents.

To pay the per diem of eighty-six members of the house of delegates, fifteen thousand three hundred dollars.

To pay the per diem of the speaker of the house of delegates, two hundred and seventy dollars.

To pay the per diem compensation of the officers, assistant clerks, committee clerks, pages, etc., that is to say:

To pay the per diem of one chief clerk, five hundred and fifty dollars.

To pay the per diem of two printing clerks, five hundred and forty dollars.

To pay the per diem of seventeen assistant clerks, four thousand five hundred and ninety dollars.

To pay the per diem of one librarian, two hundred and seventy dollars.

To pay the per diem of two stenographers, five hundred and forty dollars.

To pay the per diem of one sergeant-at-arms, two hundred and twenty-five dollars.

To pay the per diem of one assistant sergeant-at-arms, two hundred and twenty-five dollars.

To pay the per diem of one door-keeper, one hundred and eighty dollars.

To pay the per diem of two assistant door-keepers, three hundred and sixty dollars.

To pay the per diem of one gallery door-keeper, one hundred and eighty dollars.

To pay the per diem of one night watchman, one hundred and eighty dollars.

To pay the per diem of thirteen committee clerks, two thousand three hundred and forty dollars.

To pay the per diem of two cloak room keepers, three hundred and sixty dollars.

To pay the per diem of six journal pages, eight hundred and ten dollars.

To pay the per diem of one mail and banking page, one hundred and thirty-five dollars.

To pay the per diem of seven floor pages, six hundred and thirty dollars.

To pay J. M. Lynn, janitor, one hundred and thirty-five dollars.

Executive Department.

To pay the salary of the governor, five thousand dollars.

To pay the salary of the auditor, four thousand five hundred dollars.

To pay the salary of the treasurer, two thousand five hundred dollars.

To pay the salary of the attorney general, two thousand five hundred dollars.

To pay the salary of the superintendent of free schools, to be paid out of the general school fund, three thousand dollars.

To pay the salary of the secretary of state, four thousand dollars.

To pay the salary of the adjutant general, and *ex-officio* superintendent of weights and measures, one thousand five hundred dollars.

To pay the salary of the state librarian, twelve hundred dollars.

To pay the salary of the tax commissioner, four thousand dollars.

To pay the salary of the janitor, fifteen hundred dollars.

Keeper of the Rolls.

To pay the salary of the keeper of the rolls, three hundred dollars.

Judicial Department.

To pay the salaries of the judges of the supreme court, twenty-two thousand five hundred dollars.

To pay the salaries of the judges of the circuit courts, sixty-six thousand dollars.

To pay the compensation of special judges of circuit courts, two thousand dollars.

To pay mileage of the judges of the supreme court, sixteen hundred dollars.

To pay mileage of the judges of circuit courts, three thousand five hundred dollars.

To pay the salary of the clerk of the supreme court, one thousand five hundred dollars.

Be it enacted by the Legislature of West Virginia:

Sec. 2. There shall be and are hereby appropriated, for the fiscal year ending September thirtieth, one thousand nine hundred and eight, the following sums for salaries of officers of the government:

Executive Department.

To pay the salary of the governor, five thousand dollars.

To pay the salary of the auditor, four thousand five hundred dollars.

To pay the salary of the treasurer, two thousand five hundred dollars.

To pay the salary of the attorney general, two thousand five hundred dollars.

To pay the salary of the superintendent of free schools, to be paid out of the general school fund, three thousand dollars.

To pay the salary of the secretary of state, four thousand dollars.

To pay the salary of the adjutant general, and *ex-officio* superintendent of weights and measures, one thousand five hundred dollars.

To pay the salary of the state librarian, twelve hundred dollars.

To pay the salary of the tax commissioner, four thousand dollars.

To pay the salary of the janitor, fifteen hundred dollars.

Keeper of Rolls.

To pay the salary of the keeper of rolls, three hundred dollars.

Judicial Department.

To pay the salaries of the judges of the supreme court, twenty-two thousand five hundred dollars.

To pay the salaries of the judges of the circuit courts, sixty-two thousand seven hundred dollars.

To pay the compensation of the special judges of circuit courts, two thousand dollars.

To pay the mileage of judges of the supreme court, sixteen hundred dollars.

To pay the mileage of judges of the circuit courts, three thousand five hundred dollars.

To pay the salary of the clerk of the supreme court, one thousand five hundred dollars.

The appropriations herein provide for increasing the compensation of the employees of the state shall be in full force and effect on and after March first, one thousand nine hundred and seven, and only so much thereof as to said increase shall be and as may be necessary.

Sec. 3. The auditor is hereby authorized and directed, when properly demanded, to issue his warrant upon the treasury in the same manner as he would be required to if each item of the expenditure were directed to be paid to a creditor by name, and no money shall be drawn from the treasury for the purposes herein named during the fiscal year one thousand nine hundred and seven and one thousand nine hundred and eight respectively, beyond the amount hereby appropriated, unless the same is authorized by constitution or some general law.

But the auditor may draw his warrant upon the treasury in favor of the several officers, whose salaries and compensations are provided for by this act, for services actually rendered by them during the first six months of the fiscal year beginning on the first day of October, one thousand nine hundred and eight, for an amount not exceeding in the aggregate one-half of the sum appropriated for the salary or compensation of such officers, respectively, for the year ending September thirtieth, one thousand nine hundred and seven.

CHAPTER 18.

(Senate Bill No. 21.)

AN ACT making appropriations of public money to pay members of the legislature, in pursuance to the forty-second section of the sixth article of the constitution of West Virginia.

[Passed March 5, 1907. In effect from passage. Approved by the Governor, March 10, 1907.]

<p>Sec. 1. Appropriation to pay members and officers, etc., of the legislature for the extraordinary session 1907.</p>	<p>SEC. 2. Directing the auditor as to payments.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be and are hereby appropriated for the fiscal year ending September thirtieth, one thousand nine hundred and seven, the following sums of money for the payment of the members and the officers of the legislature, for the extraordinary session for the year one thousand nine hundred and seven:

Legislative Department—Senate.

Per diem of members, twelve hundred and thirty-two dollars.

Per diem of president of senate, sixty-six dollars.

Per diem of clerk, two hundred dollars.

Per diem of officers and attaches, twenty-eight hundred and sixty dollars.

Legislative Department—House of Delegates.

To pay the per diem of eighty-five members, three thousand seven hundred and forty dollars.

To pay the per diem of the speaker of the house of delegates, sixty-six dollars.

To pay the per diem compensation of clerks, assistant clerks, pages, etc., that is to say:

To pay the per diem of the chief clerk of the house, two hundred dollars.

To pay the per diem of eleven assistant clerks, seven hundred and twenty-six dollars.

To pay the per diem of two committee clerks, eighty-eight dollars.

To pay the per diem of two stenographers, one hundred and thirty-two dollars.

To pay the per diem of five floor pages, one hundred and ten dollars.

To pay the per diem of two journal pages, sixty-six dollars.

To pay the per diem of one mailing and banking page, thirty-three dollars.

To pay the per diem of the sergeant-at-arms, fifty-five dollars.

To pay the per diem of the assistant sergeant-at-arms, fifty-five dollars.

To pay the per diem of three door keepers, one hundred and thirty-two dollars.

To pay the per diem of one gallery door keeper, forty-four dollars.

To pay the per diem of one librarian, sixty-six dollars.

To pay the per diem of one night watchman, forty-four dollars.

To pay the per diem of two cloak room keepers, eighty-eight dollars.

To pay the per diem of eight janitors, one hundred and thirty-two dollars.

To pay J. M. Lynn, janitor, for services during the present session, thirty-three dollars.

Sec. 2. The auditor is hereby authorized to issue his warrants upon the treasury for such amounts as are, or may become due to the several members, officers and attaches of the senate and house of delegates for their per diem, upon the proper requisition of the clerk of the senate and sergeant-at-arms of the house of delegates, respectively.

CHAPTER 19.

(House Bill No. 1.)

A BILL making appropriations of public money to pay general charges upon the treasury.

[Passed March 5, 1907. In effect from passage. Approved by the Governor, March 10, 1907.]

Sec. 1. Appropriations to pay general charges upon the state treasury for the fiscal year ending September 30, 1907, including sundry individual claims.

Sec. 2. Appropriations to pay general charges upon the state treasury for the fiscal year ending September 30, 1908.

<p>SEC.</p> <p>3. How appropriations for public institutions drawn.</p> <p>4. Allowance to regents and directors.</p> <p>5. All officers, employees, head of a department or of an institution or board to make report to the governor as to clerk hire; when such reports to be made.</p> <p>6. Printing, etc., for the free school department, and for certain boards, officers or institutions; how paid for.</p> <p>7. No money paid beyond appropriations, unless, etc.; what payments may be made after expiration of fiscal year, September 30, 1908.</p> <p>8. Disposing of arrears for taxes; li-</p>	<p>SEC.</p> <p>censes and fines due from sheriffs and for what years; duty of auditor as to such arrears.</p> <p>9. Auditing and examining of accounts, books, etc., by auditor of public institutions, boards, etc.; appropriations for expenses.</p> <p>10. } Duties required of superintendents, directors and regents of public institutions, respecting the disbursing of, and the drawing of requisitions upon the auditor for moneys.</p> <p>11. }</p> <p>12. Duties of clerks of the house and senate.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be and are hereby appropriated out of the state fund for the fiscal year ending September 30th, 1907, the following sums for the purposes as follows:

Criminal Charges.

For criminal charges, one hundred thousand dollars.

For extradition of criminals, two thousand five hundred dollars.

Lunatics in Jail.

For support of lunatics in jail, six thousand dollars

Normal Schools.

For the support of the state normal school and its branches, to be paid according to the provisions of sections ninety-six and ninety-seven of chapter forty-five of the code as amended by the act of the legislature of one thousand eight hundred and ninety-nine, thirty thousand dollars.

For additional expenses for the support of the state normal school and its branches, twenty-two thousand five hundred dollars.

For traveling expenses of the board of regents, eighteen hundred dollars.

For salary of secretary, three hundred dollars.

For the education and normal training of colored teachers to be paid according to the provisions of section ninety-six of chapter forty-five of the code, two thousand dollars.

Marshall College.

- For chairs, tables and cases for new library, five hundred dollars.
- For gas and electric fixtures for new building and girls closet, two hundred and fifty dollars.
- For janitor, one thousand dollars.
- For furniture for dormitory, seven hundred and fifty dollars.
- For furniture for old school rooms, two hundred and fifty dollars.
- For contingent expenses, one thousand dollars.
- For repairs, seven hundred and fifty dollars.
- For fuel, water and light, one thousand five hundred dollars.
- For improving grounds and driveways, four hundred and fifty dollars.
- For furniture for new building, one thousand two hundred and fifty dollars.
- For finishing third floor new building, two thousand dollars.

Fairmont Normal School.

- For furniture, three hundred dollars.
- For contingent expenses, six hundred dollars.
- For repairs, six hundred dollars.
- For fuel, water and light, one thousand dollars.
- For janitors, seven hundred and fifty dollars.
- For sewer and plumbing, three hundred dollars.

West Liberty Normal School.

- For contingent expenses, six hundred and fifty dollars.
- For janitor, four hundred dollars.
- For repairs to building, five hundred dollars.
- For fuel and lights, five hundred and fifty dollars.
- For furniture and apparatus, three hundred and fifty dollars.

Shepherd College Normal School.

- For repairs, two hundred and fifty dollars.
- For contingent expenses, five hundred dollars.
- For janitors, six hundred dollars.
- For fuel and lights, seven hundred and fifty dollars.
- For furniture and electric fixtures, four hundred dollars.

Glenville Normal School.

- For contingent expenses, five hundred dollars.
- For repairs, three hundred dollars.
- For janitor, six hundred dollars.
- For fuel, light and water, eight hundred dollars.

Concord Normal School.

- For contingent expenses, six hundred dollars.
- For fuel and lights, one thousand dollars.
- For furniture, three hundred dollars.
- For janitor, six hundred dollars.
- For deficiency in janitors salary, nineteen hundred and six, one hundred dollars.

West Virginia School for the Deaf and Blind.

- For current expenses, forty-five thousand dollars.
- For traveling expenses, two thousand five hundred dollars.
- For contingent expenses, six hundred dollars.
- For fund for colored pupils, one thousand dollars.
- For pipe line and sewer system, five thousand dollars.

The University.

- For salaries of teachers, sixty-two thousand five hundred dollars.
- For school of music, five thousand dollars.
- For school of fine arts, two thousand dollars.
- For college of agriculture, six thousand dollars.
- For college of medicine, four thousand dollars.
- For regents' expenses, one thousand dollars.
- For cadet books, supplies and uniforms, five thousand dollars.
- For advertising, university printing and station printing, four thousand dollars.
- For repairs, four thousand dollars.
- For fire protection, two hundred dollars.
- For janitors, watchmen and gardeners, six thousand dollars.
- For university library and law library, four thousand dollars.
- For gymnasium and athletics, three thousand dollars.
- For current and contingent expenses, four thousand five hundred dollars.

For apparatus, blackboards, desks, furniture, etc., three thousand dollars.

For grounds, roads, pavement and stone wall, two thousand dollars.

For heat, light and water, six thousand dollars.

For engineering equipment and supplies, five thousand dollars.

For heating plant, sixteen thousand dollars.

Preparatory Branch of The West Virginia University at Keyser.

For chemical and physical laboratories, two hundred dollars.

For janitors, six hundred dollars.

For contingent expenses, five hundred dollars.

For fuel and light, six hundred dollars.

For salaries secretary and treasurer and expenses board of regents, seven hundred and fifty dollars.

For repairs to building, three hundred and fifty dollars.

For salaries of teachers, seven thousand dollars.

*Preparatory Branch of the West Virginia University at
Montgomery.*

For contingent expenses, three hundred dollars.

For janitor, six hundred dollars.

For regents' expenses, two hundred and fifty dollars.

For repairs and refitting, three hundred dollars.

For fuel, lights, water and telephone, twelve hundred dollars.

For furniture and fixtures, three hundred dollars.

For salaries of teachers, five thousand one hundred dollars.

West Virginia Colored Institute.

For current expenses, two thousand dollars.

For board of regents, seven hundred and fifty dollars.

For janitors, six hundred dollars.

For fuel, one thousand eight hundred dollars.

For school and dormitory furniture, six hundred dollars.

For teachers' salaries, thirteen thousand two hundred dollars.

For roads, walks and grading, two hundred and fifty dollars.

For salary of engineer, six hundred dollars.

For repairs to buildings, and fences, six hundred dollars.

For night watchman, four hundred dollars.

For agricultural department, domestic science, printing department, mechanical department, library and reading room, two thousand dollars.

For student labor, six hundred dollars.

For electric lights and fixtures, three hundred dollars.

For repairs to pump tank and tower and additional water supply, pipes, fixtures, etc., two thousand dollars.

Bluefield Colored Institute.

For repairs to building, fixtures and fences, six hundred dollars.

For salaries of teachers, four thousand four hundred dollars.

For janitor, five hundred dollars.

For fuel, light and water, one thousand two hundred dollars.

For salary of engineer, three hundred dollars.

For expenses of board of regents, six hundred dollars.

For contingent expenses, nine hundred dollars.

For fruit culture and gardening, three hundred dollars.

West Virginia Colored Orphans' Home and Industrial School.

For salaries of teachers, two thousand dollars.

Storer College.

For salaries of teachers, one thousand five hundred dollars.

West Virginia Reform School.

For current expenses, thirty-two thousand dollars.

For officers' salaries, eighteen thousand dollars.

For expenses of board of directors, seven hundred and fifty dollars.

For transportation of inmates, one thousand five hundred dollars.

For new laundry, two hundred and fifty dollars.

For contingent expenses, seven hundred and fifty dollars.

For library and school furniture, two hundred and fifty dollars.

For sanitary closets, five hundred dollars.

For carpentry, blacksmith and shop equipments, one thousand dollars.

For additional water system, two thousand five hundred dollars.
For furniture, five hundred dollars.
For remodeling Robinson cottage, and general repairs, three thousand dollars.

West Virginia Industrial Home for Girls.

For current expenses, fifteen thousand dollars.
For farm, one thousand dollars.
For transportation, five hundred dollars.
For board of directors, seven hundred dollars.

West Virginia Asylum.

For current expenses, including salaries and drugs, fifty-five thousand dollars.
For steel ceiling, two thousand five hundred dollars.
For ice plant, four thousand dollars.
For painting and repairs, one thousand five hundred dollars.
For furnishing, two thousand dollars.
For transportation, eight hundred dollars.
For wells, water supply and fire protection, two thousand five hundred dollars.

Weston Hospital for the Insane.

For current expenses, including salaries and drugs, one hundred and fifty thousand dollars.
For transportation of patients, two thousand five hundred dollars.
For painting and repairs, and repairing bath rooms and closets, twelve thousand five hundred dollars.
For farm and garden, four hundred dollars.
For purchase of fancy articles for female patients to work with, one hundred and fifty dollars.
For drilling of gas well, seven thousand dollars.
For completion of reservoir, two thousand five hundred dollars.
For rebuilding morgue, five hundred dollars.

Second Hospital for the Insane.

For current expenses, including salaries, fuel and drugs, seventy-five thousand dollars.

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- For painting and repairs, five thousand dollars.
 - For transportation, two thousand five hundred dollars.
 - For furnishing fund, two thousand five hundred dollars.
 - For farm, one thousand dollars.
 - For new boilers and installing the same, three thousand five hundred dollars.
 - For finishing and furnishing new building, three thousand five hundred dollars.
 - For purchasing fancy articles for female patients to work with, one hundred and fifty dollars.
 - For deficiency for year nineteen hundred and six, five thousand dollars.

Miners' Hospital No. 1.

- For maintenance fund, thirty thousand dollars.
- For repairs, three thousand dollars.
- For borrowed money and overdraft, fifteen thousand six hundred and sixty-two dollars and eighty-two cents.

Miners' Hospital No. 2.

- For maintenance fund, including hospital expenses, board expenses and incidentals, twenty-one thousand five hundred dollars.

Miners' Hospital No. 3.

- For maintenance fund, including repairs and furniture, seventeen thousand five hundred dollars.

State Board of Agriculture.

- For total expense, including salaries of officers, twelve thousand five hundred dollars.
- Out of which shall be paid a salary of one thousand five hundred dollars per annum for secretary.
- For carrying into effect the provisions of chapter nine, acts of eighteen hundred and ninety-seven, for destruction of diseased animals, including the inspection of dairies and breeding herds, two thousand five hundred dollars.

San Jose Scale.

- For carrying out the provisions of chapter thirty-three of the

acts of the legislature of nineteen hundred and one, as amended by chapter forty-nine of the acts of nineteen hundred and three, two thousand dollars.

Commissioner of Banking.

For salary of commissioner, two thousand five hundred dollars.

For salary of assistant, one thousand eight hundred dollars.

For traveling expenses commissioner of banking, and assistant, twelve hundred dollars.

State Highway Inspector.

For salary of inspector, two thousand dollars.

For traveling expenses of inspector, one thousand dollars.

Department of Mines.

For salary of chief of department of mines, two thousand four hundred dollars.

For salary of twelve district mine inspectors, at the rate of eighteen hundred dollars per year each.

For traveling expenses of chief of department of mines, eight hundred dollars.

For traveling expenses each district mine inspector, five hundred dollars.

For contingent expenses, nine hundred dollars.

For clerk hire and stenographer, two thousand dollars.

State Board of Health.

For expenses state board of health, two thousand dollars.

For contingent expenses, two hundred dollars.

Commissioners of Pharmacy.

For commissioners and secretary, and other expenses, to be paid by the auditor upon the order of said commissioners, five hundred dollars.

Bureau of Labor.

For salary of commissioner of labor, one thousand eight hundred dollars.

For salary of assistant commissioner of labor, one thousand dollars.

For contingent expenses, one thousand two hundred dollars.

Vaccine Agents.

For salary vaccine agents to be paid on the order of the governor, one hundred and fifty dollars.

For purchase of vaccine matter, one hundred and fifty dollars.

Each agent shall annually report to the governor the amount expended for the purchase of vaccine matter.

Institute Instructors.

For compensation of institute instructors, provided for in section thirty of chapter twenty-five of the acts of one thousand nine hundred and three, six thousand dollars.

Uniform Examinations.

For expenses provided for in section three of chapter twenty-seven, of the acts of one thousand nine hundred and three, five thousand dollars.

Erroneous Assessments.

For refunding taxes assessed, collected and paid into the treasury, to be paid out of the fund into which the taxes were paid, such amount as may be necessary for such purpose.

Insurance.

Every board in control of any of the public buildings of the state shall cause the buildings under their control respectively to be insured and kept insured, and the premiums to be paid out of said fund.

Before any insurance is taken the board in control of the building shall report the amount of insurance proposed to be taken and the rate of insurance, and the same shall be approved by the board of public works before the insurance is written. Each board shall report biennially to the governor insurance carried and the time the same will expire. The insurance on the penitentiary shall be paid out of the money under the control of the board of directors thereof.

Emergency Fund.

For state emergency fund, ten thousand dollars. No part of this fund shall be expended except on the unanimous vote of all the members of the board of public works.

For State Law Library.

For purchasing and binding books for the state law library, two thousand five hundred dollars, to be drawn on the order of the supreme court of appeals and expended under the direction of said court; and all books furnished or purchased by this appropriation shall be the property of the state.

Erroneous Payment into the Treasury.

For refunding moneys erroneously paid into the treasury, such sum is hereby appropriated as may be erroneously so paid, payable out of the same fund into which paid.

For Distribution of General School Fund.

For the distribution of the general school fund, such amount is hereby appropriated as may be duly apportioned by the state superintendent of free schools to each county, payable out of the general school fund.

For the payment of the county superintendents of schools to be paid out of the general school fund, according to the provisions of section fifty-three of chapter forty-five of the code, thirty thousand dollars.

For Refunding County, District and Municipal Taxes.

For refunding to counties, districts and municipal corporations, county, district and municipal taxes, paid into the treasury for redemption of lands, such amount is hereby appropriated as will be necessary to refund to the counties, districts and municipal corporations entitled thereto, the taxes so paid into the treasury.

For refunding county, district and municipal taxes paid into the treasury by railroad and other companies, such sum is hereby appropriated as will be necessary to refund to each county, district and municipal corporation the amount of such taxes as may be paid into the treasury to the credit of such county, district or municipal corporation.

Overpaid Taxes.

For refunding overpayments made at the treasury, on the account of taxes, licenses, fines and commissions to be paid out of the fund into which they are paid, such amount as may be necessary for such purpose.

Delinquent Taxes.

The auditor shall credit all delinquent taxes due the state to the fund to which they belong, and the cost of certification and publication of sale shall be paid out of the fund to which they are credited, and so much as may be necessary is hereby appropriated for payment of the same.

Game and Fish Warden.

For the salary of the game and fish warden, one thousand dollars.

For contingent expenses, three hundred dollars.

Pardon Attorney.

To pay salary of pardon attorney, two thousand five hundred dollars.

To pay expenses of pardon attorney, including stenographer, seven hundred and fifty dollars:

West Virginia Humane Society.

For current expenses, eight thousand dollars.

State Geological and Economic Survey.

For geological survey in co-operation with the United States geological survey, fifteen thousand dollars.

For salaries of geological staff, five thousand dollars.

For preparation and publication of report, five thousand dollars.

For assistants and other expenditures, two thousand dollars.

The Militia.

To carrying into effect the provisions of chapter sixty-one of the acts of one thousand eight hundred and ninety-seven, as amended

by the act of nineteen hundred and five, relating to the militia, forty-five thousand dollars, which amount shall cover all expenditures for the militia for the fiscal year. *Provided*, that the sum shall be disbursed under the direction of the governor, adjutant general and paymaster general upon requisition made upon the auditor, which appropriation includes six hundred dollars to be paid equally, to the chief musicians of each of the regimental bands, of the first and second regiments.

Department of Archives and History.

For salary of state historian and archivist, stenographer, purchase of books and records, binding books, erecting shelves, and incidental expenses, the sum of four thousand five hundred dollars.

Printing, Binding and Stationery.

For public printing, binding and stationery, including militia, forty thousand dollars.

For printing, binding and stationery for the office of the state superintendent of free schools, to be paid out of the general school fund, nine thousand dollars.

Capitol Building and Grounds.

For water, one thousand dollars.

For lighting and heating, three thousand dollars.

For repairs and contingent expenses, twenty-two thousand dollars.

Governor's Mansion and Grounds.

For repairs and maintenance, twelve hundred and fifty dollars.

Civil Contingent Fund.

For civil contingent fund for the governor, nine thousand dollars.

Contingent Fund Executive Department.

For contingent expenses of the auditor's office, two thousand five hundred dollars.

For contingent expenses of the treasurer's office, seven hundred dollars.

For contingent expenses of the attorney general's office, one thousand five hundred dollars.

For purchase of library and books for the office of the attorney general, three hundred and fifty dollars.

For contingent expenses of the state superintendent of free school's office, to be paid out of the general school fund, two thousand dollars.

For the purchase of books for the office of the state superintendent of free schools, to be paid out of the general school fund, one hundred and fifty dollars.

For expenses to be incurred under the provisions of article twelve, section two of the constitution, five hundred dollars, or so much thereof as may be necessary, to be paid out of the general school fund.

For contingent expenses of secretary of state's office, one thousand seven hundred dollars.

For contingent expenses of adjutant general's office, seven hundred and fifty dollars.

For contingent expenses and clerk hire of state librarian's office, one thousand two hundred dollars.

For contingent expenses commissioner of banking's office, seven hundred and fifty dollars.

For the distribution of the acts and journals to the members of the legislature, five hundred dollars, to be paid upon the order of the secretary of state.

Contingent Legislative Expenses.

For contingent expenses of the Senate, twenty thousand dollars.

For contingent expenses of the House of Delegates, fifteen thousand dollars.

Salaries of Clerks.

For salary of governor's private secretary, four thousand dollars.

For clerk hire and stenographers, two thousand five hundred dollars.

For salary of chief clerk of secretary of state, two thousand dollars.

For salary of clerk to secretary of board of public works, one thousand two hundred dollars.

For other clerks in office of secretary of state, five thousand eight hundred and sixty dollars.

For salary of stenographer of secretary of state's office, one thousand two hundred dollars.

For salary of chief clerk in treasurer's office, one thousand eight hundred dollars.

For salary of assistant clerk in treasurer's office, one thousand five hundred dollars.

For salary of stenographer for treasurer and other clerk hire, one thousand two hundred dollars.

For salary of chief clerk in the auditor's office, two thousand dollars.

For salary of other clerks in the auditor's office, sixteen thousand dollars.

For salary of stenographer for auditor, one thousand two hundred dollars.

For the auditor of the state there is hereby appropriated so much as may be necessary to pay the additional expenses of his office occasioned by the extra work made necessary by the act of the legislature upon the subject of insurance, not to exceed the sum of five thousand dollars.

For salary of assistant in attorney general's office, eighteen hundred dollars.

For salary of stenographer for attorney general, nine hundred dollars.

For other clerk hire in attorney general's office, two thousand seven hundred dollars, which is to include one clerk who shall be a printer of two years' experience, at one thousand two hundred dollars.

For salary of chief clerk in the office of state superintendent of free schools, to be paid out of the general school fund, one thousand eight hundred dollars.

For salaries of other clerks in the office of state superintendent of free schools, to be paid out of the general school fund, three thousand dollars.

For salary of stenographer of state superintendent of free schools, to be paid out of the general school fund, nine hundred dollars.

For salary of stenographer for commissioner of banking, nine hundred dollars.

For salaries of assistant clerks of the supreme court of appeals, two thousand four hundred dollars.

Tax Commissioner.

For expenses of tax commissioner's office, including compensation of assistants, clerks, stenographers, and all other expenses, fourteen thousand dollars.

Judicial Department.

For contingent expenses of supreme court of appeals, to be expended upon the order of the court, fifteen hundred dollars.

For law clerks or stenographers of judges of the supreme court of appeals, six thousand dollars, to be paid to said law clerks or stenographers on the order of their respective judges of said court.

For printing and binding supreme court reports, five thousand dollars, under supervision of the attorney general.

To pay criers and messengers of the supreme court, fifteen hundred dollars.

For stenographer and typewriter for clerk of the supreme court, twelve hundred dollars.

State House Labor Fund.

For salary of engineer, thirteen hundred and fifty dollars.

For salary of night engineer, nine hundred and ninety dollars.

For night watchman, nine hundred and ninety dollars.

For night fireman, nine hundred and twenty dollars.

For day fireman, nine hundred and twenty dollars.

For six sweepers, eight hundred and ten dollars each.

For one messenger, six hundred dollars.

For two charwomen, four hundred and thirty dollars each.

Salaries of Annex Employees

For salary of assistant janitor for annex, nine hundred and ninety dollars.

For salaries of three sweepers, eight hundred and ten dollars each.

For salary of night watchman, nine hundred and ninety dollars.
All of the above to be paid upon the order of the governor.

Miscellaneous.

The following appropriations are made to be paid upon the order or requisition of the person or persons to whom they are allowed:

To pay Granville B. Hall for manuscript containing full minutes of the proceedings of the convention held at Wheeling, West Virginia, in 1861, known as the Wheeling Convention, two thousand five hundred dollars.

To pay certificate of allowance in favor of Caldwell & Drake for final payment on contract, with interest from date, May 1, 1903, seven hundred and eighty-five dollars and six cents.

To pay Mollohan, McClintic and Matthews for legal services rendered under employment by the governor, state tax commissioner and attorney general in the following cases: South Penn Oil Co. vs. Tax Commissioner et als, Consolidated Oil Co. vs. County Court of Ritchie County et als, Harvey Coal & Coke Co. vs. Tax Commissioner et als, Tax Commissioner vs. Braxton County Court and other cases and expenses to date, five thousand nine hundred and ninety-four dollars and twenty-two cents.

To pay C. D. Forrer for services as special judge for the criminal court of Wood County, fifty-five dollars.

To pay John F. Laird for services rendered the state in the case of John Rentforth upon a writ of *habeas corpus*, two hundred and fifty dollars.

To pay F. A. McGrew mileage traveled while performing duty as sergeant-at-arms of the committee appointed by authority of a resolution adopted by the House of Delegates, February 24th, 1905, one hundred and fourteen dollars and sixty cents.

To pay costs and expenses of this state in the suit of the state of Maryland vs. the state of West Virginia pending in the supreme court of the United States for the settlement of the boundary line between said states, twenty-five hundred dollars, or so much thereof as may be necessary, the same to be paid out upon the requisition of the attorney general.

To pay for services and personal expenses of the commissioners appointed by the governor to revise the school law, and for services and expenses of secretary of said commissioners; as follows:

Harvey W. Harmer, two hundred dollars and fifty cents.

B. L. Butcher, eighty-six dollars.

C. E. Carrigan, one hundred and eight dollars.

L. W. Burns, one hundred and sixty-two dollars.

B. S. Morgan, twelve dollars.

Thomas C. Miller, forty-seven dollars and fifty cents.

J. R. Trotter, four hundred and seventy-seven dollars.

Fannie Long, stenographer, forty-seven dollars and eighty cents.

Winnie Trask, stenographer, seven dollars and fifty cents

To pay S. Spencer Moore & Co., for supplies, sixty-four dollars and twenty-five cents.

To pay Charleston Home Telephone Co., for rental and messages, fifty dollars.

To pay L. C. Smith & Bros., for typewriter, ninety dollars.

To pay L. C. Smith & Bros., for typewriter, eighty-seven dollars and seventy-five cents.

To pay F. J. Daniels & Co, for carpets, linoleum, etc., for offices of attorney general, three hundred and six dollars and thirty-four cents.

To pay E. C. Marshall, applying for injunction by the state to restrain operation of Panama mines in Mercer county, twenty-five dollars.

To pay A. H. Chapman, of Central City, Cabell county, West Virginia, for rebate on liquor licenses, three hundred and forty dollars and twenty-five cents.

To pay George H. Wilson, of Central City, Cabell county, West Virginia, for rebate on liquor licenses, three hundred and forty-eight dollars and sixty cents.

To pay John M. Baker, for attorney fees for appearance for respondent in the case of W. H. Barkley vs. C. M. Landfried, in the United States circuit court for the Southern district of West Virginia, *habeas corpus*, sixty-five dollars.

To pay Brown, Jackson & Knight, for legal services and expenses in case of *mandamus* by Virginia Accident Insurance Co., in supreme court, and all other legal services in full to date, eight hundred dollars and fifty-four cents.

To pay Chilton, McCorkle & Chilton, for legal services and expenses to legislative committee appointed under resolution of House of Delegates, February 24th, 1905, to investigate charges made against Governor Albert B. White, by Chas. Caldwell and

others, six thousand and seventy-five dollars and eighty-five cents.

To pay Mead Bros. & Company for supplies, three thousand and fifty-eight dollars and twenty-five cents.

To pay de Gruyter & Frasier, for use of typewriter, ten dollars.

To pay Chas. E. Hogg, for attorneys fees for assisting Tax Commissioner Dillon and Attorney General May in the collection of railroad taxes, five hundred and fifty-seven dollars and fifty cents.

To pay P. A. Donovan, for supplies, one hundred and seventy-one dollars and forty-five cents.

To pay Sterrett Bros. Dry Goods Co., four hundred and forty-nine dollars and fifty-four cents.

To pay John Evans, for services as page in the House of Delegates for ten days, twenty dollars.

To pay West Publishing Co., for 125 volumes of Code of 1906, six hundred and twenty-five dollars.

To pay Parkersburg State Journal, for advertising for bids, eleven dollars.

To pay for services rendered and expenses incurred by the committee appointed by the legislature of 1905, under House Joint Resolution No. 6, authorizing the appointment of a select committee to investigate and report each state institution, the following sums are appropriated:

Thomas W. Fleming, eighty-nine dollars and eighty cents.

W. H. McGinnis, fifty-six dollars and twenty cents.

French Hays, two hundred and eighteen dollars and forty cents.

R. H. Adair, eight dollars.

John T. Harris, one hundred and seventeen dollars and sixty cents.

To pay Robert Smith, of Marshall county, rebate on liquor license, two hundred and ninety-one dollars and sixty-six cents.

To pay Hiram Lewis, for services as first sergeant in Captain William King's company of state guards in the war of 1861-5, one hundred and seventeen dollars and fifty cents.

To pay for services, the expenses and per diem of the commission appointed by the governor to revise and amend the mining laws, as recommended by the governor in a special message to the legislature January 16, 1907.

D. C. Kennedy, for service, expenses and money advanced, one hundred and ninety-four dollars and fifty cents.

Wm. Gillie, for service, expenses and money advanced, two hundred and sixty-two dollars.

J. S. Cunningham, for service, expenses and money advanced, five hundred and twenty-seven dollars and forty-six cents.

J. O. Brooks, for service, expenses and money advanced, three hundred and fifty-nine dollars.

E. L. Judy, for service, expenses and money advanced, three hundred and sixty-two dollars.

John Nugent, for service, expenses and money advanced, three hundred and forty-two dollars and fifty cents.

To pay J. F. Kirtley, as rebate on liquor license, two hundred and ninety-four dollars.

To pay John P. Austin, for expenses as trustee of the Point Pleasant Battle Monument, one hundred and thirty-four dollars and fifty cents.

To pay C. C. Bowyer for expenses as trustee of the Point Pleasant Battle Monument, one hundred and fifty-six dollars and sixty cents.

To pay Virgil A. Lewis, for expenses as trustee of the Point Pleasant Battle Monument, thirty-two dollars and forty-nine cents.

To pay expenses of A. W. Hart, ex-sheriff of Randolph county, for conveying prisoners to the reform school and penitentiary, one hundred and thirty-one dollars and eighty-five cents.

To pay A. C. Lawrence, as rebate on liquor licenses, twelve hundred and fifty dollars.

To pay M. K. Malcolm, for work as assistant printing and stationery clerk, ninety-eight dollars and ninety-four cents.

To pay Hamilton & Brooks, for mineral water, thirty-four dollars and fifty cents.

To pay Carr Spring Lithia Water Co., one hundred and fourteen dollars and fifty cents.

To pay Mead Bros. & Co., for carpet sweepers for House and Senate, eleven dollars.

To pay Charleston Electric Company for electric fixtures, etc., thirty-one dollars and eighty-six cents.

To pay Coffey Plumbing Company repairs to plumbing, gas hose, etc., eighty-five dollars and thirty-two cents.

To pay David Dick, carpenter work, two hundred and fourteen dollars and sixty cents.

To pay Dawley Furniture Company for chairs, thirty-six dollars.

To pay M. W. Grossman, for washing windows, painting, etc., ninety-seven dollars and seventy-five cents.

To pay J. H. Hudson for repairs locks, typewriters, etc., seventy-three dollars and seventy-five cents.

To pay Kanawha Book Store, for cash book and supplies, thirty-five dollars and twenty-five cents.

To pay Lewis, Hubbard & Co. for brooms, eight dollars.

To pay Loewenstein & Sons, for drawer locks, shears, etc., six dollars.

To pay Noyes, Thomas & Co., for towels, one hundred and forty-two dollars.

To pay Geo. W. Porter, for repairing clocks, six dollars.

To pay Rudesill & Mead for water set, cuspidors, etc., ninety-two dollars.

To pay Shelton Drug Co., for thermometer, hair brushes, sundries, etc., one hundred and fifty-six dollars and thirty-five cents.

To pay Triple State Electric Co., for portables, electric cord, etc., thirty dollars and seventy-five cents.

To pay F. E. Taylor for painting signs on doors, three dollars and fifty cents.

To pay the Underwood Typewriter Company for typewriter and ribbon, etc., one hundred and thirty dollars and ninety cents.

To pay Jennie Cantrell for washing towels, twenty-five dollars.

To pay John A. Fleming, ex-sheriff of Harrison county, for re-funding license, three hundred and fifty dollars.

To pay W. W. Erwin, ex-sheriff of Ohio county, balance due special criminal judge, ten dollars.

To pay Gem Pharmacy for hair brushes and sundries, ninety-nine dollars and twenty cents.

To pay Frank Ufferman for covering desks, thirty-four dollars.

To pay Fred H. Converse, for repairing typewriters, one dollar and thirty-five cents.

To pay H. N. Hutchinson for services rendered board of public works, 1905, one hundred and twelve dollars.

To pay the following newspapers, twelve dollars each for advertising for bids for public printing:

Wheeling Intelligencer,
Keyser Echo,
Charleston Mail,
Huntington Herald.

To pay T. J. Davis and Thomas Parry, five hundred and sixty dollars reward for the arrest of George and Ed Jackson, slayers of sheriff Daniels of Fayette county.

To pay Bascom Smith for cleaning and varnishing furniture, seven dollars.

To pay Elliott Commercial School for rent of typewriter, five dollars.

To pay Cal. F. Young, expressage on typewriter, one dollar.

To pay D. B. Cornett, for services, seventeen dollars and fifty cents.

To pay A. L. Blue, claim, twelve dollars.

To pay Simms & Enslow, attorney fee, one thousand dollars.

The appropriations herein provided for increasing the compensation of the employees of the State shall be in full force and effect on and after March 1st, 1907, and only so much thereof as to said increase shall be appropriated as may be necessary.

Sec. 2. There shall be and are hereby appropriated out of the state fund for the fiscal year ending September 30th, 1908, the following sums for the purposes as follows:

Criminal Charges.

For criminal charges, one hundred thousand dollars.

For extradition of criminals, two thousand five hundred dollars.

Lunatics in Jail.

For support of lunatics in jail, six thousand dollars.

Normal Schools.

For support of the state normal school and its branches, to be paid according to the provisions of sections ninety-six and ninety-seven of chapter forty-five of the code as amended by the act of the legislature of eighteen hundred and ninety-nine, thirty thousand dollars.

For additional expenses for the support of the state normal school and its branches, twenty-two thousand five hundred dollars.

For traveling expenses of the board of regents, eighteen hundred dollars.

For salary of secretary, three hundred dollars.

For the education and normal training of colored teachers to be paid according to the provisions of section ninety-six of chapter forty-five of the code, two thousand dollars.

Marshall College.

For equipment for new physical and chemical laboratory, one thousand dollars.

For slate black board, recitation seats and teachers' desks for new building, one thousand three hundred dollars.

For gas and electric fixtures and girls' closet for new building, two hundred and fifty dollars.

For janitor, one thousand dollars.

For library and periodicals, one thousand dollars.

For furniture for old school rooms, two hundred and fifty dollars.

For contingent expenses, one thousand dollars

For repairs, seven hundred and fifty dollars.

For fuel, water and light, one thousand five hundred dollars.

For grading and sidewalk, four hundred and fifty dollars.

For gymnasium, flooring, etc., four hundred dollars.

For pianos, three hundred dollars.

For improving grounds and driveway, four hundred and fifty dollars.

For furniture for new building, one thousand two hundred and fifty dollars.

For finishing third floor new building, three thousand dollars.

Fairmont Normal School.

For library and apparatus, books, globes, etc., five hundred dollars.

For furniture, six hundred dollars.

For repairs, nine hundred dollars.

For contingent expenses, six hundred dollars.

For fuel, water and lights, one thousand dollars.

For janitors, seven hundred and fifty dollars.

For physical and chemical apparatus, four hundred dollars.

For sewer and plumbing, three hundred dollars.

For piano, three hundred dollars.

For gymnasium, three hundred dollars.

For fire escapes, two hundred dollars.

For paving one-third of Gaston avenue, three hundred dollars.

West Liberty Normal School.

For contingent expenses, six hundred and fifty dollars.

For janitor, four hundred dollars.

For repairs, to building, five hundred dollars.

For fuel and lights, five hundred and fifty dollars.

For furniture and apparatus, three hundred and fifty dollars.

For library, six hundred dollars.

For pavement and grading, four hundred dollars.

For piano, three hundred dollars.

Shepherd College Normal School.

For repairs, two hundred and fifty dollars.

For library and apparatus for laboratories, six hundred dollars.

For contingent expenses, five hundred dollars.

For janitors, six hundred dollars.

For fuel and lights, seven hundred and fifty dollars.

For furniture and electric fixtures, four hundred dollars.

For fitting up laboratory rooms, five hundred dollars.

Glenville Normal School.

For contingent expenses, five hundred dollars.

For repairs, three hundred dollars.

For library and apparatus, five hundred dollars.

For janitor, six hundred dollars.

For fuel, light, and water, eight hundred dollars.

For furniture and gymnasium, three hundred and fifty dollars.

Concord Normal School.

For library and physical, chemical and biological apparatus, six hundred dollars.

For contingent expenses, six hundred dollars.

For fuel and lights, one thousand dollars.

For furniture, three hundred dollars.

For janitor, six hundred dollars.

For pianos, three hundred dollars.

For repairs and painting, one thousand dollars.

West Virginia School for the Deaf and Blind.

- For current expenses, forty-five thousand dollars.
- For traveling expenses, two thousand five hundred dollars.
- For contingent expenses, six hundred dollars.
- For fund for colored pupils, one thousand dollars.
- For pipe line and sewer system, eight thousand dollars.

The University.

- For salaries of teachers, sixty-two thousand five hundred dollars.
- For college of agriculture, six thousand dollars.
- For regents' expenses, one thousand dollars.
- For advertising, university and stationery printing, four thousand dollars.
- For repairs, four thousand dollars.
- For fire protection, two hundred dollars.
- For janitors, watchmen and gardeners, six thousand dollars.
- For university library and law library, four thousand dollars.
- For current and contingent expenses, four thousand five hundred dollars.
- For apparatus, blackboards, desks, furniture, etc., two thousand dollars.
- For grounds, roads, pavements and stone wall, three thousand dollars.
- For heat, light and water, six thousand dollars.
- For engineering equipment and supplies, five thousand dollars.
- For heating plant, sixteen thousand dollars.

Preparatory Branch of the West Virginia University at Keyser.

- For grading and completion of retaining wall, walks, steps, and driveways, two thousand five hundred dollars.
- For chemical and physical laboratories, two hundred dollars.
- For gymnasium, one hundred dollars.
- For library and reading room, five hundred dollars.
- For janitors, six hundred dollars.
- For contingent expenses, five hundred dollars.
- For fuel and light, six hundred dollars.
- For salaries of secretary and treasurer and expenses of board of regents, seven hundred and fifty dollars.

For repairs to building, three hundred and fifty dollars.

For salaries of teachers, seven thousand dollars.

Preparatory Branch of the West Virginia University at Montgomery.

For contingent expenses, three hundred dollars.

For janitor, six hundred dollars.

For regents' expenses, three hundred dollars.

For repairs and refitting, three hundred dollars.

For library and apparatus, three hundred dollars.

For fuel, lights, water and telephone, twelve hundred dollars.

For furniture and fixtures, three hundred dollars.

For salaries of teachers, five thousand one hundred dollars.

West Virginia Colored Institute.

For current expenses, two thousand dollars.

For piano, three hundred dollars.

For board of regents, seven hundred and fifty dollars.

For janitors, six hundred dollars.

For fuel, one thousand eight hundred dollars.

For school and dormitory furniture, five hundred dollars.

For road, walks and grading, two hundred and fifty dollars.

For engineers salary, six hundred dollars.

For repairs to building, furniture and fences, six hundred dollars.

For agricultural department, domestic science, printing department, mechanical department, library and reading room, two thousand dollars.

For general repairs to buildings, six hundred dollars.

For finishing, furnishing, heating and plumbing girls' domestic science building and sewer connection, two thousand five hundred dollars.

For student labor, six hundred dollars.

For electric lights, two hundred and fifty dollars.

For teachers' salaries, thirteen thousand two hundred dollars.

For repairs, tank and tower, and additional water supply, pipes, fixtures, etc., one thousand five hundred dollars.

For night watchman, four hundred dollars.

Bluefield Colored Institute.

- For repairs to building, fixtures and fences, six hundred dollars.
- For salaries of teachers, four thousand four hundred dollars.
- For janitor, five hundred dollars.
- For fuel, light and water, one thousand two hundred dollars.
- For salary for engineer, three hundred dollars.
- For library, chemical and physical apparatus, three hundred dollars.
- For expenses of board of regents, six hundred dollars.
- For contingent expenses, nine hundred dollars.
- For fruit culture and gardening, three hundred dollars.

West Virginia Colored Orphans Home and Industrial School.

- For salaries of teachers, two thousand dollars.

Storer College.

- For salaries of teachers, one thousand five hundred dollars.

West Virginia Reform School.

- For current expenses, thirty-two thousand dollars.
- For officers salaries, eighteen thousand dollars.
- For expense of board of directors, seven hundred and fifty dollars.
- For transportation of inmates, one thousand five hundred dollars.
- For new laundry, two hundred and fifty dollars.
- For contingent expenses, seven hundred and fifty dollars.
- For library and school furniture, two hundred and fifty dollars.
- For sanitary closets, five hundred dollars.
- For carpentry, blacksmith and shop equipment, one thousand dollars.
- For additional water system, two thousand five hundred dollars.
- For furniture, five hundred dollars.
- For remodeling Robinson cottage and general repairs, three thousand dollars.

West Virginia Industrial Home for Girls.

- For current expenses, eighteen thousand dollars.

- For farm, one thousand dollars.
- For transportation, seven hundred dollars.
- For board of directors, seven hundred dollars.

West Virginia Asylum.

- For current expenses, including salaries and drugs, sixty thousand dollars.
- For steel ceiling, two thousand five hundred dollars.
- For ice plant, four thousand dollars.
- For painting and repairs, one thousand five hundred dollars.
- For furnishing, two thousand dollars.
- For transportation, eight hundred dollars.
- For wells, water supply and fire protection, two thousand five hundred dollars.

Weston Hospital for the Insane.

- For current expenses, including salaries and drugs, one hundred and fifty thousand dollars.
- For transportation of patients, two thousand five hundred dollars.
- For painting and repairs, ten thousand dollars.
- For purchasing fancy articles for female patients to work with, one hundred and fifty dollars.
- For farm and garden, four hundred dollars.
- For completing reservoir, two thousand five hundred dollars.

Second Hospital for the Insane.

- For current expenses, including salaries, fuel and drugs, seventy-five thousand dollars.
- For painting and repairs, five thousand dollars.
- For transportation, two thousand five hundred dollars.
- For furnishing fund, two thousand five hundred dollars.
- For farm, one thousand dollars.
- For purchasing fancy articles for female patients to work with, one hundred and fifty dollars.
- For new boilers and installing same, three thousand five hundred dollars.
- For finishing and furnishing new buildings, three thousand five hundred dollars.

Miners Hospital No. 1.

For maintenance fund, thirty thousand dollars.

For repairs, three thousand dollars.

For apparatus, one thousand five hundred dollars.

Miners Hospital No. 2.

For maintenance fund, including hospital expenses, repairs and incidentals, twenty-one thousand five hundred dollars.

Miners Hospital No. 3.

For maintenance fund, including repairs and furniture, seventeen thousand five hundred dollars.

State Board of Agriculture.

For total expenses, including salaries of officers, fifteen thousand dollars, out of which shall be paid a salary of one thousand five hundred dollars, per annum, for secretary.

San Jose Scale.

To carry out the provisions of House Bill No. 243, ten thousand dollars.

Commissioner of Banking.

For salary of commissioner, two thousand five hundred dollars.

For salary of assistant, one thousand eight hundred dollars.

For traveling expenses of commissioner of banking, and assistant, twelve hundred dollars.

Department of Mines.

For salary of chief of department of mines, two thousand four hundred dollars.

For salary of twelve district mine inspectors, at the rate of eighteen hundred dollars per year each.

For traveling expenses chief of department of mines, eight hundred dollars.

For traveling expenses each district mine inspector, five hundred dollars.

For contingent expenses, nine hundred dollars.

For clerk hire and stenographer, two thousand dollars.

State Highway Inspector.

For salary of inspector, two thousand dollars.

For traveling expenses of inspector, one thousand dollars.

State Board of Health.

For expenses state board of health, two thousand dollars.

For contingent expenses, two hundred dollars.

Commissioners of Pharmacy.

For commissioners and secretary and other expenses, to be paid by the auditor upon the order of said commissioners, five hundred dollars.

Bureau of Labor.

For salary of commissioner of bureau of labor, one thousand eight hundred dollars.

For salary of assistant commissioner of labor, one thousand dollars.

For contingent expenses, one thousand two hundred dollars.

Vaccine Agents.

For salary of vaccine agents to be paid on the order of the governor, one hundred and fifty dollars.

For purchase of vaccine matter, one hundred and fifty dollars.

Each agent shall annually report to the governor the amount expended for the purpose of vaccine matter.

Institute Instructors.

For compensation of institute instructors provided for in section thirty of chapter twenty-five of the acts of nineteen hundred and three, six thousand dollars.

Uniform Examinations.

For expenses provided for in section three of chapter twenty-

seven of the acts of nineteen hundred and three, five thousand dollars.

Erroneous Assessments.

For refunding taxes assessed, collected and paid into the treasury, to be paid out of the fund into which the taxes were paid, such amount as may be necessary for such purpose.

Insurance.

For premiums on insurance of public buildings, to be drawn and paid out on the order of the board of public works, ten thousand dollars.

Every board in control of any of the public buildings of the state shall cause the buildings under their control respectively to be insured and kept insured, and the premiums to be paid out of said fund.

Before any insurance is taken, the board in control of the building shall report the amount of insurance proposed to be taken and the rate of insurance, and the same shall be approved by the board of public works before the insurance is written. Each board shall report biennially to the governor insurance carried, and the time the same will expire. The insurance on the penitentiary shall be paid out of the money under the control of the board of directors thereof.

Emergency Fund.

For state emergency fund ten thousand dollars. No part of this fund shall be expended except on the unanimous vote of all the members of the board of public works.

State Law Library.

For purchasing and binding books for the state law library, two thousand five hundred dollars, to be drawn on the order of the supreme court of appeals and expended under the direction of said court; and all books furnished or purchased by this appropriation shall be the property of the state.

Erroneous Payments into the Treasury.

For refunding moneys erroneously paid into the treasury, such

sum is hereby appropriated as may be erroneously so paid, payable out of the same fund into which paid.

For the Distribution of General School Fund.

For the distribution of the general school fund such amount is hereby appropriated as may be duly apportioned by the state superintendent of free schools to each county, payable out of the general school fund.

For the payment of the county superintendents of schools to be paid out of the general school fund, according to the provisions of section fifty-three of chapter forty-five of the code, forty-two thousand dollars.

For Refunding County, District and Municipal Taxes.

For refunding to counties, districts and municipal corporations, county, district and municipal taxes, paid into the treasury for redemption of lands, such amount is hereby appropriated as will be necessary to refund to the counties, districts and municipal corporations entitled thereto, the taxes so paid into the treasury.

For refunding county, district and municipal taxes paid into the treasury by railroad and other companies, such sum is hereby appropriated as will be necessary to refund to each county, district and municipal corporation the amount of such taxes as may be paid into the treasury to the credit of such county, district or municipal corporation.

Overpaid Taxes.

For refunding overpayments made at the treasury, on the account of taxes, licenses, fines and commissions to be paid out of the fund into which they were paid, such amount as may be necessary for such purpose.

Delinquent Taxes.

The auditor shall credit all delinquent taxes due the state to the fund to which they belong, and the cost of certification and publication of sale shall be paid out of the fund to which they are credited, and so much as may be necessary is hereby appropriated for the payment of the same.

Game and Fish Warden.

For the salary of game and fish warden, one thousand dollars.

For contingent expenses, three hundred dollars.

Pardon Attorney.

To pay salary of pardon attorney, two thousand five hundred dollars.

To pay expenses of pardon attorney, including stenographer, seven hundred and fifty dollars.

West Virginia Humane Society.

For current expenses, eight thousand dollars.

State Geological and Economic Survey.

For geological survey in co-operation with the United States geological survey, fifteen thousand dollars.

For salaries of geological staff, five thousand dollars.

For preparation and publication of report, five thousand dollars.

For assistants and other expenditures, two thousand dollars.

The Militia.

To carry into effect the provisions of chapter sixty-one of the acts of eighteen hundred and ninety-seven, as amended by the act of 1905, relating to the militia, forty-five thousand dollars, which amount shall cover all expenditures for the militia, for the fiscal year; *provided*, that the sum shall be disbursed under the direction of the governor, adjutant general and paymaster general upon requisition made upon the auditor. This appropriation includes six hundred dollars to be paid equally to the chief musicians of each of the regimental bands of the first and second regiments.

Department of Archives and History.

For salary of state historian and archivist, stenographer, purchase of books and records, binding books, erecting shelves, and incidental expenses, the sum of four thousand five hundred dollars.

Printing, Binding and Stationery.

For public printing, binding and stationery, including militia, thirty thousand dollars.

For printing, binding and stationery for the office of the state

superintendent of free schools, to be paid out of the general school fund, nine thousand dollars.

There is hereby appropriated out of the revenues of the year beginning October first, nineteen hundred and eight, to pay assistant superintendent of public printing in editing, preparing and reading proof on the biennial reports and other matter required to be printed for the legislature, and to assist during the session of the legislature of nineteen hundred and nine, to be paid on orders of the superintendent of public printing, the sum of five hundred dollars.

Capitol Building and Grounds.

For water, one thousand dollars.

For lighting and heating, three thousand dollars.

For repairs and contingent expenses, four thousand dollars.

Governor's Mansion and Grounds.

For repairs and maintenance, twelve hundred and fifty dollars.

Civil Contingent Fund.

For civil contingent fund for the governor, nine thousand dollars.

Contingent Fund Executive Department.

For contingent expenses of the auditor's office, two thousand five hundred dollars.

For contingent expenses of the treasurer's office, seven hundred dollars.

For contingent expenses of the attorney general's office, one thousand five hundred dollars.

For purchase of library and books for the office of the attorney general, three hundred and fifty dollars.

For contingent expenses of the state superintendent of free schools' office, to be paid out of the general school fund, two thousand dollars.

For purchase of books for the office of the state superintendent of free schools, to be paid out of the general school fund, one hundred and fifty dollars.

For expenses to be incurred under the provisions of article 12, section two of the constitution, five hundred dollars, or so much

thereof as may be necessary, to be paid out of the general school fund.

For contingent expenses secretary of state's office, one thousand seven hundred dollars.

For contingent expenses of adjutant general's office, seven hundred and fifty dollars.

For contingent expenses and clerk hire of state librarian's office, one thousand two hundred dollars.

For contingent expenses commissioner of banking's office, seven hundred and fifty dollars.

Salaries of Clerks.

For salary of governor's private secretary, four thousand dollars.

For other clerk hire and stenographers, two thousand five hundred dollars.

For salary of chief clerk of secretary of state, two thousand dollars.

For salary of clerk to secretary of board of public works, one thousand two hundred dollars.

For other clerks in office of secretary of state, five thousand eight hundred and sixty dollars.

For salary of stenographer of secretary of state's office, one thousand two hundred dollars.

For salary of chief clerk in treasurer's office, one thousand eight hundred dollars.

For salary of assistant clerk in treasurer's office, one thousand five hundred dollars.

For salary of stenographer of treasurer and other clerk hire, one thousand two hundred dollars.

For salary of chief clerk in the auditor's office, two thousand dollars.

For salary of other clerks in the auditor's office sixteen thousand dollars.

For salary of stenographer for auditor, one thousand two hundred dollars.

For the auditor of state there is hereby appropriated so much as may be necessary to pay the additional expenses of his office occasioned by the extra work made necessary by act of the regular ses-

sion of the legislature upon the subject of insurance, not to exceed the sum of five thousand dollars.

For salary of assistant in attorney general's office, eighteen hundred dollars.

For salary of stenographer for attorney general, nine hundred dollars.

For other clerk hire in attorney general's office, two thousand seven hundred dollars, which is to include one clerk who shall be a printer of two years' experience at twelve hundred dollars.

For salary of chief clerk in the office of state superintendent of free schools, to be paid out of the general school fund, one thousand eight hundred dollars.

For salaries of other clerks in the office of state superintendent of free schools, to be paid out of the general school fund, three thousand dollars.

For salary of stenographer of state superintendent of free schools, to be paid out of the general school fund, nine hundred dollars.

For salary of stenographer of commissioner of banking, nine hundred dollars.

For salaries of assistant clerks of the supreme court of appeals, two thousand four hundred dollars.

Tax Commissioner.

For expenses of tax commissioner's office, including compensation of assistants, clerks, stenographers, and all other expenses, fourteen thousand dollars.

Judicial Department.

For contingent expenses of supreme court of appeals to be expended upon the order of the court, fifteen hundred dollars.

For law clerks or stenographers of judges of the supreme court of appeals, six thousand dollars, to be paid to said law clerks or stenographers on the order of the respective judges of said court.

For printing and binding supreme court reports, five thousand dollars. Such printing and binding to be done under the supervision of the attorney general.

To pay criers and messengers of the supreme court, fifteen hundred dollars.

For stenographer and typewriter for the clerk of the supreme court, twelve hundred dollars.

State House Labor-Fund.

- For salary of engineer, thirteen hundred and fifty dollars.
- For salary of night engineer, nine hundred and ninety dollars.
- For night watchman, nine hundred and ninety dollars.
- For night fireman, nine hundred and twenty dollars.
- For day fireman, nine hundred and twenty dollars.
- For six sweepers, eight hundred and ten dollars, each.
- For one messenger, six hundred dollars.
- For two charwomen, four hundred and thirty dollars, each.

Salaries of Annex Employees.

- For salary of assistant janitor for annex, nine hundred and ninety dollars.
- For salaries for three sweepers, eight hundred and ten dollars, each.
- For salary of night watchman, nine hundred and ninety dollars.
- All of the above to be paid upon the order of the governor.

Be it further enacted by the Legislature of West Virginia:

Sec. 3. The appropriations herein made to or for any state board or institution shall be drawn from the treasury upon the requisitions of the proper officers of such state boards or of the boards of directors or of the regents of such institutions, made upon the auditor at such times and in such amounts as may be necessary for the purposes for which such appropriations were made; and the auditor shall pay the amount named in any such requisition at such times and in such installments as shall be necessary for which the appropriation is made. But all requisitions for appropriations for new buildings and substantial betterments shall be accompanied by the architect's estimate that the amount named in such requisition is needed for immediate use. All large appropriations for current expenses of institutions shall be disbursed by the auditor in equal monthly installments, if the same is so needed.

Sec. 4. The members of all state boards, and of boards of regents or of directors of state institutions, (unless a different rate of compensation is provided by law), shall be allowed four dollars per day for each day necessarily employed as such (including the time spent in going to and returning from the place of meeting) and the actual and necessary expenses incurred by them in the discharge

of their duties, and no mileage shall be paid. But before payment to any such member of any such compensation or expenses he shall make up, in duplicate, and certify to its correctness, an itemized statement of the number of days spent (giving dates) and of the expenses; which statements shall be filed with the secretary or clerk of the institution, the original whereof, such secretary or clerk shall file and preserve in his office, and the duplicate he shall at once forward to the auditor. If any such member shall wilfully make a greater charge for such services or expenses than the truth justifies, he shall be guilty of embezzlement and punished accordingly.

Sec. 5. Every officer, employee, head of a department or of an institution or of a board for which appropriation or allowance is made for clerk hire, pay of assistants or of stenographers, shall, in their biennial report to the governor for transmission to the legislature, give the name of each of such clerks, assistants or stenographers employed by them during such period, the amount paid to each, and (except where temporarily employed) the rate per month of such payment. And every officer, employee, head of a department or of an institution or of a board authorized to draw money from the treasury or to expend any appropriation, shall, in their biennial report to the governor for transmission to the legislature, make a fully itemized statement of every expenditure made by each of them, to whom paid, and for what purpose. If any officer, employee, head of a department or of an institution or of a board is not required by law to make a report to the governor, he or it shall nevertheless make report as required by this section.

Sec. 6. All printing, binding and printing paper and stationery for the state superintendent of free schools shall be paid for out of the general school fund. No printing, binding or printing paper or stationery for the following named boards, officers or institutions shall be paid for out of the appropriation for public printing, public binding, or for supplying printing paper or stationery, but shall be paid for out of the appropriations therefor herein made, or out of the expense fund or contingent expense fund thereof, namely: Board of dental examiners, state vaccine agents, commissioners of pharmacy, state board of examiners, state board of agriculture, state board of embalmers, inspector of mines, bureau of labor, miners' hospitals, West Virginia humane society, normal schools, schools for the deaf and blind, the university and

all its departments and branches (including the experiment station), the hospitals for the insane, reform school, the colored institutes, the industrial home for girls and the West Virginia asylum. Such boards, officers and institutions, except the state superintendent of free schools, that are herein required to pay for their own printing, stationery and printing paper and binding, have authority to procure the same, or have the same done, on requisitions on the superintendent of public printing; or may buy such printing paper and stationery, or have such printing and binding done, on competitive bids, under such rules as may be made by the commissioners of public printing.

When stationery or printing paper is procured from the superintendent of public printing or printing and binding is done on requisition on his office, by any such boards, officers and institutions, the superintendent of public printing as to such printing, binding, stationery and printing paper shall certify the cost thereof to the auditor, stating to what officer, board or institution the same was furnished, and the auditor shall charge against the proper fund or appropriation of such officer, institution or board the amount thereof, and credit such amount to the appropriation made by this act for public printing, binding, stationery and printing paper; *provided*, that the annual or biennial reports required by law to be made to the governor by such boards, officers and institutions, shall be printed and paid for out of the appropriation for public printing, public binding and for supplying printing paper and stationery, but all such reports shall be typewritten, or prepared in such a manner that the same shall be plainly legible and suitable for printer's copy; and only so much of any such reports shall be printed as may be ordered by the governor and the superintendent of public printing; and no such reports shall be printed by the public printer, except on the requisition thereof, signed by the governor and the state superintendent of public printing, which requisition shall state the number to be printed and how the same are to be bound. Such officers, boards and institutions, as are required by law to make report to the governor, shall place the same in his hands within thirty days after the close of the period which they are to cover.

Sec. 7. No sum of money shall be paid out of the treasury, during the fiscal years ending September thirtieth, nineteen hundred and seven, and nineteen hundred and eight, beyond the amount

hereby appropriated, unless the same be provided for by the constitution or some general law; but, in addition to the sums hereby appropriated for each of said fiscal years, the auditor may, after the expiration of the fiscal year, ending the thirtieth day of September, nineteen hundred and eight, and during the first six months of the fiscal year beginning the first day of October, nineteen hundred and eight make payment to the following institutions, officers and persons, upon proper vouchers, of sums of money not exceeding in the aggregate one-half of the amount appropriated for the same purpose for the fiscal year ending September thirtieth, nineteen hundred and eight, for charges, salaries of officers, and running expenses, other than items for buildings and betterments, that is to say: For criminal charges; for the support of lunatics in jails; for the pay of teachers, officers and other employees and for running expenses, other than items for buildings and betterments of the state normal school and its branches, the schools for the deaf and the blind, the university, the preparatory branch of the university at Keyser, the preparatory branch of the university at Montgomery, the West Virginia colored institute, the Bluefield colored institute, the reform school and the industrial home for girls; for the current expenses of the West Virginia asylum, the West Virginia hospital for the insane, and the second hospital for the insane; for the maintenance fund of the three miners' hospitals; for the expenses of the state board of agriculture, and expenses of inspection of dairies and destruction of diseased animals; for the destruction of the San Jose scale; for salaries and traveling and contingent expenses of the commissioner and assistant commissioner of banking and salary of their stenographer; for salaries, traveling expenses, contingent expenses and clerk hire of the department of mines; for expenses and contingent expenses of the state board of health; for salaries and expenses of the commissioners of pharmacy and their secretary; for expenses of the West Virginia humane society; for salaries and contingent expenses and expenses of employment bureau of labor; for uniform examinations; for the governor's civil contingent fund; the contingent funds of the various executive officers, the contingent expenses of the judges and the clerks of the supreme court, the contingent expenses and salaries of clerks of the librarian's office, the contingent expenses and salaries of clerks of the adjutant general's office; for water, light, heat, and contingent expenses of the capitol building; for salaries of clerks in the various

executive offices, and the supreme court; for salary and expenses of the pardon attorney; for salary and contingent expenses of the game and fish warden; for salaries of the state house and annex employees; for the expenses of the militia under chapter 61 of the acts of 1897, as amended by the acts of 1905, and salary of the keeper of the armory; for salary of state historian and archivist and expenses; for salaries of law clerks, criers and messengers of the supreme court; for printing and binding supreme court reports; for expenses of the tax commissioner's office; for refunding over-paid taxes and erroneous assessments; for refunding to counties, districts and municipal corporations taxes for county, district and municipal purposes upon lands redeemed at the auditor's office; and also taxes assessed against railroads and other companies for county, district and municipal purposes. And there are hereby appropriated out of the fiscal year ending the thirtieth day of September, nineteen hundred and nine, sums sufficient to make the payments authorized by this section.

Sec. 8. The auditor is hereby authorized to make the necessary entries upon books of his office disposing of the arrears of taxes, licenses and fines due from sheriffs, for the year eighteen hundred and sixty-one, to and including the year nineteen hundred, and to allow such compensation as he may think reasonable to the state agents for collection thereof; such compensation to be paid out of the moneys so collected, upon the approval of the attorney general.

Sec. 9. The auditor shall cause the accounts, including receipts and disbursements and all books, vouchers, checks, accounts and papers of all the boards in control of any or all the public institutions, and objects for which appropriations are made in this act, to be audited and examined at least once a year, or oftener if deemed necessary, by himself or some one or more of the clerical force in his office having the experience as a bookkeeper and accountant, for the purpose of ascertaining whether all the money paid out or disbursed, under the authority of such boards of control, has been paid out of and disbursed for legitimate and proper purposes and for what it is appropriated.

And it shall be the duty of every treasurer, secretary, superintendent, clerk, bookkeeper or other officer having control of any of the books, receipts, vouchers, checks, accounts and papers, relating to the receipts and disbursements of any of said moneys or of other moneys received by such institutions, to exhibit and furnish the

same to the auditor, or any clerk authorized by him, upon proper demand for such auditing, checking and examination; and the auditor shall include in his biennial report to the governor and legislature such facts that are found to exist in relation to such examination and auditing of said books and accounts as may be proper to be known by the governor or the legislature, and the sum of five hundred dollars for each of the years nineteen hundred and seven and nineteen hundred and eight to pay the traveling expenses of the auditor and clerks in making the examination, is hereby appropriated.

Sec. 10. The superintendents of the several institutions of the state shall furnish to the board of directors or agents of the respective institutions, itemized accounts of all the money paid out on account of appropriations for contingent expenses and repairs, and when audited and allowed, the directors or regents, respectively, shall include such itemized accounts in their reports as are directed by law to be made. Every warrant or requisition upon the auditor for any part of the moneys herein or hereby appropriated for the university, the hospital for the insane, the schools for the deaf and blind, and the reform schools, and other institutions shall be accompanied by a statement of the treasurer, or other financial officer of such institution, showing how much money is in their hands to the credit of such institution on the day such draft or requisition is forwarded for payment; and the disbursing officers of the various contingent funds are hereby required to furnish the succeeding legislature an itemized account of the distribution of said funds.

Sec. 11. All boards of regents, boards of directors, or other boards or officers, authorized by this act to issue orders or requisitions upon the auditor for the payment of money out of the state treasury shall, before any such money is paid out of the state treasury, certify to the auditor that the money for which such order or requisition is made is needed for present use, for the purpose for which it is appropriated, and the auditor shall not issue his warrant to pay any money out of the state treasury unless the same is needed for present use for such purposes.

Sec. 12. Upon the adjournment of the legislature, the clerk of the house and clerk of the senate shall jointly make up and furnish the auditor, without delay, a certified copy of this and of all other acts carrying appropriations.

HOUSE JOINT RESOLUTION NO. 1.

(Adopted February 25, 1907.)

Authorizing the auditor to draw his warrant upon the treasurer for the per diem of the members of the legislature, officers and attaches of the senate and house of delegates.

Resolved by the Legislature of West Virginia:

That the auditor is hereby authorized to issue his warrants upon the treasurer for such amounts as are, or may become due to the several members, officers and attaches of the senate and house of delegates, for their per diem upon the proper requisition of the clerk of the senate and the sergeant-at-arms of the house, respectively.

HOUSE JOINT RESOLUTION NO. 2.

(Adopted February 25, 1907.)

Adopting a State flag for the State of West Virginia.

WHEREAS, the legislature did on the twenty-fourth day of February, one thousand nine hundred and five, (see act of one thousand nine hundred and five, pages 520, 521) adopt a joint resolution providing for a state flag with design and proportions:

And, WHEREAS, such a flag has been found to be wholly impracticable for the reason that the lettering on one side reads towards the staff and that the colors on both sides of a white field cannot be used without showing through when opposite each other, thus destroying the distinctive features of the banner and leaving the state without a prescribed official flag:

And WHEREAS, it will be necessary that the state shall have an official flag distinctively its own, among those of other states and nations, at the Jamestown exposition, and as well for many other purposes and occasions hereafter; therefore,

Be it resolved by the Legislature of West Virginia:

That the legislature of West Virginia hereby adopts a state flag

of the following design and proportions, to-wit: said state flag shall be in length and breadth in proportion the same as the flag of the great American Republic of which West Virginia forms a part; the field thereof shall be pure white, upon the center of which on the obverse side shall be the great seal or coat of arms of the state, beneath which shall appear the legend "State of West Virginia," in a scroll; on the reverse side shall appear a sprig or sprigs of the rhododendron maximum, or big laurel, our state flower, having blossoms and leaves; the field of pure white shall be bordered by a band or strip of blue, and this in turn shall be bordered by a strip or fringe of old gold; and said flag shall be regarded and used as the West Virginia state flag on all occasions where a special display of the state's individuality shall become necessary, or be regarded as appropriate.

SENATE JOINT RESOLUTION NO. 1.

(Adopted February 27, 1907.)

Fixing the per diem to be paid assistant janitors of the capitol building during the extra session of the legislature.

Resolved by the Legislature of West Virginia:

That the clerk of the senate and the sergeant-at-arms of the house are hereby directed and authorized to draw warrants upon the auditor for the following attaches: Sam Stephenson, Alvin Whittington, Bascom Smith, Sam Mack, Sam Buckner, P. S. Forth, John Carrington and Ben Sisson, special janitor force for the senate and house, during the extra session, at the rate of three dollars per day each; the clerk of the senate to draw his warrants for one-half, or one dollar and fifty cents per day each, and the sergeant-at-arms of the house to draw his warrants for the other half, or one dollar and fifty cents per day each, payable out of the contingent fund of the respective houses.

SENATE CONCURRENT RESOLUTION NO. 1.

(Adopted February 23, 1907.)

Resolved by the Senate, the House of Delegates concurring therein:

That a committee of two be appointed on the part of the senate, to be appointed by the president, and three on the part of the house of delegates, to be appointed by the speaker thereof, to jointly wait upon the governor and inform him that the two houses have assembled in their respective halls, pursuant to his proclamation, dated February twenty-third, one thousand nine hundred and seven, with a quorum of each house present; and that the legislature is ready to receive any communication he may be pleased to make.

SENATE CONCURRENT RESOLUTION NO. 2.

(Adopted February 23, 1907.)

Resolved by the Senate, the House of Delegates concurring therein:

That the printed rules of the last legislature governing the senate and house of delegates, be adopted as the joint rules of this extraordinary session until otherwise ordered.

SENATE CONCURRENT RESOLUTION NO. 3.

(Adopted March 5, 1907.)

Providing for a joint committee to wait upon the governor.

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee be appointed, consisting of two members on the part of the senate, to be appointed by the president *pro tempore*, and three on the part of the house of delegates, to be appointed by the speaker, to wait upon the governor and inform him that the legislature is ready to adjourn *sine die*, and ask him if he has any further communication to make.

OFFICIAL DIRECTORY.

STATE GOVERNMENT.

STATE CAPITOL, CHARLESTON, KANAWHA COUNTY.

OFFICE.	NAME.	RESIDENCE.	COUNTY.
Governor.....	Wm. M. O. Dawson	Charleston....	Kanawha.
Secretary of State.....	O. W. Swisher.....	Fairmont.....	Marion.
State Superintendent of Free Schools	Thomas O. Miller...	Fairmont.....	Marion.
State Auditor.....	Arnold O. Scherr...	Keyser.....	Mineral.
State Treasurer.....	Newton Ogdin.....	St. Marys.....	Pleasants.
Attorney General.....	Clarke W. May.....	Hamlin.....	Lincoln.
State Tax Commissioner.....	A. B. White.....	Parkersburg...	Wood.
Commissioner of Banking.....	Samuel V. Matthews	Charleston....	Kanawha.
Assistant Commissioner of Banking.	S. Preston Smith...	Charleston....	Kanawha.
Commissioner of Labor.....	I. V. Barton.....	Wheeling.....	Ohio.
Chief Mine Inspector.....	J. W. Paul.....	Davis.....	Tucker.
State Historian and Archivist.....	Virgil A. Lewis....	Mason City....	Mason.
State Librarian.....	S. W. Starks.....	Charleston....	Kanawha.
Game and Fish Warden.....	James H. Marcum..	Huntington....	Cabell.

UNITED STATES SENATORS.

	POSTOFFICE.	COUNTY.	TERM EXPIRES.
Stephen B. Elkins.....	Elkins.....	Randolph..	March 4, 1913.
Nathan B. Scott.....	Wheeling.....	Ohio.....	March 4, 1911.

REPRESENTATIVES IN CONGRESS.

Terms begin March 4, 1907.

DISTRICT.	NAME.	POSTOFFICE.	COUNTY.	TERM EXPIRES
First.....	W. P. Hubbard.....	Wheeling.....	Ohio.....	March 4, 1909.
Second...	Geo. O. Sturgiss.....	Morgantown...	Monongalia	March 4, 1909.
Third.....	Joseph H. Gaines ..	Charleston....	Kanawha...	March 4, 1909.
Fourth...	James H. Hughes.....	Huntington...	Cabell.....	March 4, 1909.
Fifth.....	Harry O. Woodyard.....	Spencer.....	Roane.....	March 4, 1909.

THE JUDICIARY.
 UNITED STATES CIRCUIT COURT.
 FOR THE
 DISTRICTS OF WEST VIRGINIA.
 FOURTH CIRCUIT.

JUDGES—MELVILLE W. FULLER, *Chief Justice of the United States.*

NATHAN GOFF,
 JETER C. PRITCHARD, } *U. S. Circuit Judges.*

BENJAMIN F. KELLER,
 A. G. DAYTON, } *U. S. District Judges.*

CLERKS OF CIRCUIT COURTS—S. R. HARRISON, *Clarksburg, Harrison County.*
 EDWIN M. KEATLEY, *Charleston, Kanawha County.*

UNITED STATES DISTRICT COURTS.

THE SOUTHERN DISTRICT.

JUDGE—BENJAMIN F. KELLER, *Bramwell.*

CLERK—EDWIN M. KEATLEY, *Charleston.*

DISTRICT ATTORNEY—ELLIOTT NORTHCOTT, *Huntington.*

ASS'T DIST. ATT'Y—H. D. RUMMELL, *Charleston.*

U. S. MARSHALL—FRANK TYREE, *Huntington.*

TERMS OF THE CIRCUIT AND DISTRICT COURTS—Charleston, first Tuesday in June, and third Tuesday in November; Huntington, first Tuesday in April, and the first Tuesday after the third Monday in September; Bluefield, first Tuesday in May, and third Tuesday in October, Lewisburg, third Tuesday in July; term of the district court held at Addison, first Tuesday in September.

THE NORTHERN DISTRICT.

JUDGE—A. G. DAYTON, *Philippi.*

CLERK—JASPER Y. MOORE, *Clarksburg.*

DISTRICT ATTORNEY—REESE BLIZZARD, *Parkersburg.*

ASS'T DIST. ATT'Y—E. M. SHOWALTER, *Fairmont.*

U. S. MARSHALL—CHARLES D. ELLIOTT, *Parkersburg.*

TERMS OF THE CIRCUIT AND DISTRICT COURTS—Wheeling, first Tuesday in April, and third Tuesday in September; Clarksburg, third Tuesday in April, and first Tuesday in October; Martinsburg, third Tuesday in October; Parkersburg, second Tuesday in January, and second Tuesday in June.

STATE COURTS.

SUPREME COURT OF APPEALS.

JUDGES.	RESIDENCE.	COUNTY.	TERM EXPIRES.
Henry Brannon, President	Weston	Lewis	Dec. 31, 1912
Henry O. McWhorter	Charleston	Kanawha	Dec. 31, 1908
George Poffenbarger	Pt. Pleasant	Mason	Dec. 31, 1912
W. N. Miller	Parkersburg	Wood	Dec. 31, 1916
Joseph M. Sanders	Bluefield	Mercer	Dec. 31, 1916

ATTORNEY-GENERAL AND EX-OFFICIO REPORTER.

CLARKE W. MAY.....*Charleston, Kanawha County.*

D. E. MATTHEWS, Assistant Reporter.....*Huntington, Cabell County.*

WM. B. MATTHEWS, Clerk of Court.....*Charleston, Kanawha County.*

REGULAR TERMS OF COURT BEGIN—At Charleston, second Wednesday in January; at Wheeling, first Wednesday in June; at Charles Town, first Wednesday in September. Usually two special terms are designated by the court, one in the fall and one in the spring, at Charleston.

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